



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

**CONTRACT No. C1800094**

**CONTRACT FOR SERVICES**

**BETWEEN**

**STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY**

**AND**

**SRRTTF Administrative and Contracting Entity (ACE)**

This Contract (“Contract”) is made and entered into by and between the state of Washington, Department of Ecology, referred to as "ECOLOGY," and the below named firm, referred to as “CONTRACTOR.”

Contractor Name: SRRTTF Administrative and Contracting Entity (ACE)

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Address: PO Box 3965

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City, State, Zip Code: Spokane, WA 99220-3965

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Phone: (509) 927-6554 (Contract Manager)

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Fax: (509) 927-6095 (Contract Manager)

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E-mail: [Bud.leber@kaisertwd.com](mailto:Bud.leber@kaisertwd.com) (Contract Manager)

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Washington State  
UBI Number: 603-256-406

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Federal ID Number: 46-2333721

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## 1) PURPOSE

The purpose of this Contract is for the Spokane River Regional Toxics Task Force (SRRTTF) to identify and reduce sources of polychlorinated biphenyls or PCBs to the Spokane River. This contract will provide funding to carry out actions identified in the SRRTTF's *2016 Comprehensive Plan to Reduce Polychlorinated Biphenyls (PCBs) in the Spokane River*.

WHEREAS, the original contracted work was authorized by a line item of the 2017-19 biennial operating budget, ECOLOGY and the Water Quality Program have authority under RCW 70.105D.070 to use appropriated State General Fund State Account funding for water and environmental health and monitoring programs. This agreement directly supports toxics cleanup efforts in the Spokane River and the funding for this agreement is provided by the Legislature to the SRRTTF, a group of governmental agencies, private industries, and environmental organizations, so they can continue to identify and remove sources of PCBs in the Spokane River for two more years.

WHEREAS, the \$310,000 is allocated to the SRRTTF for the biennium (state fiscal years 2018 and 2019). This is funding from the General Fund, so half of the money is allocated for each fiscal year. Therefore, \$155,000 is to be spent in state fiscal year 2018 (July 1, 2017 to June 30, 2018) and \$155,000 is to be spent in state fiscal year 2019 (July 1, 2018 to June 30, 2019). Surplus funding from fiscal year 2018 will not be carried over to state fiscal year 2019.

## 2) SCOPE OF WORK

- a) CONTRACTOR will provide or hire services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth in Appendix A, Statement of Work and Deliverables and Budget.
- b) Appendix B, Special Terms and Conditions, is attached hereto and incorporated by reference, it contains the Special Terms and Conditions governing work to be performed under this Contract, the nature of the working relationship between ECOLOGY and the CONTRACTOR, and specific obligations of both parties.
- c) Appendix C, General Terms and Conditions, is attached hereto and incorporated by reference, it contains the General Terms and Conditions governing work to be performed under this Contract, the nature of the working relationship between ECOLOGY and the CONTRACTOR, and specific obligations of both parties.

## 3) PERIOD OF PERFORMANCE

The period of performance under this Contract will be from date of July 1, 2017 and be completed by June 30, 2019, unless terminated sooner as provided herein. Amendments extending the period of performance, if any, shall be at the sole discretion of ECOLOGY.

## 4) TOTAL COMPENSATION

Total compensation payable to CONTRACTOR for satisfactory performance of the work performed under this Contract shall not exceed three hundred and ten thousand dollars (\$310,000), inclusive of all costs. ECOLOGY may, at its sole discretion, terminate this Contract or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this Contract.

The source of funds for this Contract is General-Fund-State funds, provided in the 2017-2019 biennial operating budget, specifically appropriated for water and environmental health and monitoring programs.

## 5. EXPENSES

Expenses related to the day-to-day performance under this Contract, including but not limited to, travel, lodging, meals, materials, and incidentals will not be reimbursed to the Contractor, with the exception of any travel to Ecology Regional Offices. Travel expenses must be pre-approved.

*CONTRACTOR may receive reimbursement for travel and other expenses as authorized in advance by ECOLOGY as reimbursable. Such expenses may include: airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. The maximum amount for approved expenses shall not exceed \$2,000, which is included in the total compensation for this Contract. Compensation for travel expenses shall be at current state travel reimbursement rates. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses (other than mileage) in the amount of \$50.00 or more in order to receive reimbursement.*

Total travel expenses not to exceed \$2,000, unless amended by ECOLOGY. Total Compensation is not to exceed \$310,000 (including travel), unless amended by ECOLOGY.

## 6) PERFORMANCE-BASED CONTRACT

This is a performance-based contract, in which payment is based on the successful completion of expected deliverables. Compensation is for the work provided in accordance RCW 39.26.180(3). The parties have determined that the cost of accomplishing the work herein will not exceed the Total Compensation identified herein. Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree to a higher amount via an amendment. Compensation for services shall be based on the tasks identified in the statement of work and budget. ECOLOGY will not make payment until it has reviewed and accepted the completed work.

## 7) BILLING AND PAYMENT PROCEDURES

Payment request shall be submitted on state form, Invoice Voucher A19-1A. Invoice shall describe and document to ECOLOGY's satisfaction a description of the work performed by task, the progress of the work, and related costs. Each invoice voucher shall reference the Contract number and clearly identify those items that relate to performance under this Contract. Attach supporting documentation to invoice. Send Invoices to:

State of Washington Department of Ecology Water Quality Program Attn: Adriane Borgias P.O. Box 47600 Olympia, WA 98504-7600
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Payment requests shall be submitted on a quarterly basis. Upon expiration of this Contract, any claim for payment not already made shall be submitted to ECOLOGY within thirty (30) days after the expiration date.

