

Amendment to Project Agreement

14-102(b)
Council Approval 10/19/15

mj
11/12/15

Project Sponsor: City of Tukwila
Project Title: Duwamish Gardens Restoration

Project Number: 13-1099R
Amendment Number: 2

Amendment Type:

RECEIVED

Cost Change

NOV 12 2015

Amendment Description:

WA STATE
RECREATION AND CONSERVATION OFFICE

The project agreement is increased by \$163,577 of 2011-13 PSAR return funds awarded by the Puget Sound Partnership in their letter dated August 27, 2015 and \$36,423 of 2015-17 PSAR funds awarded by WRIA 9 on the 2015 SRFB Project Funding List, and \$200,000 in additional sponsor match bringing the total project agreement amount to \$1,980,957 to afford higher than anticipated construction costs.

Project Funding:

The total cost of the project for the purpose of this Agreement changes as follows:

	Old Amount		New Amount	
	Amount	%	Amount	%
RCO - PSAR	\$872,081.00	55.16%	\$1,072,081.00	54.12%
RCO - SALMON ST PROJ	\$327,353.00	20.71%	\$327,353.00	16.52%
Project Sponsor	\$381,523.00	24.13%	\$581,523.00	29.36%
Total Project Cost	\$1,580,957.00	100%	\$1,980,957.00	100%
Admin Limit	\$0.00	0.00%	\$0.00	0.00%
A&E Limit	\$139,004.25	9.64%	\$174,173.89	9.64%

Agreement Terms

In all other respects the Agreement, to which this is an Amendment, and attachments thereto, shall remain in full force and effect. In witness whereof the parties hereto have executed this Amendment.

**State Of Washington
Recreation and Conservation Office**

City of Tukwila

BY: Kaleen Cottingham
Kaleen Cottingham

AGENCY: City of Tukwila
BY: Jim Haggerton
Jim Haggerton

TITLE: Director

TITLE: Mayer

DATE: 9/24/15

DATE: 10/30/15

Pre-approved as to form:

BY: ISI
Assistant Attorney General

2nd of 2 ORIGINALS

Amendment Agreement Description

Project Sponsor: City of Tukwila
Project Title: Duwamish Gardens Restoration

Project Number: 13-1099 R
Amendment Number: 2

Agreement Description

City of Tukwila proposes to complete Duwamish Gardens estuary restoration project, creating valuable shallow water habitat and native riparian vegetation on a 2.34 acre site owned by the City (Acq 06-2199) and on adjacent WADNR aquatic lands. The site is located on the right bank of the Duwamish River immediately downstream of river mile 7.0 between the Codiga Farms restoration at RM 8.5 and North Wind's Weir restoration at RM 6.4, in the high priority Duwamish Estuary "transition zone" between fresh and salt water. Off channel and shallow water habitats in this stretch of the Duwamish are needed to provide opportunities for juvenile Chinook to move out of the main channel to habitats where they can feed and rear. Longer residence times in the estuary allow for larger, healthier smolts prior to ocean migration, and thus, improved survival. The property is among the largest available site for habitat restoration remaining in the Duwamish corridor.

The new habitat will be created by excavating 30,000 cubic yards of material to establish approximately ~0.89 acre of shallow water mudflat and marsh habitat, and ~1.24 acre of restored riparian area. Additional park enhancements will include a small parking lot, pedestrian trail, and river viewpoint, to be installed with non-SRFB funds. Interpretive signs and/or art work will feature the cultural history of the area and ecological features of the site.

Amendment Eligible Scope Activities

Project Sponsor: City of Tukwila
Project Title: Duwamish Gardens Restoration
Program: Puget Sound Acq. & Restoration

Project Number: 13-1099
Project Type: Restoration
Amendment #: 2

Restoration Metrics

Worksite #1, Duwamish Gardens

Targeted salmonid ESU/DPS (A.23):

Chinook Salmon-Puget Sound ESU,
 Chum Salmon-Puget Sound/Strait of
 Georgia ESU, Coho Salmon-Puget
 Sound/Strait of Georgia ESU, Pink
 Salmon-Odd year ESU,
 Steelhead-Puget Sound DPS

Targeted species (non-ESU species):

Bull Trout, Cutthroat, Rainbow, Searun
 Cutthroat

Project Identified In a Plan or Watershed Assessment (C.0.c):

Green/Duwamish and Central Puget
 Sound Watershed Resource Inventory
 Area 9 (WRIA 9) Steering Committee,
 August 2005. Salmon Habitat Plan -
 Making Our Watershed Fit for a King.
 Prepared for the WRIA 9 Forum. King
 County, 201 S. Jackson St., Suite 600,
 Seattle, WA, 98104.

