



**INTERAGENCY AGREEMENT**  
**Between**  
**WASHINGTON STATE PARKS AND RECREATION COMMISSION**

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And

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION JUL 21 2014

PARKS Agreement # IA 315-133

CONTRACTS AND  
PROCUREMENT

WSDOT Agreement # GCB1882

This Agreement is made and entered into by and between the Washington State Parks and Recreation Commission, referred to as "PARKS" or "Party", and Washington State Department of Transportation referred to as "WSDOT" or "Party", and collectively referred to as "Parties" and is issued pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW.

WHEREAS, PARKS owns and operates Bottle Beach State Park, located on Grays Harbor in Grays Harbor County.

WHEREAS, the development of the Bottle Beach parking lot required wetland fill. As a result, PARKS had to mitigate the wetland impacts (Figure 1). As is typical, federal and state regulatory agencies required mitigation monitoring at Bottle Beach for ten years. "Performance Standards" outlined in the *Bottle Beach State Park Interpretive Trail Development Wetland Delineation Report and Conceptual Wetland Mitigation Plan* specify how the site should function after ten years.

WHEREAS, WSDOT has a wetland monitoring team with expertise in collecting field data to evaluate performance standards and write monitoring reports for regulatory agencies.

WHEREAS, By entering into this agreement, WSDOT will provide PARKS with mitigation monitoring and reports to fulfill regulatory requirements related to monitoring and reporting requirements for the first 5 years out of the 10 years required by the mitigation plan and applicable permits.

**1. PURPOSE**

The purpose of this Agreement is for WSDOT to provide PARKS with mitigation monitoring and reports to fulfill regulatory requirements:

**2. STATEMENT OF WORK**

WSDOT shall furnish the necessary personnel, equipment, material and/or service(s) and otherwise do all things necessary for or incidental to the performance of work as set forth below:

1. Review performance standards and monitoring plan identified in the *Bottle Beach State Park Interpretive Trail Development Wetland Delineation Report and Conceptual Wetland Mitigation Plan*. If appropriate, and in consultation with PARKS, WSDOT may negotiate with regulatory agencies on changes to performance standards and monitoring plan to ensure they are reasonable by industry standards and appropriately measure project goals and objectives.

2. Provide all necessary labor, equipment, and transport needed to annually collect quantitative or qualitative field data evaluating the site's performance outcomes (e.g. vegetation cover and water level).
3. Use quantitative or qualitative data collected to write annual mitigation monitoring reports appropriate for submission to regulatory agencies. Provide annual emails to PARKS by September 15<sup>th</sup> of each year summarizing the findings of the annual monitoring; report drafts will be submitted to PARKS by November 1<sup>st</sup> of each year for PARKS review; final reports will be submitted to PARKS to submit to the agencies by December 31<sup>st</sup> of each year.
4. Provide recommendations on any work needed to bring mitigation site into compliance with performance outcomes (e.g. weed control, additional plantings).

**PARKS will:**

1. Provide copies of the *Bottle Beach State Park Interpretive Trail Development Wetland Delineation Report and Conceptual Wetland Mitigation Plan, "As Built"* report for wetland mitigation work, and U.S. Army Corps of Engineers, Washington Department of Ecology, and other relevant permit documents issued for site original project.
2. Identify work locations and provide information on original mitigation installations and any subsequent restoration activities.
3. Coordinate site access.
4. Will submit reports drafted by WSDOT to appropriate regulatory agencies by December 31<sup>st</sup> of each year.

**3. PERIOD OF PERFORMANCE**

Subject to its other provisions, the period of performance of this Agreement shall commence on July 1, 2014, and be completed on June 30, 2019, unless terminated sooner as provided in this Agreement, or extended through a properly executed amendment.

**4. COMPENSATION**

Compensation for the work provided in accordance with this Agreement has been established under the terms of chapter 39.34.130 RCW. The Parties have estimated that the cost of accomplishing the work herein will not exceed Twenty Thousand and No/100 (\$20,000.00). Payment for satisfactory performance of the work shall not exceed this amount unless the Parties mutually agree to a higher amount prior to the commencement of any work that will cause the maximum payment to be exceeded. Compensation for services shall be based on the following rates and in accordance with the following terms:

Year	Fiscal Year	Calendar Year	Monitoring	Reporting	Estimated Dollars
1	2015	2014	Quantitative	Report produced by WSDOT for PARKS to submit to agencies	\$6,393.00
2	2016	2015	Qualitative	Off-year report produced by WSDOT for PARKS to submit to agencies	\$1,829.00

3	2017	2016	Quantitative	Report produced by WSDOT for PARKS to submit to agencies	\$4,368.00
4	2018	2017	Qualitative	Off-year report produced by WSDOT for PARKS to submit to agencies	\$1,829.00
5	2019	2018	Quantitative	Report produced by WSDOT for PARKS to submit to agencies	\$4,530.00
				<b>TOTAL</b>	<b>18,949.00</b>

**5. BILLING PROCEDURES**

WSDOT shall submit invoices no more often than monthly. Payment for approved goods and/or services will be made by warrant or account transfer within 30 days of receipt of the invoice. Upon expiration of the Agreement, invoices shall be paid, if received within 30 days after the expiration date. However, invoices for all work done within a fiscal year must be submitted within 30 days after the end of the fiscal year.

**6. DUPLICATION OF BILLED COSTS**

WSDOT shall not bill the Agency for services performed under this contract, and the Agency shall not pay WSDOT, if WSDOT is entitled to payment or has been, or will be paid by any other source, including grants, for that service.

