May 16, 2011 PRELIMINARY DRAFT

FUNDING AGREEMENT
Between
THE STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
And
MUNICIPAL STORMWATER NATIONAL POLLUTANT
DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITTEES

This Funding Agreement is between the State of Washington, acting by and through its DEPARTMENT OF ECOLOGY, hereafter called "Ecology," and [JURISDICTION], hereafter called "[Jurisdiction]."

Background:
Ecology is re-issuing Phase I and western Washington Phase II Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) Permits with new monitoring requirements. The Stormwater Work Group, a formal stakeholder committee, recommended that Ecology require Permittees to equitably contribute funds to implement a regional stormwater monitoring program. Furthermore, the Stormwater Work Group recommended that Ecology serve as the administrative entity to manage the pooled funds, and that Ecology enter into contractual arrangements with each Permittee to ensure the funds are spent on regional stormwater monitoring activities in accordance with Stormwater Work Group recommendations.

The project is being jointly funded by all of the Phase I and western Washington Phase II Municipal Stormwater NPDES Permittees (approximately 81 local jurisdictions and two ports). Dates that permittees' funding shares are due to Ecology are defined in permit condition S8.C.1 and the amount of each permittee's share during each year of the five-year permit is defined in permit condition S8.C.2. All permittees, as funding partners, will be formally acknowledged in reports and other publications resulting from the project.

All of the funding partners will have access to all of the data and information generated by the project.

Agreement Purpose:
The purpose of this Agreement is to provide a share of the funding required to conduct a regional stormwater monitoring program.

Effefctive Date and Duration:
This Agreement shall become effective on the date on which both parties have signed this Agreement. this Agreement shall expire on [end of state fiscal year following expiration date of permit]. Work covered by this agreement will be completed by [end of state fiscal year following expiration date of permit], unless terminated sooner as provided herein.

Statement of Work:
Ecology agrees to manage the funds, participate in an oversight committee, solicit requests for proposals, conduct an open and transparent process to rank applications, and enter into contracts with other entities to perform the activities described in **Attachment A – Scope of Work**, attached hereto by reference.

Consideration:
[Jurisdiction] agrees to pay Ecology the sum of _____ dollars as its share for accomplishing the work required by this agreement.

Billing Procedure:
An invoice for the consideration will be mailed on [*not more than 60 days before the payment due date determined in permit condition S8.C.1*] to the following address:

Jurisdiction contact
[Jurisdiction]
Jurisdiction address
Jurisdiction city, WA zip

Payments will be due to Ecology within 45 days of receipt of the invoice, mailed to the following address:

Department of Ecology
Cashiering Section
P.O. Box 47611
Olympia, WA 98504-7611

Amendments:
Ecology and [Jurisdiction] may mutually amend this Agreement. The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.

Access to Records:
All records supporting every request for payment shall be maintained by Ecology in a manner which will provide an audit trail to the expenditures for which state support is provided. Original source documents shall be maintained by Ecology and made available to [Jurisdiction] or a duly authorized representative upon request.

Cost Overruns:
Ecology will not be responsible for cost overruns. [Jurisdiction]'s share includes a 10% contingency.

Excess Funds:
If after the completion date of this project, excess funds remain in Ecology's project account, Ecology will refund a pro-rated refunded amount to [Jurisdiction] no later than six months following the completion date of the project.

Merger Clause:
This Agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified hereing regarding this Agreement. Each party, by signature below of its authorized representative, hereby acknowledge that s/he has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

The Project officer for Ecology is:

Ecology Project Officer Name
Water Quality Program
Washington State Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600
Phone: (360) 407-xxxx
email:

The Project officer for [Jurisdiction] is:

Jurisdiction Project Officer Name
Division or section
[Jurisdiction]
Jurisdiction address
Jurisdiction city, WA zip
Phone: (xxx) xxx-xxxx
email:

Approved by Ecology:

Polly Zehm
State of Washington
Department of Ecology

_____
Signature

Deputy Director
Title Date

Approved by [Jurisdiction]:

[Add Jurisdiction signature information]

_____
Signature

_____
Title Date

Approved as to form only by the Attorney General's Office.