Type Of Monitoring (C.0.d.1):

Implementation Monitoring

Estuarine / Nearshore Project

Total Amount Of Estuarine / Nearshore Acres Treated (C.9.b):

0.9

Creation of new estuarine area (C.9.q.1)

Acres of Estuary Created (C.9.q.2):

0.9

Estuarine planting or native plant establishment (C.9.r.1)

Acres of Estuarine planting or native plant establishment (C.9.r.3):

1.2

Exclusion devices (C.9.p.1)

Acres Treated with exclusion devices (C.9.p.2):

0.5

Regrading of slope (C.9.i.1)

Acres of Estuary Treated through slope regrading (C.9.i.2):

0.9

Removal of existing fill material (C.9.g.1)

Acres of Estuary Treated through fill material removal (C.9.g.2):

0.9

General restoration activities

Restoration fencing and gates

Number of gates:

0

Linear feet of fencing:

800

Traffic control

Utility relocation / reconnection

Utilities relocated / reconnected:

Communication, Power, Sewer, Storm
 sewer, Water

Cultural Resources

Cultural resources

*Includes investigations that have already
 been completed monitoring and data
 recovery during construction, and
 mitigation which are eligible
 pre-agreement expenses, not included
 in scope of design grant.*

Permits

Obtain permits

Amendment Special Conditions

Project Sponsor: City of Tukwila
Project Title: Duwamish Gardens Restoration

Project Number: 13-1099 R
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Special Conditions

FEDERAL FUND INFORMATION

This project is match to the following federal funding source (s) and the same provisions apply as if this project were funded by the federal funding source(s) as a federal subaward.

Federal Agency: US Environmental Protection Agency

Catalog of Federal Domestic Assistance Number and Name: 66.123 - Puget Sound Action Agenda

Federal Award Identification Number: PC-00J32101

Federal Fiscal Year: 20151

Federal Award Date: 12/29/2010

Total Federal Award: \$12,269,999

Federal Award Project Description: Technical Investigations and Implementation Assistance Program

If federal funding information is included in this section, this Agreement is funded by a federal subaward from a portion of the total federal award. This funding is not research and development (R&D).

If the sponsor's total federal expenditures are \$750,000 or more during the sponsor's fiscal year, the sponsor is required to have a federal single audit conducted for that year in compliance with 2 C.F.R Part 200, Sub Part F - Audit Requirements, Section 500 (2013). The sponsor must provide a copy of the final audit report to RCO within nine months of the end of the sponsor's fiscal year, unless a longer period is agreed to in advance by the federal agency identified in this section.

RCO may suspend all reimbursements if the sponsor fails to timely provide a single federal audit; further the RCO reserves the right to suspend any RCO Agreements with the sponsor if such noncompliance is not promptly cured.

Comply with Attachment A: The sponsor agrees to comply with Attachment A "EPA Provisions for Puget Sound Estuary and Restoration Projects". Attachment A is incorporated by this reference as if fully set forth herein. This project is used as state match for the National Estuary Program administered by the U.S. Environmental Protection Agency. As such, the EPA Provisions are required in addition to the RCO standard Terms and Conditions.

Disclosure notice:

Projects funded with state Salmon Recovery Funding Board and Puget Sound Acquisition and Restoration money may be used by RCO, the Puget Sound Partnership or Northwest Indian Fisheries Commission as match to one of the following federal assistance agreements: 1) United States Department of Commerce Catalog of Federal Domestic Assistance Number 11.438, or 2) United State Environmental Protection Agency Catalog of Federal Domestic Assistance Numbers 66.123 and 66.456.