**7. FUNDING CONTINGENCY**

Prior to each biennium, the Parties will meet to determine if PARKS has continuing funds available for monitoring and if the cost schedule needs adjustment. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to completion of the work in this Agreement, the Agency may:

- a. Terminate this Agreement with thirty (30) days advance notice. If this Agreement is terminated, the Parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
- b. Renegotiate the terms of the Agreement under those new funding limitations and conditions,
- c. After a review of project expenditures and deliverable status, extend the end date of this Agreement and postpone deliverables or portions of deliverables, or
- d. Pursue such other alternative as the Parties mutually agree to writing.

**8. AMENDMENT**

This Agreement 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.

**9. ASSIGNMENT**

The work to be provided under this Agreement, and any claim arising under this Agreement, is not assignable or delegable by either Party in whole or in part, without the express prior written consent of the other Party, which consent shall not be unreasonably withheld.

**10. ASSURANCES**

The Parties agree that all activity pursuant to this Agreement shall be in accordance with all applicable federal, state and local laws, rules, and regulations as they currently exist or as amended.

**11. CONTRACT MANAGEMENT**

The contract manager for each of the Parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

The Contract Manager for PARKS is:	The Contract Manager for WSDOT is:
<i>Lisa Lantz, Stewardship Program Manager</i> <small>(Contract Manager's Name &amp; Title)</small>	<i>Doug Swanson, Wetlands Program Manager</i> <small>(Contract Manager's Name &amp; Title)</small>
<i>PO Box 42650</i> <small>(Contract Manager's Address)</small>	<i>PO Box 47331</i> <small>(Contract Manager's Address)</small>
<i>Olympia, WA 98504-2650</i> <small>(Contract Manager's Address)</small>	<i>Olympia WA 98504-7331</i> <small>(Contract Manager's Address)</small>
Phone: (360) 902-8641	Phone: (360) 705-7405
FAX: (360) 902-8666	CELL: (360) 561-6836
E-Mail: <a href="mailto:lisa.lantz@parks.wa.gov">lisa.lantz@parks.wa.gov</a>	E-Mail: <a href="mailto:swansod@wsdot.wa.gov">swansod@wsdot.wa.gov</a>

**12. DISPUTES**

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each Party to this agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the Parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

The cost of resolution will be borne as allocated by the Dispute Board or the Governor.

**13. GOVERNING LAW AND VENUE**

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

**14. INDEPENDENT CAPACITY**

The employees or agents of each Party who are engaged in the performance of this Agreement shall continue to be employees or agents of that Party and shall not be considered for any purpose to be employees or agents of the other Party.

**15. MAINTENANCE OF RECORDS**

a. The Parties to this Agreement shall each maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either Party in the performance of the service(s) described herein. These records shall be subject to inspection, review or audit by personnel of both Parties, other personnel duly authorized by either Party, the Office of the State

Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration of agreement. The Office of the State Auditor, federal auditors, and any persons duly authorized by the Parties shall have full access and the right to examine any of these materials during this period.

- b. 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.
- c. Records and other documents, in any medium, furnished by one Party to this Agreement to the other Party, will remain the property of the furnishing Party, unless otherwise agreed. The receiving Party will not disclose or make available any confidential information to any third Parties without first giving notice to the furnishing Party and giving it a reasonable opportunity to respond. Each Party will utilize reasonable security procedures and protections to assure that records and documents provided by the other Party are not erroneously disclosed to third Parties. However, the Parties acknowledge that State Agencies are subject to chapter 42.56 RCW, the Public Records Act.

#### **16. ORDER OF PRECEDENCE**

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

- a. Applicable state and federal statutes, and local laws, rules and regulations;
- b. Statement of Work;
- c. Exhibits and Appendices – list separately; and
- d. Any other provisions of the agreement, including materials incorporated by reference.

#### **17. RESPONSIBILITIES OF THE PARTIES**

Each Party to this Agreement hereby assumes responsibility for claims and/or damages to persons and/or property resulting from any act or omissions on the part of itself, its employees, its officers, and its agents. Neither Party assumes any responsibility to the other Party for the consequences of any claim, act, or omission of any person, agency, firm, or corporation not a part to this Agreement.

#### **18. SEVERABILITY**

If any term or condition of this Agreement is held invalid, such invalidity shall not affect the validity of the other terms or conditions of this Agreement.

#### **19. SUBCONTRACTING**

- a. "Subcontractor" means one not in the employment of a Party to this Agreement, who is performing all or part of those services under this Agreement under a separate contract with a Party to this Agreement. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.
- b. Except as otherwise provided in the Agreement, WSDOT shall not subcontract any of the contracted services without the prior written approval of PARKS. WSDOT is responsible to ensure that all terms, conditions, assurances and certifications set forth in this Agreement are included in any and all Subcontracts. Any failure of WSDOT or its Subcontractors to perform the obligations of this Agreement shall not

discharge WSDOT from its obligations under this Agreement.

**20. TERMINATION FOR CAUSE**

If for any cause either Party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either Party violates any of these terms and conditions, the aggrieved Party will give the other Party written notice of such failure or violation. The responsible Party will be given the opportunity to correct the violation or failure within 15 working days. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved Party to the other.

**21. TERMINATION FOR CONVENIENCE**

Either Party may terminate this Agreement upon 30 calendar days' prior written notification to the other Party. If this Agreement is so terminated, the Parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

**22. WAIVER**

A failure by either Party to exercise its rights under this Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement. Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing and signed by personnel authorized to bind each of the Parties.

**23. ALL WRITINGS CONTAINED HEREIN**

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

**IN WITNESS WHEREOF, the Parties have executed this Agreement.**

**Washington State Parks and Recreation Commission**

By: *Mark P. [Signature]*

Title: CFO

Date: 7/21/14

**Washington State Department of Transportation**

By: *Joseph J. Witczak*

Title: ESO OPERATIONS MANAGER

Date: 7/17/14

**RECEIVED ON**

**JUL 21 2014**

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