Payment shall be made within thirty (30) days of submission of a properly completed invoice, form A19-1A. Payment shall be considered timely if made by ECOLOGY within thirty (30) calendar days

after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

Payment will be issued through Washington State’s Department of Enterprise Services Statewide Payee Desk. To receive payment you must register as a state-wide vendor by submitting a state-wide vendor registration form and an IRS W-9 form at website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>.

If you have questions about the vendor registration process you can contact DES at the Payee Help Desk at (360) 407-8180 or email [payeehelpdesk@watech.wa.gov](mailto:payeehelpdesk@watech.wa.gov).

**8) CONTRACT MANAGEMENT**

The Contract Manager for each of the parties shall be the contact person for all communications, notifications, and billing questions regarding the performance of this Contract. The parties agree that if there is a change in representatives that they will promptly notify the other party in writing of such change, such changes do not need an amendment.

Contract Manager for ECOLOGY is:	Contract Manager for CONTRACTOR is:
<i>Name: Adriane Borgias</i> Program Name: Water Quality Address: 4601 N Monroe Street Mailing Address: 4601 N Monroe Street Spokane, WA 99205-1295 Phone: (509) 329-3515 Fax: (509) 329-3570 E-mail address: <a href="mailto:adriane.borgias@ecy.wa.gov">adriane.borgias@ecy.wa.gov</a>	<i>Name: Bernard P. Leber, Jr.</i> Contractor Name: SRRTTF - ACE Address: PO Box 3965 City, State Zip Code: Spokane, WA 99220-3965 Phone: (509) 927-6554 Fax: (509) 927-6095 E-mail address: <a href="mailto:bud.leber@kaisertwd.com">bud.leber@kaisertwd.com</a>

**9) INSURANCE**

CONTRACTOR shall provide and maintain insurance coverage as set out in this section.

The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages, or expenses arising from any negligent or intentional act or omission of the CONTRACTOR or subcontractor(s), or agents of either, while performing under the terms of this Contract.

**a) General Requirements:**

1. **Proof of Insurance:** Upon request, CONTRACTOR shall furnish evidence in the form of a certificate of insurance satisfactory to the state of Washington that insurance has been secured in the following kinds and minimum amounts. Failure to provide proof of insurance, as required, will result in contract cancellation. Policies and certificates of insurance shall identify the Contract reference number.
2. **Subcontractors:** CONTRACTOR shall include all Subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each Subcontractor. Failure of Subcontractor(s) to comply with these insurance requirements does not limit CONTRACTOR’s liability or responsibility.
3. **Primary Coverage:** All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State.

4. **Cancellation for non-payment of premium:** If cancellation on any policy is due to non-payment of premium, a written notice shall be given the Contract Manager or designee 10 calendar days prior to cancellation. Written notice shall identify the Contract reference number.

b) **Specific Minimum Requirements:**

CONTRACTOR shall, at its own expense, obtain and keep in force the minimum insurance as follows until completion of the Contract. Additional requirements specific to a good/service may be detailed elsewhere in a related solicitation.

1. **Commercial General Liability Insurance:** The CONTRACTOR shall at all times during the term of this Contract, carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of goods/services provided under this Contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the CONTRACTOR or its officers, agents, representatives, assigns, or servants.

The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the CONTRACTOR's premises/operations, independent contractors, products/completed operations, personal injury and advertising injury, and contractual liability, and contain separation of insured's (cross liability) conditions.

CONTRACTOR waives all rights against the state of Washington for the recovery of damages to the extent they are covered by general liability or umbrella insurance, unless due to the negligence of the state of Washington.

The limits of Commercial General Liability Insurance shall not be less than as follows:

General aggregate limits (other than products-completed operations)	\$2,000,000
Products-completed operations aggregate	\$2,000,000
Personal and advertising injury aggregate	\$1,000,000
Each occurrence (applies to all of the above)	\$1,000,000
Fire damage limit (per occurrence)	\$50,000
Medical expense limit (any one person)	\$5,000

2. **Automobile Liability Insurance:** Automobile liability insurance shall be required in the event that services delivered pursuant to this Contract involve the use of vehicles, or the transportation of clients. The coverage provided shall protect against claims for bodily injury, including illness, disease, and death; and property damage caused by an occurrence/accident arising out of or in consequence of the performance of this service by the CONTRACTOR, subcontractor, or anyone employed by either.

CONTRACTOR shall maintain automobile liability insurance and, if necessary, commercial umbrella liability insurance with a combined single limit not less than one million dollars per occurrence/accident. The automobile liability shall include for "Any Auto."

CONTRACTOR waives all rights against the state of Washington for the recovery of damages to the extent they are covered by automobile liability or commercial umbrella liability insurance, unless due to the negligence of the state of Washington.

3. **Employers' Liability (Stop Gap) Insurance:** The CONTRACTOR will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers' Liability insurance with a limit of no less than one million dollars. The state of Washington will not be

held responsible in any way for claims filed by the CONTRACTOR or their employees for services performed under the terms of this Contract.