Attachment A – Scope of Work

The purpose of this attachment is to define the activities and products of a Regional Stormwater Monitoring Program (RSMP) that will be delivered by Ecology, through Requests for Proposals and subsequent contractual arrangements with other entities (including permittees) during the next cycle of National Pollutant Discharge Elimination System (NPDES) Permits for municipally owned Separate Storm Sewer Systems in Western Washington.

"SWG Recommendations" refers to the Stormwater Work Group's report *Recommendations for Municipal Permit Stormwater Monitoring* delivered to the Department on October 30, 2010. The activities below will be funded by permittees' collective contributions (shares) and other discrete funding sources that become available. Ecology is not responsible for funding the RSMP, only for administering the funding and contracts to implement the RSMP.

Ecology Tasks:

Program Administration, Requests for Proposals, and Contracting

1. Participation in an oversight process pursuant to SWG recommendations.
2. A competitive, open process to determine who will conduct each of the **Contractor Tasks** listed below for: status and trends monitoring in small streams in Puget Sound and southwestern Washington and in marine nearshore areas of Puget Sound; source identification and diagnostic information repository; and effectiveness studies.
3. Contracting with successful applicants and oversight to ensure that quality data and other products are produced in a timely fashion.
4. Tracking costs associated with oversight of both "pay-in" and contracting out to fund and conduct the RSMP.
5. Coordinating an annual review and reporting of results and information generated by the RSMP.

Contractor Tasks:

Status and Trends Monitoring in Small Streams in Puget Sound Lowlands

1. "Ramp-up" tasks in preparation to conduct status and trends monitoring during the first through third years of the permit cycle (likely 2012-2015).

    a. Quality Assurance Project Plan (QAPP) development and approval

        i. Write a complete QAPP and have it reviewed and approved by the Department. The QAPP will include: site selection; sampling protocols for water quality index monitoring (including instantaneous flow measurements), stream benthos monitoring (including habitat monitoring), sediment sampling; toxicity tests; quality assurance and control procedures; laboratory analytical methods; data storage; and data analysis.

        ii. Investigate and determine whether the sampling design proposed in the SWG recommendations might be appropriate; i.e., sample fewer constituents in the water column parameter list and/or increase the sampling frequency to provide a better connection between instream conditions and stormwater inputs.

b. Site selection and confirmation

i. According to EMAP protocols and SWG recommendations, as detailed in the QAPP, randomly select 100 sites in first, second, and third order streams in Puget Sound lowlands. There will be 50 sites each located inside and outside of UGA boundaries. A master list of alternate sites will also be generated.

ii. Confirm that all sites are accessible and suitable for sampling according to protocols. For each site that is not accessible or otherwise unsuitable, the next site on the master list will be selected and must be confirmed.

c. Data base identification

i. Confirm that data management tools are available to handle all RSMP data and that all data will be quality controlled, stored and accessible to the public in a timely fashion.

d. Analysis of streamflow gauging data available in Puget Sound lowland streams

i. Determine the extent to which questions about loading, stream flashiness, etc. relevant to stormwater management can be answered with existing data.

ii. Recommend what existing gages need to be maintained and whether new gages need to be added to the network to support status and trends monitoring.

iii. Recommend what data management system will be needed and how best to create a collaborative system.

2. Implementation tasks to conduct status and trends monitoring at 100 sites during the 4th and 5th years of the permit cycle (likely 2015-2017).

a. Monthly water quality index (WQI) and instantaneous flow monitoring (at least 24 times).

b. Annual stream benthos and habitat monitoring (twice).

c. Sediment monitoring and toxicity sampling once.

3. Data analysis and interpretation during the 5th year of the permit cycle (likely 2016-2017).

<u>Status and Trends Monitoring in Small Streams in Southwestern Washington</u>

1. "Ramp-up" tasks in preparation to conduct status and trends monitoring during the second and third years of the permit cycle (likely 2013-2015).

a. Quality Assurance Project Plan (QAPP) development and approval

i. Write a complete QAPP and have it reviewed and approved by the Department. The QAPP will include: site selection; sampling protocols for water quality index monitoring (including instantaneous flow measurements), stream benthos monitoring (including habitat monitoring), sediment sampling; toxicity tests;

quality assurance and control procedures; laboratory analytical methods; data storage; and data analysis.

ii. Investigate and determine whether the sampling design proposed in the SWG recommendations might be appropriate; i.e., sample fewer constituents in the water column parameter list and/or increase the sampling frequency to provide a better connection between instream conditions and stormwater inputs.

