

SPECIFIC AWARD CONDITIONS
U.S. DEPARTMENT OF COMMERCE
Economic Development Administration (EDA)

CONSTRUCTION PROJECTS: Public Works and Economic Adjustment Assistance Programs
under Sections 201 and 209 of the Public Works and Economic Development Act, as amended,
42 U.S.C. §§ 3141 and 3149

Public Works and Economic Adjustment Assistance Programs

Project Title: Forest Biomass Management	
Recipient Name: Scotts Valley Band of Pomo Indians	Project Number: 07-79-07842

1. **AUTHORIZED SCOPE OF WORK:** This EDA Award supports the work described in the approved final scope of work, which is incorporated by reference into this Award, as the *Authorized Scope of Work*. All work on this project must be consistent with the *Authorized Scope of Work*, unless the Grants Officer has authorized a modification of the scope of work in writing through an amendment memorialized by a fully executed *Amendment to Financial Assistance Award* (Form CD-451).

The *Authorized Scope of Work* for this project includes:

Dimensions approximate. 600LF fence with 2 gates, lights, security for 200' x100' biomass process area. 4,800sf structure-4 shipping containers (1 office w/windows & door) with hoop fabric, metal truss tent with gutters and drainage to outside fence line and covering ends-compacted gravel base housing: 2 @ 16' L x 7.5' W Biomass energy units, conveyor belts, 5 bins, biochar auger, main electrical panel, 3-phase 480V-240-120 V transformer/breaker, switch, subpanel and ADA portable toilet/wash station. Outside structure: electrical conduit, junction boxes and traffic ramp conduit protect, 2 @ 180 KW Gensets with protect bollards, 550 gal biodiesel Tank with spill bin, Wood chipper with in/out bins, bundler, splitter, grappler. Equipment will be installed on gravel with ground screws. 5 gravel parking (1 ADA) spaces. Loader, screens, skid steer, and crumbler/mill.

The authorized equipment is listed in the attached *Equipment List*. Any additions, deletions or modifications to the Equipment List require prior written EDA approval. The EDA Project Officer may authorize these changes, unless the change also necessitates an amendment under the Terms and Condition of this Award (i.e. a change in purpose, the addition of federal funds, or a transfer between direct cost categories exceeding ten percent of the total budget approved by EDA).

2. The Recipient Contact's name, title, address, telephone number, and email address are:

Thomas Jordan Tribal Administrator Phone: (707) 349-8545 Email: thomas.jordan@sv-nsn.gov	Scotts Valley Band of Pomo Indians 1005 Parallel Dr Lakeport, CA 95453-5709
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3. The Grants Officer is authorized to award, amend, suspend, and terminate financial assistance awards. The Grants Officer is:

Sheba Person-Whitley Regional Director Email: sperson@eda.gov	Economic Development Administration Seattle Regional Office 915 Second Avenue, Room 1890 Seattle, Washington 98174-1012
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4. The Federal Program Officer (Area Director) oversees the programmatic aspects of this Award. The Federal Program Officer is:

Kerstin Millius Area Director Phone: (206) 220-7700 Email: kmillius@eda.gov	Economic Development Administration Seattle Regional Office 915 Second Avenue, Room 1890 Seattle, Washington 98174-1012
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5. The EDA Project Officer is responsible for day-to-day administration and liaison with the Recipient and receives all reports and payment requests. The Project Officer is:

Mary Rudokas Civil Engineer Phone: (202) 507-0799 Email: mrudokas1@eda.gov	Economic Development Administration Seattle Regional Office 915 Second Avenue, Room 1890 Seattle, Washington 98174-1012
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6. **CONTACT CHANGES:** Changes to the contact information above may be made in writing by the EDA Project Officer without an amendment on Form CD-451.

7. **ADDITIONAL INCLUDED DOCUMENTS:** In addition to the regulations, documents, or authorities incorporated by reference on the *Financial Assistance Award* (Form CD-450), the following additional documents are incorporated by reference into this Award:

- The Recipient's application, including any attachments, project descriptions, schedules, and subsequently submitted supplemental documentation.