If the CONTRACTOR maintains higher limits on the minimums shown above, the state of Washington requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specific minimum limits of insurance and coverage shall be available to the state of Washington.

c) **Additional Insurance Provisions:**

All above insurance policies shall include, but not be limited to, the following provisions:

1. **Insurance Carrier Rating:** The insurance shall be issued by an insurance company authorized to do business within the state of Washington. Insurance company shall have a rating of A-Class VII or better in the most recently published edition of Best's Reports. Any exception must be reviewed and approved by the Risk Manager for the state of Washington, by submitting a copy of the Contract and evidence of insurance before Contract commencement. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and Chapter 284-15 WAC.
2. **Additional insured:** Unless restricted by law, the state of Washington and all authorized purchasers shall be named as an additional insured on all general liability, umbrella, excess, and property insurance policies. All policies shall be primary over any other valid and collectable insurance.
3. **Notice of policy cancellation/Non-renewal:** For insurers subject to Chapter 48.18 RCW (admitted and regulated by the Washington State Insurance Commissioner) a written notice shall be given to the Contract Manager or designee within 45 calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall identify the Contract reference number.
4. **Surplus Lines:** For insurers subject to Chapter 48.15 RCW (Surplus Lines) a written notice shall be given to the Contract Manager or designee 20 calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall identify the Contract reference number.
5. **Excess Coverage:** The limits of all insurance required to be provided by the CONTRACTOR shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum limits shall not be construed to relieve the CONTRACTOR from liability in excess of such limits.
6. **Limit Adjustments:** The State reserves the right to increase or decrease limits as appropriate during the Contract term.

## 10) ASSURANCES

ECOLOGY and the CONTRACTOR agree that all activity pursuant to this Contract will be in accordance with all the applicable current federal, state, and local laws, rules, and regulations.

## 11) CONFORMANCE

If any provision of this Contract 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.

## 12) ORDER OF PRECEDENCE

In the event of an inconsistency in the terms of this Contract, or between the terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations.
- Mutually agreed written amendments to this Contract.
- This Contract, no. C1800094.
- Appendix A – Statement of Work and Deliverables.
- Appendix B – Special Terms and Conditions.
- Appendix C – General Terms and Conditions.
- Any other provision, term, or material incorporated by reference or otherwise incorporated.

**13) ENTIRE AGREEMENT**

This Contract, including referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, shall be deemed a part hereof.

**14) APPROVAL**

This Contract shall be subject to the written approval of ECOLOGY's authorized representative and shall not be binding until so approved. The Contract may be altered, amended, or waived only by a written amendment executed by both parties.

The signatories to this Contract represent that they have the authority to execute this Contract.

IN WITNESS WHEREOF, the parties below, having read this Contract in its entirety, including all attachments, do agree in each and every particular as indicated by their below signatures.

State Of Washington  
Department Of Ecology

SRRTTF Administrative and Contracting Entity  
(ACE)

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

Polly Zehm  
\_\_\_\_\_  
Print Name

Bernard P. Leber, Jr.  
\_\_\_\_\_  
Print Name

Deputy Director  
\_\_\_\_\_  
Title Date

President  
\_\_\_\_\_  
Title Date

Approved as to form only: Office of Attorney General



## **APPENDIX A**

### **STATEMENT OF WORK AND DELIVERABLES**

#### **Introduction**

This Statement of Work (SOW) describes the planned CONTRACTOR activities through June 30, 2019.

The Spokane River Toxics Task Force is a group of governmental agencies, private industries, and environmental organizations who developed a plan to bring the Spokane River into compliance with water quality standards for polychlorinated biphenyls (PCBs). The objective of this statement of work is to identify and remove sources of PCBs in the Spokane River per the Spokane River Regional Toxics Task Force's 2016 Comprehensive Plan. Funding for this work is provided by the State General Fund.

The CONTRACTOR is leveraging funding from this contract with funding from other sources. The tasks will be completed using a combination of the funding sources. Therefore if funding for this contract expires but all the deliverables are not achieved, the additional funding sources will be used to complete the task and will be reported upon after final completion. The activities funded by ECOLOGY under this contract are described below along with its corresponding budget.

Based upon current understanding of the scope for each task (Task 1 through Task 8), the budget for each task may need to be revised in the future. Should a scope revision for any task result in the allocated funding for that task not being fully utilized, the surplus funding will be reallocated as appropriate to other tasks. Any reallocation of budget must be mutually agreed upon between the parties.

#### **Task 1: Develop Plan for the Identification of Suspected PCB Sources Up-gradient of Kaiser Aluminum**

In support of the SRRTTF's Comprehensive Plan Element 5.14 (Category C – Identification of Sites of Concern for Contaminated Groundwater), the CONTRACTOR in collaboration with ECOLOGY's Toxics Control Program will assure completion of the following:

- A. Mine existing data to assess potential significance of groundwater sites contributing PCBs to the Spokane River. The assessment will take the form of a homolog pattern analysis between existing groundwater and river data which includes the area up and downstream of the Kaiser site.
- B. Compile and review all up-gradient groundwater and related data collected by Kaiser Aluminum under Agreed Order No. 2692 and its amendments.
- C. Develop a strategy and sampling plan (quality assurance project plan) to determine the location of suspected PCB sources in the vicinity of the Spokane Industrial Park. This may involve the compilation of information on the availability of existing area groundwater monitoring wells, information on area groundwater flow direction, and area groundwater quality data.
- D. This task could potentially include the placement and sampling of new groundwater monitoring wells and is dependent upon receiving landowner permission and access.

Deliverables & Due Dates:

Copies of the following deliverables are to be provided to the ECOLOGY Contract Manager.