Cultural Resources Consultation:

This project is subject to the National Historic Preservation Act, Section 106, and therefore appears to be exempt from Governor's Executive Order 05-05 Archaeological and Cultural Resources (EO 05-05) as described in Section 9 of this project agreement. In order for this project to be exempt from EO 05-05, the Section 106 Area of Potential Effect (APE) must include all ground-disturbing activities subject to this project agreement, including the restoration staging area. The sponsor is encouraged to work with the federal permitting agency to align the Section 106 APE with the scope of work subject to this project agreement. If the APE does not include all ground-disturbing activities subject to this project agreement, promptly notify the RCO grant manager, as this will require RCO to initiate cultural resources consultation following EO 05-05 for those activities not included in the federal APE. Completion of this consultation and a Notice to Proceed from RCO will be required before these ground-disturbing activities can begin.

State Owned Aquatic Lands:

Habitat Restoration on State Owned Aquatic Lands: The in-water portion of this project occurs on state-owned aquatic lands managed by the Department of Natural Resource (DNR) on behalf of the State of Washington. The project sponsor must work with DNR's Aquatic Land Managers to secure a lease, an easement or a right of entry, as authorization to complete the restoration work. It is important for the sponsor to coordinate early with the appropriate Land Manager to avoid project delays. See the DNR Land Manager Coverage Map for contact information in your project area (http://www.dnr.wa.gov/Publications/aqr_land_manager_map.pdf). Additional information on State-owned aquatic lands can be found in Section 2 of Manual 18 (2012).

Amendment Special Conditions

Contaminated Soils Remediation Ineligible:

In 2004 Gary Struthers Associates, Inc (GSA) conducted a Phase II Environmental Site Assessment (ESA) for Sound Transit on the site, and in 2008 a supplemental Phase II ESA was completed. One or more of the soil samples contained concentrations slightly or moderately exceeding the State of WA Model Toxics Control Act (MTCA) Method A or B soil cleanup levels (see Attachment 43 for additional information).

Sponsor acquired the property with funding from PRISM No. 06-2199

(<https://secure.rco.wa.gov/prism/search/projectsnapshot.aspx?ProjectNumber=06-2199>). Acquisitions Manual 3 (2010) p 46 states that "Purchase of property contaminated with any hazardous substance not meeting the MTCA's standards is ineligible for RCO grant funding." In order to avoid a compliance issue, sponsor agreed to bear the site clean-up and remediation costs. In the letter from RCO to sponsor dated Nov 22, 2011, RCO agreed that the clean-up can be delayed to coincide with the restoration work provided that by December 31, 2015 the site would be clean, or there would be a fully-funded plan in place for clean-up (06-2199 PRISM Attach 50

<https://secure.rco.wa.gov/prism/search/ProjectSnapshotAttachmentData.aspx?id=129874>).

Before putting this project out to bid, the sponsor will secure approval from RCO on a plan to 1) manage the contaminated soil clean-up and remediation in compliance with applicable state and federal laws and 2) segregate associated clean-up costs from the restoration project excavation costs. The costs of the contaminated soil clean-up including soil removal, transportation, and disposal are ineligible for reimbursement or match under this project agreement.

Construction Design Deliverables:

The project will meet the standards for Design and Restoration Project Deliverables described in Manual 18 Appendix D "Construction and "Design Build" Deliverables." The preliminary and final design was completed with funding from Project Agreement No. 10-1605. For this project agreement, the sponsor must provide As-built design documents at completion of construction.

PSAR funded projects:

The Puget Sound Partnership approved \$79,664.53 in 2011-2013 PSAR funding be allocated to the project as part of Cost Change Amendment #1, and an additional \$163,577 in 2011-13 PSAR funding be allocated to the project as part of Cost Change Amendment #2. PSP requires this funding be fully expended and an invoice submitted to RCO for approval by October 30, 2015 in order to have the funding fully drawn down by November 30, 2015.

Any signage or press materials must acknowledge the Puget Sound Acquisition and Restoration Fund as well as RCO as a fund source.