



Sample Airport Community Ecology (ACE) Fund Agreement

THIS AGREEMENT, between the Port of Seattle, a municipal corporation and port district, hereinafter referred to as the "Port," and, [REDACTED] hereinafter referred to as "Recipient."

WHEREAS, the Port created the Airport Community Ecology (ACE) Fund to support projects and programs that improve ecological and environmental attributes in airport-area communities of Sea-Tac, Burien and Des Moines to support Des Moines Memorial Way, tree planting in communities, cooperation with environmental education programs in local schools, joint efforts with local non-profit organizations, and other community outreach activities; and

WHEREAS, the ecological and environmental improvements will occur in public land owned by the City of Sea-Tac, City of Burien, and City of Des Moines; and,

WHEREAS, RCW 35.21.278 permits public entities to reimburse a chamber of commerce, a service organization, a community, youth or athletic association, or other similar association located and providing service in the immediate neighborhood for drawing design plans, making improvements to a park, school playground, public square, or port habitat site, installing equipment or artworks, or providing maintenance services for a facility or facilities as a community or neighborhood project or environmental stewardship project, without regard to competitive bidding laws; and

WHEREAS, RCW 35.21.278 provides that the consideration to be received by the public entity through the value of the improvements, artworks, equipment, or maintenance shall have a minimum value of three times that of the payment by the public entity to the contracting organization; and

WHEREAS, the Recipient agrees to coordinate all things necessary to complete the Work (defined below) according to the terms and conditions outlined in this Agreement;

NOW, THEREFORE, in consideration of the mutual benefits set forth herein, the parties agree as follows:

1. **SCOPE OF WORK.** The Recipient shall perform the "Work" as outlined in Recipient's application, Attachment "A", incorporated herein by reference.
2. **COORDINATION WITH THE PORT.** Recipient shall coordinate with the Port before beginning the Work and throughout, to ensure that the Work to be performed meets all Port requirements. Recipient funding is expressly contingent on such coordination.
3. **RECIPIENT FUNDING.** Recipient funding is provided to reimburse those expenses proposed in Recipient's application that are approved and outlined in Attachment "B", incorporated herein by reference. The parties agree that, upon completion, the Work will have a value of [REDACTED] (\$ [REDACTED]) Dollars, equal to at least three (3) times the total funds approved for reimbursement by the Port to Recipient and documented in Attachment B.
4. **DISBURSEMENT OF FUNDS.** Recipient shall present receipts and other documentation that clearly shows the amount spent by and the purpose of the expense, accompanied by a completed Expense Form, as provided in Attachment "B". Funds shall be used only for the Work approved in this Agreement for the Term of the Agreement. No recipient funds shall be diverted to any other person or used for any other purpose.
5. **COMPLETION OF WORK.** The Work shall be completed on or before the expiration of the Term of Agreement.
6. **PROGRESS REPORTS TO PORT.** The Recipient will submit any information requested by the Port regarding the Work to be accomplished under this Agreement by the 30th of each month; and a final report demonstrating completion of the Work.

7. **EQUAL OPPORTUNITY TO PARTICIPATE IN VOLUNTEER ACTIVITIES.** In all activities related to this Agreement, there shall be no unlawful discrimination by Recipient against any person based on any status protected by law, except where a disability prevents or substantially limits the performance of essential functions required to accomplish the work.
8. **AGREEMENT REPRESENTATIVE/NOTICES.** All communication and notices under this Agreement shall be addressed and delivered to:

Project Name	
Organization	
Address	
Telephone Number	
E-Mail	
Port Contact	
Address	
E-Mail	

9. **RECORDS.** Recipient agrees to maintain in good condition all records related to its activities under this Agreement and shall make such records available to the Port upon request. Recipient shall retain such records for a period of not less than three (3) years after the expiration or termination of this Agreement; provided, however, if any litigation, claim, or audit arising out of, in connection with, or related to this Agreement is initiated, such records shall be retained until the later of (a) resolution or completion of litigation, claim or audit; or (b) six (6) years after the date of expiration or termination of this Agreement.