Deliverable	Due Date
Progress report of activities and associated costs	Quarterly
A memo comparing homolog-patterns for groundwater well data and suspected loads from the river	October 31, 2017
A report of all existing groundwater data and related information from the industrial park area	January 30, 2018
The strategy and sampling plan for determining the location of suspected PCB sources	April 1, 2018
Final report of the results of the work including documenting any installation of groundwater monitoring wells and groundwater sampling results.	June 30, 2019

**Task 2:** Perform a PCB Mass Balance Assessment from Plantes Ferry Park to Nine Mile reaches and collect addition samples to fill gaps for an ongoing synoptic study.

In support of the SRRTTF's Comprehensive Plan Element 5.14 (Category C – Identification of Sites of Concern for Contaminated Groundwater), the CONTRACTOR will assure completion of the following:

- A. Collect dry weather (low river flow) flow data and ambient surface water samples from the Plantes Ferry Park to Nine Mile reaches to better determine the impacts of the gaining and losing reaches in this area of the Spokane River. The inclusion of the Upriver Dam sampling location will provide data for the assessment of the impact of groundwater entering the gaining reach between Upriver Dam and Greene Street where a known PCB contaminated groundwater site is located. This data will also be used to validate the previous correlation efforts with respect to PCB homologue patterns between the calculated river loading from groundwater in the gaining reach and the contaminated groundwater site.
- B) This task will coordinate with synoptic sampling to address the Barker Road to Plantes Ferry Park groundwater contribution and track concentration changes.
- C) Groundwater sampling may be conducted at the former GE site to determine groundwater flow direction and support PCB homolog pattern analysis.

Deliverables & Due Dates:

Copies of the following deliverables are to be provided to the ECOLOGY Contract Manager.

Deliverable	Due Date
Progress report of activities and associated costs	Quarterly
A quality assurance project plan for flow and surface and ground water sample collection.	June 30,2018
A progress report describing all sampling related activities and an assessment of the groundwater loading to the Spokane River in the Upriver Dam to Greene Street reach.	March 30, 2019
A draft report of the correlation validation efforts with respect to PCB homologue patterns between the calculated river loading from groundwater in the gaining reach and the contaminated groundwater site.	June 30, 2019

**Task 3: Product Testing**

In support of the SRRTTF’s Comprehensive Plan Element 5.8 (Product Testing), the CONTRACTOR in collaboration with ECOLOGY and others, such as the Spokane Solid Waste Directory, will assure completion of the following:

- A. Determine how to best support Ecology’s PCB testing efforts. This task may include such activities as additional product testing for PCB content, the identification of low/no PCB containing alternatives for products previously identified, or developing strategies to distribute testing results.
- B. To advance PCB reductions, product testing results could be advanced to Task 4 Green Chemistry for potential development of alternatives.

Deliverables & Due Dates:

Copies of the following deliverables are to be provided to the ECOLOGY Contract Manager.

Deliverable	Due Date
Progress report of activities and associated costs	Quarterly
A report documenting any PCB content data generated, the results of any efforts to identify any low/no PCB containing alternatives for products tested, and/or the strategy for distributing testing results.	June 30, 2019

**Task 4: Green Chemistry Advancement**

In support of the SRRTTF’s Comprehensive Plan Element 5.7.2 (Support of Green Chemistry Alternatives), the CONTRACTOR will assure completion of the following:

- A. Coordinate with ECOLOGY’s HWTRP to prepare a presentation/proposal to entities, academic programs or professors working on green chemistry.
- B. Engage with academia and other entities to pursue green chemistry alternatives.

Deliverables & Due Dates:

Copies of the following deliverables are to be provided to the ECOLOGY Contract Manager.

Deliverable	Due Date
Progress report of activities and associated costs	Quarterly
Materials and presentation prepared for a presentation/proposal to green chemistry programs or professors.	June 30, 2018

**Task 5: Develop Outreach Materials**

In support of the SRRTTF’s Comprehensive Plan Element 5.8.2 (Conduct public education on products containing PCBs), Element 5.9.2 (Waste Disposal Assistance), Element 5.13 (Building Demolition and Renovation Control), and Element 5.15.2 (Actions That Require Development of New Work Plans), the CONTRACTOR in collaboration with ECOLOGY’s Toxics Control Program will assure completion of the following outreach materials to increase business and public awareness:

- A. Develop or update various outreach materials including, but not limited to:
  - a. A website for the SRRTTF
  - b. How to identify and dispose of PCB-containing items
  - c. How to adjust purchasing practices to select products with lower PCB content
  - d. An information package and checklist for use by agencies that make site visits to businesses on PCB issues and management
  - e. Public education and outreach materials on PCB waste disposal and selecting products with lower PCB content
  - f. Adapting the San Francisco Estuary Project (SFEP) document to make it suitable for use as a guidance document for Spokane-area building contractors on how to reduce PCB load during demolition and remodeling
  - g. Benefits of Low Impact Development

Deliverables & Due Dates:

Copies of the following deliverables are to be provided to the ECOLOGY Contract Manager.

Deliverable	Due Date
Progress report of activities and associated costs	Quarterly
A functional website URL	January 31, 2018
Copies of outreach material prepared	June 30, 2019

**Task 6: Conduct Watershed-wide PMF Analysis**

In support of the SRRTTF’s Comprehensive Plan Element 6.3 (Studies to Address Data Gaps), the CONTRACTOR will assure completion of a watershed scale **Positive Matrix Factorization** (PMF) analysis. The analysis will use all available analytical data (from EPA Method 1668), which includes river data, discharger monitoring data, and groundwater data. The purpose of this analysis would determine if any “PMF factors” can be identified that would assist in the identification of specific PCB source types such as Aroclors (legacy sources) or inadvertently produced PCBs (on-going sources).