Should there be a discrepancy among these documents, the Specific Award Conditions (this document) shall control.

8. PROJECT DEVELOPMENT TIME SCHEDULE: The Recipient agrees to the following Project Development Time Schedule:

Return of Executed Financial Assistance Award30 calendar days after receipt of
Form CD-450/CD-451
Start of Construction 18 Months from the Date of Award
Construction Completed 30 Months from the Date of Award
Authorized Award End Date May 31, 2027
Submission of Final Financial Report (Form SF-425) ... No later than 120 calendar days from
the Award End Date

Project Closeout – All project closeout documents, including final financial reports (Form SF 425 or any successor form) and any required program reports, shall be submitted to EDA not more than 120 calendar days after the date the Recipient accepts the completed project from the contractor(s).

The Recipient must diligently pursue the development of the project so as to ensure completion within this time schedule, and must promptly notify EDA in writing of any event that could substantially delay meeting any of the time limits set forth above. The Recipient further acknowledges that failure to meet the Project Development Time Schedule may result in EDA pursuing remedies for non-compliance, potentially including termination of the Award in accordance with the regulations set forth at 2 CFR §§ 200.338–200.342.

9. PROJECT COMPLETION DEADLINE: All work on this project must be completed by May 31 2027, to allow for closeout and final disbursement prior to September 30, 2027. **EDA CANNOT EXTEND THIS DEADLINE FOR ANY REASON.** By operation of the Account Closing Statute (31 U.S.C. §§ 1552(a)), on September 30, 2027, any remaining award balances will be cancelled and no longer available for expenditure for any purpose. Nothing in this paragraph is intended to alter the Project Development Time Schedule set forth in SAC 8 above.

10. PROJECT REPORTING AND FINANCIAL DISBURSEMENTS INSTRUCTIONS:

A. AWARD DISBURSEMENTS: Reimbursement basis only. EDA will make disbursements under this Award on a reimbursement basis only, based on actual costs incurred, after all preconditions set forth in these Specific Award Conditions have been met.

The “*Outlay Report and Request for Reimbursement*” (Form SF-271 or any successor form) is used to request a disbursement, which shall be approved in writing by the Project Officer.

Please note that prior to the initial disbursement, Recipients must complete the attached Form SF-3881, “ACH Vendor/Miscellaneous Payment Enrollment Form” and submit it to either: (1) the EDA Project Officer through a secured/encrypted email or, if coordinated with the EDA Project Officer, mail; or (2) Emailing NOAA’s Accounting Office at edagrants@noaa.gov through the secure Kiteworks system with a CC to the EDA Project Officer. The form must be completed by the respective parties (EDA, Recipient Bank, and Recipient) at the start of each new award.

B. REPORTS:

- a. *Project Progress Reports*: The Recipient shall submit project progress reports to the Project Officer on a **quarterly basis** for the periods ending **December 31, March 31, June 30, and September 30**, or any portion thereof, until the final disbursement is made by EDA. Reports should be submitted using the approved EDA template, which will be provided by the Project Officer and discussed during the project kick-off meeting. Reports are due no later than 1 month following the end of the **quarterly** period.
- b. *Financial Reports*: The Recipient shall submit a “Federal Financial Report” (Form SF-425 or any successor form) on a **semi-annual** basis for the periods ending **March 31 and September 30**, or any portion thereof, for the entire period of performance. Form SF-425 and instructions for completing this form are available at:
<https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html>.

Reports are due no later than 1 month following the end of the **semi-annual** period.

A final Form SF-425 must be submitted no more than 120 calendar days after the expiration date of the Award (*i.e.*, the Award End Date specified on the Form CD-450 or a subsequently executed Form CD-451). Final Financial Reports should follow the guidance outlined in the instructions for submitting mid-term financial reports, but should ensure that all fields accurately reflect the total outlays for the entire period of performance and that all matching funds and program income (if applicable) are fully reported. Determination of the final grant rate and final balances owed to the government will be determined based on the information on the final Form SF-425, so it is imperative that it be submitted in a timely and accurate manner.