b. Site selection and confirmation

i. According to EMAP protocols and SWG recommendations, as detailed in the QAPP, randomly select 30 sites in first, second, and third order streams inside NPDES-permitted areas in southwestern Washington. A master list of alternate sites will also be generated.

ii. Confirm that all sites are accessible and suitable for sampling according to protocols. For each site that is not accessible or otherwise unsuitable, the next site on the master list will be selected and must be confirmed.

c. Data base identification

i. Confirm that data management tools are available to handle all RSMP data and that all data will be quality controlled, stored and accessible to the public in a timely fashion.

d. Analysis of streamflow gauging data available in southwest Washington streams

i. Determine the extent to which questions about loading, stream flashiness, etc. relevant to stormwater management can be answered with existing data.

ii. Recommend what existing gages need to be maintained and whether new gages need to be added to the network to support status and trends monitoring.

iii. Recommend what data management system will be needed and how best to create a collaborative system.

2. Implementation tasks to conduct status and trends monitoring at 30 sites during the 4th or 5th year of the permit cycle (likely 2015-2017).

a. Monthly water quality index (WQI) and instantaneous flow monitoring (12 times).

b. Annual stream benthos and habitat monitoring (once).

c. Sediment monitoring and toxicity sampling once.

3. Data analysis and interpretation during the 5th year of the permit cycle (likely 2016-2017).

<u>Status and Trends Monitoring in Marine Nearshore Areas of Puget Sound</u>

1. "Ramp-up" tasks in preparation to conduct status and trends monitoring during the first through third years of the permit cycle (likely 2012-2015).

a. Quality Assurance Project Plan (QAPP) development and approval

i. Write a complete QAPP and have it reviewed and approved by the Department. The QAPP will include: site selection; sampling protocols for bacteria sampling, sediment sampling, and mussel tissue sampling; quality assurance and control procedures; laboratory analytical methods; data storage; and data analysis.

ii. Investigate and determine whether the mussel tissue sampling design proposed in the SWG recommendations is feasible, and if not, propose another biota indicator and develop the associated QAPP component.

b. Site selection and confirmation

i. According to Puget Sound Assessment and Monitoring Program (PSAMP) protocols and SWG recommendations, as detailed in the QAPP, randomly select 50 sites in the 0 mean lower water level to minus one fathom depth inside UGA boundaries. A master list of alternate sites will also be generated.

ii. Confirm that all sites are accessible and suitable for sampling according to protocols. For each site that is not accessible or otherwise unsuitable, the next site on the master list will be selected and must be confirmed.

c. Data base identification

i. Confirm that data management tools are available to handle all RSMP data and that all data will be quality controlled, stored and accessible to the public in a timely fashion.

2. Implementation tasks to conduct status and trends monitoring at 50 sites during the 4th and 5th years of the permit cycle (likely 2015-2017).

a. Monthly bacteria sampling (at least 24 times).

b. Annual mussel tissue sampling (twice).

c. Sediment chemistry once.

3. Data analysis and interpretation during the 5th year of the permit cycle (likely 2016-2017).

<u>Source Identification and Diagnostic Monitoring Information Repository</u>

1. A literature review of source identification and diagnostic monitoring approaches and information in western Washington and elsewhere.
2. A QAPP library with data quality objectives and report templates.
3. A repository for information to evaluate current source identification programs and enable permittees to share information.
4. A database design and proposed reporting requirements to support regional-scale analyses to identify problems that can be better addressed by broad source control initiatives (*i.e.*, product substitutions) than by efforts at the local government level.

Effectiveness Studies

1. A literature review of effectiveness studies and information in western Washington and elsewhere.
2. A competitive, open process to determine who will conduct studies on topics that will be recommended through a process and using criteria pursuant to SWG recommendations.
3. A list of needed SOPs identified and developed.
4. Four to six studies conducted in years 2-5 of the permit cycle (likely 2013-2017), with results and findings peer-reviewed and made available to the public.

Annual Review of Information and Results

1. Summary of findings from all RSMP components.
2. Western Washington roll-up analysis of the small streams status and trends data collected during the one year of sampling streams in both Puget Sound and southwestern Washington.
3. Cross-walk with information published by other key monitoring programs in western Washington.
4. Recommendations for new standard protocols to be developed.