- A. Develop a scope of work for the analysis given the available data and identify what additional data, if any, needs to be collected.
- B. The CONTRACTOR will develop a sub-contract with Dr. Rodenburg at Rutgers to perform the PMF or related analysis.
- C. If data is available, complete the PMF or related analysis. If the analysis can be completed, complete a final report documenting the findings of the PMF analysis by June 30, 2019.

Deliverables & Due Dates:

Copies of the following deliverables are to be provided to the ECOLOGY Contract Manager.

Deliverable	Due Date
Progress report of activities and associated costs	Quarterly
The scope of work	March 31, 2018
The contract with Dr. Rodenburg	June 30, 2018
Final report (if data available)	June 30, 2019

**Task 7: Limnotech technical support**

Limnotech is the SRRTTF’s contractor and as such participates in SRRTTF and Technical Track Workgroup meetings. The SRRTTF requires Limnotech’s technical expertise to make informed decisions. In addition to directly managing technical projects such as sampling and data analysis, LimnoTech may be called upon to manage other projects that would benefit from their overall knowledge of the PCB data and information that the SRRTTF’s previous work has generated. This task will help pay for analysis and information requests that arise which are outside the scope of other tasks in this contract.

- A. Draft and final technical memos will be generated as requested by the SRRTTF. The memos will be provided to the Project Manager 30 days after they are completed.
- B. Project management as needed.

Deliverables & Due Dates:

Copies of the following deliverables are to be provided to the ECOLOGY Contract Manager.

Deliverable	Due Date
Progress report or list of requests or activities and associated costs	Quarterly

**Task 8: ACE Administration**

The CONTRACTOR will incur administrative costs as a result of contract requirements and contracting with third parties to carry out requirements for the previously described tasks. For example, for the previously described tasks, third party preparation of requests for proposals for sampling and laboratory services will be incurred. In addition, expenses for such contract requirements for insurance will be incurred. The CONTRACTOR may seek reimbursement for these administrative expenses.

- A. The CONTRACTOR is responsible for entering all surface, flow, and groundwater water quality data generated as a result of this contract into ECOLOGY’s Environmental Information Management System.
- B. Facilitation services for all SRRTTF and other workgroup meetings by the Ruckelshaus Center may be funded by this contract and other sources of funding.

C. The CONTRACTOR will develop one contract with Limnotech to cover support for all technical tasks.

Deliverables & Due Dates:

Copies of the following deliverables are to be provided to the ECOLOGY Contract Manager.

Deliverable	Due Date
Progress report of activities and associated costs	Quarterly
EIM data entry verification	June 30, 2019

**Budget:**

Based upon the current understanding of the statement of work for each task (Task 1 through Task 8), the budget for each task may need to be revised in the future. Should a scope revision for any task result in the allocated funding for that task not being fully utilized, the funding will be reallocated as appropriate to other Tasks. Any reallocation of budget must be mutually agreed upon between the parties.

The CONTRACTOR is leveraging funding from this contract with funding from other sources. The tasks will be completed using a combination of the funding sources. Therefore if funding for this contract expires but all the deliverables are not achieved, the additional funding sources will be used to complete the task and will be reported upon after final completion. The activities funded by ECOLOGY under this contract are described below along with its corresponding budget.

<b>Task</b>	<b>Description</b>	<b>Fiscal Year 2018</b>	<b>Fiscal Year 2019</b>	<b>Total Contract Funding Amount</b>
Task 1	Develop Plan for the Identification of Suspected PCB Sources Up-gradient of Kaiser Aluminum	\$45,000	\$25,000	\$70,000
Task 2	Perform a PCB Mass Balance Assessment for the Plantes Ferry to Nine Mile Reaches and synoptic sampling	\$20,000	\$60,000	\$80,000
Task 3	Product Testing	\$20,000	\$ 5,000	\$25,000
Task 4	Green Chemistry Advancement	\$ 5,000	\$ 5,000	\$10,000
Task 5	Develop Outreach Materials	\$10,000	\$15,000	\$25,000
Task 6	Conduct Watershed-wide PMF Analysis	\$20,000	\$20,000	\$40,000
Task 7	Limnotech technical support	\$10,000	\$10,000	\$20,000
Task 8	ACE Administration	\$25,000	\$15,000	\$40,000
	<b>Total Project Cost</b>	\$155,000	\$155,000	\$310,000

## **APPENDIX B SPECIAL TERMS AND CONDITIONS**

### 1) Archaeological And Cultural Resources

CONTRACTOR shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological and historic resources. The CONTRACTOR 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 CONTRACTOR's negligence.

CONTRACTOR shall:

- a) Contact ECOLOGY to discuss any Cultural Resources requirements for the 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 ECOLOGY, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.

CONTRACTOR shall:

- Keep the IDP at the project site.
  - Make the IDP readily available to anyone working at the project site.
  - Discuss the IDP with staff 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 historical resources are found while conducting work under this Agreement:
    - Immediately stop work and notify ECOLOGY, 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 ECOLOGY.
  - 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.

### 2) Environmental Data Standards

- a) CONTRACTOR shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. CONTRACTOR is to contact ECOLOGY if



unsure about whether a QAPP is required for their project. If a QAPP is required the CONTRACTOR shall:

- Use ECOLOGY's QAPP Template provided by ECOLOGY.
  - 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) CONTRACTOR shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY instructs otherwise. The data must be successfully loaded into EIM, find instructions at: <http://www.ecy.wa.gov/eim>.
- c) CONTRACTOR 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: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. CONTRACTOR, 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.