- 11. PERFORMANCE MEASURES:** The Recipient agrees to report on program performance measures and program outcomes in such a form and at such intervals as may be prescribed by EDA in compliance with the Government Performance and Results Act (GPRA) of 1993, and the Government Performance and Results Modernization Act of 2010.

At this time, all Awards for construction assistance require Recipients to report actual job creation/retention and private investment leverage at three (3), six (6), and nine (9) years after an EDA investment. The Recipient must retain sufficient documentation so that they can submit these required reports. Failure to submit these reports may adversely impact the ability of the Recipient to secure future funding from EDA.

Performance measures and reporting requirements that apply to program activities funded by this investment will be provided in a separate GPRA information collection document. EDA staff will contact the Recipient in writing within a reasonable period prior to the time of submission of the reports with information on how this data should be submitted. The Recipient must ensure adequate and sufficient records are kept to support the methodology for computing initial job creation/retention and private investment estimates and all subsequent actual performance data, and must make this information available at EDA’s request, including in the event of an audit or performance site visit.

12. ALLOWABLE COSTS AND AUTHORIZED BUDGET: Total allowable costs will be determined after the final financial documents are submitted in accordance with the applicable authorities specified on the *Financial Assistance Award* (Form CD-450), including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200 (Uniform Guidance).

Except as otherwise expressly provided for within these Specific Award Conditions, the Federal share of the allowable costs shall be based on the Investment Rate for the Award, as established on the Form CD-450 or any subsequent amendment (Form CD-451). In the event of an underrun in total allowable costs for this project, the Federal share of allowable costs shall be determined by the Investment Rate. The Federal share of total allowable costs shall not exceed the dollar amount specified on the original Award or any subsequent amendments.

Line-Item Budget:

A. Under the terms of the Award, the total approved authorized budget is:

Federal Share (EDA Amount)	\$4,997,170
Non-Federal Matching Share	\$0
Total Project Cost	\$4,997,170

B. Under the terms of this Award, the total approved line-item budget is:

COST CLASSIFICATION	Proposed	Approved
Administrative and legal expenses	\$240,828	\$240,828
Land, structures, rights-of-way, etc.	\$	\$
Relocation expenses and payments	\$	\$
Architectural and engineering fees	\$10,500	\$10,500
Other architectural and engineering fees	\$	\$
Project inspection fees	\$4,450	\$4,450
Site work	\$	\$
Demolition and removal	\$	\$
Construction	\$250,380	\$250,380
Equipment	\$4,475,012	\$4,475,012
Miscellaneous	\$	\$
Contingencies	\$16,000	\$16,000
Total Project Cost	\$4,997,170	\$4,997,170

13. MATCHING SHARE: The Recipient agrees to provide the Recipient's non-Federal Matching Share contribution for eligible project expenses in proportion to the Federal share requested for such project expenses (see 13 CFR § 300.3). By accepting the Award, the Recipient also certifies that the Matching Share of the project costs is committed to the project, is not encumbered in any way that would prevent its use for the project, and will be available as needed for the project.

14. REFUND CHECKS, INTEREST, OR UNUSED FUNDS: If the Recipient needs to return money to EDA, it may:

- A. Use the pay.gov website, which allows the Recipient to pay EDA online. The Recipient will have the option to make a one-time payment or to set up an account to make regular payments.
- B. Contact the EDA project officer to see if alternative instructions for wire or paper checks are available from EDA. At this time, paper checks are not being accepted.

15. USEFUL LIFE: The useful life of this project is hereby determined to be 10 years.

For equipment, the useful life period will commence from the date that a filing of the UCC-1 form(s) or equivalent form(s), and a statement from their attorney opining that EDA has a perfected security interest and first priority lien in the equipment are accepted by EDA.