Recipient understands that records submitted to the Port are subject to the Washington Public Records Act under 42.56 RCW and may be disclosed to the public upon request.

10. **INDEMNIFICATION.** The Recipient hereby agrees to indemnify, defend and hold the Port of Seattle its officers, officials, and employees, harmless from all claims, suits, actions, liability, or damage of every kind and character arising out of or in any way to the performance of, activities under or related to this Agreement or the Work by Recipient or its volunteers. The provisions of this Paragraph shall survive the expiration or termination of this Agreement.
11. **INSURANCE.** Commercial general liability insurance to protect against claims of bodily injury and property damage of at least one million dollars (\$1,000,000) is required to cover the activities, volunteers, and Work provided for in this Agreement. The Port shall be added as an additional insured by endorsement to this policy and a copy of the endorsement submitted along with a certificate of insurance prior to the Recipient's performance of any Work. It is the responsibility of the Recipient to ensure that any volunteers working for the Recipient are covered by either RCW Title 51 Industrial Insurance, or other equivalent insurance to provide coverage for medical claims incurred by volunteers working on behalf of Recipient. For any vehicles used in performing the Work, auto insurance in the minimum amount required by state law is also required.
12. **TERM OF AGREEMENT.** This Agreement shall begin on the date of the last authorizing signature affixed hereto and shall terminate one (1) year thereafter, or when terminated by the Port, whichever event occurs earlier.
13. **RECIPIENT MUST COMPLY WITH ALL LAWS/REGULATIONS.** The Recipient shall comply with all applicable laws and regulations in performing the Work. This requirement extends to Recipient's performance of the Work, which shall be performed in accordance with all applicable laws and regulations, including the required permits and/ or approvals of the applicable local jurisdiction.
14. **ACCEPTANCE OF NONPERFORMANCE NOT A WAIVER.** The parties agree that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of any other provision of the Agreement.

15. VOLUNTEERS ARE NOT EMPLOYEES OF THE PORT. Recipient and Recipient's volunteers understand that they are not employees of the Port and the Port is not obligated to pay employee wages, sick leave, vacation pay, or any other benefit of employment. Notwithstanding, the Port will comply with the requirements of RCW 51.12.050. Recipient will require that its volunteers complete a Port of Seattle Volunteer Agreement form, and will provide it to the Port together with a list of Recipient's volunteers engaged each day in performing the Work.
16. DISPUTES. All disputes or controversies that arise between the parties with respect to the performance, obligations, or rights of the parties under this Agreement, or any alleged breach, shall first be brought to the attention of the other party in writing, with a proposal for resolution. The designated representatives under Paragraph 8 shall use their best efforts to resolve disputes between the parties. If the designated representatives are unable to resolve a dispute, then the matter shall be reviewed by the managing representatives of each party. The parties agree to exhaust each of their procedural steps before seeking to resolve disputes in a court of law or other forum.
17. AMENDMENT. No provision of this Agreement, including this provision, may be amended or modified except by written agreement signed by an authorized representative of each party.
18. FULL FORCE AND EFFECT: SEVERABILITY. Any provision of this Agreement that is declared invalid or illegal shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect. Further, if it should appear that any provision hereof is in conflict with state law, the conflicting portion or provision shall be deemed inoperative and null and void, and shall be deemed modified to conform to legal requirements.
19. ASSIGNMENT. Recipient shall not transfer or assign, in whole or in part, this Agreement or any or all of its obligations and rights hereunder without the prior written consent of the Port.
20. TERMINATION. The Port may terminate this Agreement at any time if, in the Port's sole discretion, the Recipient fails to comply with any of the terms contained herein.
21. ENTIRE AGREEMENT: This Agreement, along with any attachments incorporated by reference (upon full execution), constitutes the entire agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall bind either party, except a properly executed amendment to this Agreement.

PORT OF SEATTLE



Signature

Signature

Name and Title

Name and Title

Date

Date