## **APPENDIX C GENERAL TERMS AND CONDITIONS**

### **DEFINITIONS**

As used throughout this Contract, the following terms shall have the meaning set forth below:

"ECOLOGY" shall mean the Department of Ecology of the state of Washington, any division, section, office, unit or other entity of the agency, or any of the officers or other officials lawfully representing ECOLOGY.

"AGENT" shall mean the Director of Ecology, and/or the delegate authorized in writing to act on the Director's behalf.

"CONTRACTOR" shall mean that firm, provider, organization, individual, or other entity performing service(s) under this Contract, and shall include all employees of the CONTRACTOR.

"SUBCONTRACTOR" shall mean one not in the employment of the CONTRACTOR, who is performing all or part of those services under this Contract under a separate contract with the CONTRACTOR. The terms "SUBCONTRACTOR" and "SUBCONTRACTORS" means SUBCONTRACTOR(s) in any tier.

#### **1) ACCESS TO DATA**

In compliance with RCW 39.26.180(2), the CONTRACTOR shall provide access to data generated under this Contract to ECOLOGY, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions and recommendations of the CONTRACTOR's reports, including computer models and methodology for those models.

#### **2) ADVANCE PAYMENTS PROHIBITED**

No payments in advance of or in anticipation of goods or services to be provided under this Contract shall be made by ECOLOGY.

#### **3) AMENDMENTS**

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

#### **4) AMERICANS WITH DISABILITIES ACT (ADA) REQUIREMENTS**

CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

Americans with Disabilities Act (ADA) of 1990, Public Law 101-336, Also Referred to as the "ADA" 28 CFR Part 35

#### **5) ASSIGNMENT**

Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by the CONTRACTOR without prior written consent of ECOLOGY.

#### **6) ATTORNEYS' FEES**

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

7) COMPLIANCE WITH ALL LAWS

CONTRACTOR agrees to observe all laws, regulations, and policies of the United States and the state of Washington affecting performance under this Contract.

8) CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

CONTRACTOR shall not use or disclose any information concerning ECOLOGY, or information that may be classified as confidential, for any purpose not directly connected with the administration of this Contract, except with prior written consent of ECOLOGY, or as may be required by law.

Personal information including, but not limited to, "Protected Health Information", collected, used, or acquired in connection with this Contract shall be protected against unauthorized use, disclosure, modification or loss. CONTRACTOR shall ensure its directors, officers, employees, SUBCONTRACTORS or agents use personal information solely for the purposes of accomplishing the services set forth herein. CONTRACTOR and its SUBCONTRACTORS agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of ECOLOGY or as otherwise required by law.

Any breach of this provision may result in termination of the Contract and the demand for return of all personal information. The CONTRACTOR agrees to indemnify and hold harmless ECOLOGY for any damages related to the CONTRACTOR's unauthorized use of personal information.

9) CONFLICT OF INTEREST

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

In the event this Contract is terminated as provided above, ECOLOGY shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of the Contract by the CONTRACTOR. The rights and remedies of ECOLOGY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the AGENT makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Contract.

10) COPYRIGHT PROVISIONS

Unless otherwise provided, all materials produced under this Contract shall be considered "work made for hire" as defined by the United States Copyright Act, Title 17 U.S.C. section 101 and shall be owned by ECOLOGY. ECOLOGY shall be considered the author of such materials. In the event the materials are not considered "work made for hire" under the U.S. Copyright laws, CONTRACTOR hereby irrevocably assigns all right, title, and interest in materials, including all intellectual property rights, to ECOLOGY effective from the moment of creation of such materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, CONTRACTOR hereby grants to ECOLOGY a nonexclusive, royalty-

free, irrevocable license (with rights to sublicense others) in such materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The CONTRACTOR warrants and represents that CONTRACTOR has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to ECOLOGY.

CONTRACTOR shall exert all reasonable effort to advise ECOLOGY, at the time of delivery of materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document that was not produced in the performance of this Contract.

ECOLOGY shall receive prompt written notice of each notice or claim of infringement received by the CONTRACTOR with respect to any data delivered under this Contract. ECOLOGY shall have the right to modify or remove any restrictive markings placed upon the data by the CONTRACTOR.

#### 11) COVENANT AGAINST CONTINGENT FEES

CONTRACTOR warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the CONTRACTOR for securing business.

ECOLOGY shall have the right, in the event of breach of this clause by the CONTRACTOR, to annul this Contract without liability or, in its discretion, to deduct from the Contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

#### 12) DISALLOWED COSTS

CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its SUBCONTRACTORS.

#### 13) DISPUTES

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the AGENT.

- a) The request for a dispute hearing must:
  - 1) Be in writing.
  - 2) Identify the CONTRACTOR's name, address, and Contract number.
  - 3) State the disputed issue(s).
  - 4) State the relative positions of the parties.
  - 5) Be mailed to the AGENT and the other party's (respondent's) Contract manager within three (3) business days after the parties agree that they cannot resolve the dispute.
- b) The respondent shall send a written answer to the requester's statement to both the AGENT and the requester within five (5) business days.
- c) The AGENT shall review the written statements and reply in writing to both parties within ten (10) business days. The AGENT may extend this period if necessary by notifying the parties.
- d) The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable method, in addition to the dispute resolution procedure outlined above.

14) DUPLICATE PAYMENT

ECOLOGY shall not pay the CONTRACTOR, if the CONTRACTOR has charged or will charge the state of Washington or any other party under any other contract or agreement, for the same services or expenses.