For site work and project construction, the useful life period will commence from the date evidence is provided for both;

- a. Conformance and commissioning testing of all equipment as a set operational systems as outlined in the Operation and Maintenance Plan (SAC), and
- b. Inspection and substantial completion of roads, parking lot, electrical, fencing, anchors, drainage and appurtenances constructed/installed on site.

16. OPERATION AND MAINTENANCE PLAN: Prior final disbursement of funds by EDA and Biomass plant commissioning, the Recipient shall provide evidence satisfactory to the EDA that they have developed a Biomass and wood products management plan to ensure qualified personnel operate and maintain the Biomass plant and wood products distribution systems for the useful life of the project. The management plan should include daily, weekly, monthly operation and maintenance, repairs, emergency response, as well as minimum requirements for training on all wood processing, transport and electrical systems purchased, installed and/or constructed for the project. The Recipient shall maintain at least one employee with the aforementioned training throughout the useful life of the project. With every GPRA reporting period, the Recipient shall provide evidence satisfactory to EDA that they are complying with this requirement.

17. GOALS FOR WOMEN AND MINORITIES IN CONSTRUCTION: Department of Labor regulations set forth at 41 CFR part 60-4 establish goals and timetables for the participation of minorities and women in the construction industry. Those regulations apply to all federally assisted construction contracts in excess of \$10,000. The Recipient shall comply with those regulations and shall obtain compliance with 41 CFR part 60-4 from contractors and subcontractors employed on the project by including such notices, clauses, and provisions in the Solicitations for Offers or Bids as required by 41 CFR part 60-4. The goal for the participation of women in each trade area shall be as follows: from April 1, 1981 until further notice: 6.9 percent.

All changes to this goal, as published in the Federal Register in accordance with the Office of Federal Contract Compliance Programs regulations at 41 CFR § 60-4.6, or any successor regulations, shall hereafter be incorporated by reference into these Specific Award Conditions.

Goals for minority participation shall be as prescribed by Appendix B-80 of the *Federal Register* notice published October 3, 1980 at 45 FR 65984-65991, or any subsequently published amendments. The Recipient shall include the “*Standard Federal Equal Employment Opportunity Construction Contract Specifications*” (or cause them to be included, if appropriate) in all Federally-assisted contracts and subcontracts. The goals and timetables for minority and female participation may not be less than those published pursuant to 41 CFR § 60-4.6.

18. PROCUREMENT: The Recipient agrees that all procurement transactions shall be in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR §§ 200.317–200.327 and the EDA regulations contained in 13 CFR Chapter III, especially 13 CFR part 305 and 13 CFR § 302.17 (“Conflicts of Interest”).

19. EVIDENCE OF GOOD TITLE: Prior to solicitation for construction bids, the Recipient shall provide an opinion of counsel, satisfactory to EDA, that the Recipient has acquired good and marketable title to land, free of all encumbrances, to all real property necessary for completion of the project, as well as any necessary rights-of-way, easements, State or local government permits, or long-term lease interests necessary for the completion of the project, in accordance with 13 CFR part 314.

20. NON-RELOCATION: By accepting this Award of financial assistance, the Recipient attests that EDA funding is not intended by the Recipient to assist efforts to induce the relocation or movement of existing jobs from one region to another region in competition for those jobs. In the event EDA determines that its assistance was used for such purposes, EDA reserves the right to pursue appropriate enforcement actions, including suspension of disbursements, termination of the Award (which may include the establishment of a debt requiring the Recipient to reimburse EDA), and disallowance of any costs attributable, directly or indirectly, to the relocation.

21. REAL PROPERTY REPORTING: Consistent with 2 CFR § 200.330 (“Reporting on real property”), the Recipient must submit reports (using Form SF-429 “Real Property Status Report” or any successor form). The initial SF-429 form must be returned to the EDA Project Officer no later than December 31 of the year of the initial disbursement of Federal funds. Because EDA’s interest in this real property extends at least 15 years, successive reports will be required by December 31 every **two** years thereafter during the established useful life of the property, rather than on an annual basis. At its sole discretion, EDA reserves the right to require more or less frequent real property reporting for the duration of the useful life of real property in which it retains an interest under this project.