15) FUNDING AVAILABILITY

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 completion or expiration date of this Contract, ECOLOGY, at its sole discretion, may elect to terminate the Contract, in whole or part, for convenience or to renegotiate the Contract subject to new funding limitations and conditions. ECOLOGY may also elect to suspend performance of the Contract until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification 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 CONTRACTOR through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the CONTRACTOR. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the agreement and any amendments.

16) GOVERNING LAW

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

17) INDEMNIFICATION

To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend, and hold harmless State, agencies of State and all officials, agents and employees of State, from and against all claims for injuries or death arising out of or resulting from the CONTRACTOR's performance of the Contract. "Claim," as used in this Contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting therefrom.

CONTRACTOR'S obligations to indemnify, defend, and hold harmless includes any claim by CONTRACTORS' agents, employees, representatives, or any subcontractor or its employees.

CONTRACTOR expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to CONTRACTOR'S or any SUBCONTRACTOR's performance or failure to perform the Contract. CONTRACTOR'S obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

CONTRACTOR waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

18) INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent CONTRACTOR relationship will be created by this Contract. The CONTRACTOR and his or her employees or agents performing under this Contract are not employees or agents of ECOLOGY. The CONTRACTOR will not hold himself/herself out as or

claim to be an officer or employee of ECOLOGY or of the state of Washington by reason hereof, nor will the CONTRACTOR make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the CONTRACTOR.

#### 19) INDUSTRIAL INSURANCE COVERAGE

CONTRACTOR shall provide Workers Compensation insurance as required, in accordance with applicable federal and state regulations, with statutory limits. CONTRACTOR shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the CONTRACTOR fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, ECOLOGY may collect from the CONTRACTOR the full amount payable to the Industrial Insurance accident fund. ECOLOGY may deduct the amount owed by the CONTRACTOR to the accident fund from the amount payable to the CONTRACTOR by ECOLOGY under this Contract, and transmit the deducted amount to the Washington State Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's right to collect from the CONTRACTOR.

#### 20) LICENSING, ACCREDITATION, AND REGISTRATION

CONTRACTOR shall comply with all applicable local, state and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this Contract.

#### 21) LIMITATION OF AUTHORITY

Only ECOLOGY's Director or delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this Contract is not effective or binding unless made in writing and signed by the Director.

#### 22) NON-DISCRIMINATION LAWS

During the performance of this Contract, the CONTRACTOR shall comply with all federal and state non-discrimination laws, regulations, and policies.

In the event of the CONTRACTOR's non-compliance or refusal to comply with any non-discrimination law, regulation or policy, this Contract may be rescinded, canceled or terminated in whole or in part, and the CONTRACTOR may be declared ineligible for further contracts with ECOLOGY. The CONTRACTOR shall, however, be given a reasonable time in which to cure this non-compliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

#### 23) OSHA/WISHA STANDARDS

CONTRACTOR agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), and the Washington Industrial Safety and Health Act of 1973 (WISHA) during the entire term(s) of said Contract.

#### 24) PREVAILING WAGES

CONTRACTOR agrees to comply with Department of Labor and Industries conditions, <http://www.lni.wa.gov/TradesLicensing/PrevWage/default.asp> during the entire term(s) of this Contract.

Questions concerning Prevailing Wage requirements should be directed to the Industrial Statistician, Department of Labor and Industries. By this reference any required Prevailing Wage rates are made part of this Contract.

CONTRACTOR must submit to the Industrial Statistician of the Department of Labor and Industries a "Statement of Intent to Pay Prevailing Wages." A copy of the approved intent statements must be submitted to ECOLOGY in order to receive the first progress payment on this Contract.

25) PUBLICITY

CONTRACTOR agrees to submit to ECOLOGY all advertising and publicity matters relating to this Contract wherein ECOLOGY'S name is mentioned or language used from which the connection of ECOLOGY'S name may, in ECOLOGY'S judgment, be inferred or implied. The CONTRACTOR agrees not to publish or use such advertising and publicity matters without the prior written consent of ECOLOGY.

26) RECORDS MAINTENANCE

CONTRACTOR shall maintain books, records, documents, data and other evidence relating to this Contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract.

CONTRACTOR shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review or audit by ECOLOGY, personnel duly authorized by ECOLOGY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

27) REGISTRATION WITH DEPARTMENT OF REVENUE

CONTRACTOR shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

28) RIGHT OF INSPECTION

CONTRACTOR shall provide right of access to its facilities to ECOLOGY, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

29) SEVERABILITY

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

30) SITE SECURITY

While on ECOLOGY premises, CONTRACTOR, its agents, employees or SUBCONTRACTORS shall conform in all respects with physical, fire or other security policies or regulations.

### 31) SUBCONTRACTING

Neither the CONTRACTOR nor any SUBCONTRACTOR shall enter into subcontracts for any of the work contemplated under this Contract without obtaining prior written approval of ECOLOGY. In no event shall the existence of the subcontract operate to release or reduce the liability of the CONTRACTOR to ECOLOGY for any breach in the performance of the CONTRACTOR's duties. This clause does not include contracts of employment between the CONTRACTOR and personnel assigned to work under this Contract.

Additionally, the CONTRACTOR is responsible for ensuring that all terms, conditions, assurances, and certifications set forth in this agreement are carried forward to any subcontracts. CONTRACTOR and its SUBCONTRACTORS agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of ECOLOGY or as provided by law.