22. WASTE, FRAUD AND ABUSE: Consistent with 2 CFR part 200, Recipient personnel responsible for managing the Recipient’s finances and overseeing any contractors, sub-contractors or Subrecipients, will complete the training PowerPoint entitled “Compliance with EDA American Rescue Plan Program Requirements” and return the signed Certificate of Training Completion

(pages 34-36 of the training) to EDA along with the signed Form CD-450 within 30 days of receipt.

Further, Recipient will monitor Award activities for common fraud schemes, such as:

- false claims for materials and labor,
- bribes related to the acquisition of materials and labor,
- product substitution, • mismarking or mislabeling on products and materials, and
- time and materials overcharging.

Should Recipient detect any suspicious activity, Recipient will contact EDA staff listed above and the Office of Inspector General, as indicated at <https://www.oig.doc.gov/Pages/Contact-Us.aspx>, as soon as possible.

- 23. FREEDOM OF INFORMATION ACT (FOIA):** EDA is responsible for meeting its Freedom of Information Act (FOIA) (5 U.S.C. § 552) responsibilities for its records. DOC regulations at 15 CFR part 4 set forth the requirements and procedures that EDA must follow in order to make the requested material, information, and records publicly available. Unless prohibited by law and to the extent required under the FOIA, contents of applications and other information submitted by applicants and recipients may be released in response to a FOIA request. The Recipient should be aware that EDA may make certain application information publicly available. Accordingly, the Recipient should notify EDA if it believes any Application information to be confidential.
- 24. STAFFING CHANGES:** In the event of a change in the key professional staff positions related to project management, the Recipient shall provide the name of the individual selected to fill the position to the Project Officer and a copy of his or her resume within 30 business days of the selection.
- 25. ARCHITECT/ENGINEER AGREEMENT:** Prior to disbursement of funds by EDA for Architect and Engineer Agreement costs, the Recipient must submit to EDA for approval, an Architect/Engineer Agreement that meets the requirements in the EDA's "Summary of EDA Construction Standards," as well as the competitive procurement standards of 2 CFR part 200 and EDA Regulations at 13 CFR Chapter III. The fee for basic Architect/Engineer Services will be a lump sum or an agreed maximum, and no part of the fees for other services will be based on a cost-plus-a-percentage-of-cost or a cost using a multiplier.
- 26. PROJECT INSPECTION AGREEMENT:** Prior to disbursement of funds by EDA for Project Inspection Agreement costs, the Recipient must submit to EDA for approval, a Project Inspection Agreement that meets the requirements in the EDA's "Summary of EDA Construction Standards," as well as the competitive procurement standards of 2 CFR part 200 and EDA Regulations in 13 CFR Chapter III. The fee for basic Project Inspection Services will be a lump sum or an agreed maximum, and no part of the fees for other services will be based on a cost-plus-percentage-of-cost or a cost using a multiplier.