### 32) SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the CONTRACTOR is encouraged to implement sustainable practices where and when possible. These practices include conservation of water and energy, use of certified green cleaning products, allowance of toxic chemicals, purchase and use of sustainably produced products (e.g., 100% recycled paper), and use of reusable products. For more examples and resources see <http://www.ecy.wa.gov/programs/swfa/epp>.

### 33) TAXES

All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

### 34) TERMINATION FOR CAUSE

In the event ECOLOGY determines the CONTRACTOR has failed to comply with the conditions of this Contract in a timely manner, ECOLOGY has the right to suspend or terminate this Contract. Before suspending or terminating the Contract, ECOLOGY shall notify the CONTRACTOR in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days, the Contract may be terminated or suspended.

In the event of termination or suspension, the CONTRACTOR shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

ECOLOGY reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the CONTRACTOR from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the CONTRACTOR or a decision by ECOLOGY to terminate the Contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the CONTRACTOR: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of ECOLOGY provided in this Contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

### 35) TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Contract, ECOLOGY may, by ten (10) calendar days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If



this Contract is so terminated, ECOLOGY shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

### 36) TERMINATION PROCEDURES

Upon termination of this Contract, ECOLOGY, in addition to any other rights provided in this Contract, may require the CONTRACTOR to deliver to ECOLOGY any property specifically produced or acquired for the performance of such part of this Contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

ECOLOGY shall pay to the CONTRACTOR the agreed upon price, if separately stated, for completed work and services accepted by ECOLOGY, and the amount agreed upon by the CONTRACTOR and ECOLOGY for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by ECOLOGY, and (iv) the protection and preservation of property, unless the termination is for default, in which case the AGENT shall determine the extent of the liability of ECOLOGY. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Contract.

ECOLOGY may withhold from any amounts due the CONTRACTOR such sum as the AGENT determines to be necessary to protect ECOLOGY against potential loss or liability. The rights and remedies of ECOLOGY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

After receipt of a notice of termination, and except as otherwise directed by the AGENT, the CONTRACTOR shall:

- a) Stop work under the Contract on the date, and to the extent specified, in the notice;
- b) Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract that is not terminated;
- c) Assign to ECOLOGY, in the manner, at the times, and to the extent directed by the AGENT, all of the rights, title, and interest of the CONTRACTOR under the orders and subcontracts so terminated, in which case ECOLOGY has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- d) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the AGENT to the extent AGENT may require, which approval or ratification shall be final for all the purposes of this clause;
- e) Transfer title to ECOLOGY and deliver in the manner, at the times, and to the extent directed by the AGENT any property which, if the Contract had been completed, would have been required to be furnished to ECOLOGY;
- f) Complete performance of such part of the work as shall not have been terminated by the AGENT; and
- g) Take such action as may be necessary, or as the AGENT may direct, for the protection and preservation of the property related to this Contract, which is in the possession of the CONTRACTOR and in which ECOLOGY has or may acquire an interest.

### 37) TREATMENT OF ASSETS

- a) Title to all property furnished by ECOLOGY shall remain in ECOLOGY. Title to other property, the cost of which is reimbursable to the CONTRACTOR under this Contract, shall pass to and vest in ECOLOGY upon (i) issuance for use of such property in the performance of this Contract,

- or (ii) commencement of use of such property in the performance of this Contract, or (iii) reimbursement of the cost thereof by ECOLOGY in whole or in part, whichever first occurs.
- b) Any property of ECOLOGY furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by ECOLOGY, be used only for the performance of this Contract.
  - c) CONTRACTOR shall be responsible for any loss or damage to property of ECOLOGY that results from the negligence of the CONTRACTOR or that results from the failure on the part of the CONTRACTOR to maintain and administer that property in accordance with sound management practices.
  - d) If any ECOLOGY property is lost, destroyed or damaged, the CONTRACTOR shall immediately notify ECOLOGY and shall take all reasonable steps to protect the property from further damage.
  - e) CONTRACTOR shall surrender to ECOLOGY all property of ECOLOGY prior to settlement upon completion, termination or cancellation of this Contract.
  - f) All reference to the CONTRACTOR under this clause shall also include CONTRACTOR's employees, agents or SUBCONTRACTOR's.

38) U.S. DEPARTMENT OF TREASURY, OFFICE OF FOREIGN ASSETS CONTROL

ECOLOGY complies with U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) payment rules. OFAC prohibits financial transactions with individuals or organizations, which have been placed on the OFAC Specially Designated Nationals (SDN) and Blocked Persons sanctions list located at <http://www.treas.gov/offices/enforcement/ofac/index.html>. Compliance with OFAC payment rules ensures that ECOLOGY does not conduct business with individuals or organizations that have been determined to be supporters of terrorism and international drug dealing or that pose other dangers to the United States.

Prior to making payment to individuals or organizations, ECOLOGY will download the current OFAC SDN file and compare it to ECOLOGY and statewide vendor files. In the event of a positive match, ECOLOGY reserves the right to: (1) make a determination of "reasonability" before taking the positive match to a higher authority, (2) seek assistance from the Washington State Office of the State Treasurer (OST) for advanced assistance in resolving the positive match, (3) comply with an OFAC investigation, if required, and/or (4) if the positive match is substantiated, notify the CONTRACTOR in writing and terminate the Contract according to the Termination for Convenience provision without making payment. ECOLOGY will not be liable for any late payment fees or missed discounts that are the result of time required to address the issue of an OFAC match.

39) WAIVER

Waiver of any default or breach shall not be deemed a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by authorized representative of ECOLOGY.

*End of Document*

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