- 27. SECURITY AGREEMENT – EQUIPMENT:** Prior to disbursement of funds by EDA for any piece of equipment, Recipient will and hereby does agree to execute a Security Agreement, in form and substance satisfactory to EDA, granting EDA a security interest in property acquired or to be acquired using Award funds, and will file or cause to be filed any and all financing statements or lien notices required in accordance with applicable laws of the appropriate jurisdiction to perfect said security interest, and will file all continuation statements or other modifications to maintain uninterrupted the priority of EDA's security interest. After filing the UCC-1 form(s) or equivalent form(s), the Recipient must provide a statement from their attorney opining that EDA has a perfected security interest and first priority lien in the equipment. The Recipient further agrees that it will not, without the prior written approval of EDA, sell, trade or convey any interest whatsoever in such property subject to the EDA security interest; provided, however, that should EDA approve of the disposal of any property for purposes of acquiring a replacement, Recipient will execute such documentation and file such notices as will ensure that EDA's security interest attaches to and is perfected in the replacement property with the same priority and extent as it had in the original property it replaced.
- 28. TRIBAL MONITOR:** Thirty (30) days prior to earth-disturbing activities funded under the EDA grant, the Recipient shall provide evidence satisfactory to the EDA that the Scotts Valley Band of Pomo Indians and/or Habematolel Pomo of Upper Lake will have a tribal monitor on-site during earth-disturbing activities.
- 29. STATE AND TRIBAL HISTORIC PRESERVATION OFFICER (SHPO/THPO):** Prior to the start of any construction and/or earth-disturbing activities, the Recipient shall provide evidence satisfactory to the EDA that an Unanticipated Discovery Plan has been prepared for the project in cooperation with the Habematolel Pomo of Upper Lake . If inadvertent discoveries are made, no further work will be allowed on the project until the SHPO and THPO have approved a plan for managing or preserving artifacts or features; the SHPO and THPO will be notified of changes to the project scope.
- 30. ARCHEOLOGICAL AND HISTORICAL RESOURCES:** If during construction of the project, historical and archeological resources, including burial grounds and artifacts are discovered, the Recipient shall immediately stop construction in the area, contact the applicable State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO), interested Tribes, and EDA, and follow the SHPO or THPO instructions for the preservation of resources.
- 31. WETLANDS PROTECTION:** The project shall be designed to keep at least a 100-foot buffer between construction activities and wetland areas. Construction best management practices shall be used to avoid impacts to adjacent wetlands.
- 32. CULTURAL SENSITIVITY TRAINING:** Prior to solicitation of bids for construction, the Recipient shall provide evidence satisfactory to the EDA that Cultural Sensitivity Training for site workers has been developed in consultation with the Habematolel Pomo of Upper Lake. Site workers shall receive the training prior to commencement of earth-disturbing activities.

- 33. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):** Prior to solicitation of construction bids, the Recipient shall provide evidence satisfactory to the EDA that the Recipient has completed all CEQA requirements.
- 34. MITIGATION:** The Recipient shall follow all mitigation measures outlined in the application Environmental Narrative revised June 2021 and subsequent responses, as well as any described in the Unanticipated Discovery Plan.
- 35. INADVERTENT DISCOVERY PLAN:** Prior to the start of any construction and/or earth-disturbing activities, the Recipient shall provide evidence satisfactory to the EDA that an Unanticipated Discovery Plan or equivalent has been prepared for the project in cooperation with the Habematolel Pomo of Upper Lake. The Plan shall follow the requirements of the California SHPO and the Habematolel Pomo Cultural Resources Treatment Protocol. If inadvertent discoveries are made, no further work will be allowed on the project until the SHPO and THPO have approved a plan for managing or preserving artifacts or features; the SHPO and THPO will be notified of changes to the project scope.
- 36. ACQUISITION OF LEASEHOLD INTEREST:** Recipient has provided EDA with a draft lease between itself and the owner of the Project Property, Lake County Watershed Protection District (the “District”) and a Board Resolution from the District approving the lease of the Project Property to the Recipient. Recipient hereby agrees that within 120 days of this Award, as may be extended in writing by the EDA Project Officer, the Recipient shall furnish to EDA evidence satisfactory to EDA at EDA’s sole discretion of the execution and recording of a final Lease (the “Lease”) between itself and the District. Recipient hereby further agrees that the Lease will comply with EDA’s regulations and the terms of the Award, including but not limited to 13 C.F.R. § 314.7 and EDA’s Standard Terms and Conditions for Construction Projects, March 22, 2021 § H. EDA, in its sole discretion will determine whether the Lease is satisfactory for the Award. Recipient further agrees that the Lease will be recorded in the appropriate and customary place and manner for property records in the location of the Project Property. In no event may Recipient advertise for bids for construction until EDA has received and approved of all documentation of the executed and recorded Lease and given Recipient approval to begin to advertise for construction contracts.