

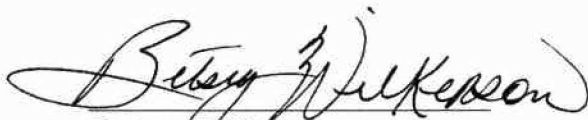
**SPECIAL MEETING NOTICE/AGENDA OF THE  
PUBLIC INFRASTRUCTURE, ENVIRONMENT, AND  
SUSTAINABILITY COMMITTEE**

**MEETING OF MONDAY, JANUARY 29, 2024  
1:15 P.M. – CITY COUNCIL CHAMBERS**

A special meeting of the Public Infrastructure, Environment, and Sustainability Committee will be held at **1:15 P.M. on Monday, January 29, 2024**, in the City Council Chambers – City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington.

The meeting will be open to the public. No public testimony will be taken.

**AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION:** The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. The Council Briefing Center in the lower level of Spokane City Hall, 808 W. Spokane Falls Blvd., is wheelchair accessible and also is equipped with an infrared assistive listening system for persons with hearing loss. Headsets may be checked out (upon presentation of picture I.D.) through the meeting organizer. Individuals requesting reasonable accommodations or further information may call, write, or email Human Resources at 509.625.6363, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or [mLOWmaster@spokanecity.org](mailto:mLOWmaster@spokanecity.org). Persons who are deaf or hard of hearing may contact Human Resources through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

  
**Betsy Wilkerson**  
**Council President**

  
**Terri L. Pfister**  
**Spokane City Clerk**

# THE CITY OF SPOKANE CITY COUNCIL PUBLIC INFRASTRUCTURE, ENVIRONMENT & SUSTAINABILITY COMMITTEE



## AGENDA FOR 1:15 P.M. MONDAY, JANUARY 29, 2024

The Spokane City Council's Public Infrastructure, Environment & Sustainability Committee meeting will be held at **1:15 PM January 29, 2024**, in Council Chambers, located on the lower level of City hall at 808 W. Spokane Falls Blvd. The meeting can also be accessed live at <https://my.spokanecity.org/citycable5/live/> and <https://www.facebook.com/spokanecitycouncil> or by calling 1-408-418-9388 and entering the access code #2494 546 4105; meeting password 0320.

The meeting will be conducted in a standing committee format. Because a quorum of the City Council may be present, the standing committee meeting will be conducted as a committee of the whole council. The Public Infrastructure, Environment & Sustainability Committee meeting is regularly held every 3<sup>rd</sup> Monday of each month at 1:15 p.m. unless otherwise posted.

The meeting will be open to the public both virtually and in person, with the possibility of moving or reconvening into executive session only with members of the City Council and appropriate staff. No legislative action will be taken. No public testimony will be taken, and discussion will be limited to appropriate officials and staff.

## **AGENDA**

### **I. Call To Order**

### **II. Approval of Minutes from January 29, 2024**

1. NOVEMBER 27, 2024 PIES COMMITTEE MINUTES - (minutes)

### **III. Discussion Items**

1. 5200 - CREATION OF AN ADDITIONAL WATER PURVEYOR RATE CLASS - MARLENE FEIST (10 minutes)
2. 4100 – AMENDMENT TO AIRWAY HEIGHTS WATER SUPPLY AGREEMENT - MARLENE FEIST (0 minutes)
3. 5200 - UTILITY RATES REVIEW SCHEDULE AND WORK PLAN - KATHERINE MILLER (10 minutes)
4. 5200 - UTILITY BILLING PANDEMIC RELIEF AND DELINQUENCY UPDATE - CORIN MORSE (5 minutes)
5. 5200 - SNOW REMOVAL PRIMER AND FULL-CITY PLOW REVIEW - MARLENE FEIST (5 minutes)
6. 4250 - CLIMATE POLLUTION REDUCTION GRANT - KATHERINE MILLER (5 minutes)
7. 4250 – AMENDMENT TO INTERDEPARTMENTAL AGREEMENT BOSCH LOT PARKING - KATHERINE MILLER (0 minutes)
8. 0370 – CONTAMINATED MATERIAL DISPOSAL RESOLUTION & CONTRACT - DAN BULLER (0 minutes)
9. 4250 – RESOLUTION FOR ECOLOGY LOANS - MARK PAPICH (0 minutes)
10. 5300 SBO FOR STATE & LOCAL CYBER SECURITY GRANT PROGRAM (SLCGP) - MICHAEL SLOON (5 minutes)
11. 5600-ACCOUNTING & GRANTS-NORTHEAST COMMUNITY CANTER ARPA CAPITAL - MICHELLE MURRAY (0 minutes)

### **IV. Consent Items**

1. 4320-CONSENT TO AWARD STAIRS AND RAILING CONTRACT TO BLACKWATER INDUSTRIES (WASTEWATER MANAGEMENT)
2. 4250 – DEPT OF ECOLOGY GRANT WASHINGTON BASIN STORMWATER (INTEGRATED CAPITAL MANAGEMENT)

3. 4100 - WATER DEPT. PURCHASE OF MISC WATERWORKS PRODUCTS (WATER & HYDROELECTRIC SERVICES)
4. 4320-CONVEYOR BELT (SERPENTIX) REPLACEMENT PROJECT - MCCLINTOCK & TURK (WASTEWATER MANAGEMENT)
5. 4320-CONSENT TO AWARD BIOSOLIDS HAULING SERVICES TO SAFEWARE, INC. (WASTEWATER MANAGEMENT)
6. 5100 - 3 2025 MACK REFUSE TRUCKS (FLEET SERVICES)
7. 5100 – CONTRACT WITH DAY WIRELESS FOR RADIO SYSTEM MAINTENANCE (FLEET SERVICES)
8. 0370 - LOW BID AWARD - RAY STREET WATER MAIN (2022088) - TBD (ENGINEERING SERVICES)
9. 0370 - LOW BID AWARD - WASHINGTON/STEVENS BRIDGE (2021088) - TBD (ENGINEERING SERVICES)
10. 4490 CONTRACT AMENDMENT FOR SCAFFOLDING SERVICES (SOLID WASTE DISPOSAL)
11. 4490 CONTRACT RENEWAL FOR INSULATION SERVICES (SOLID WASTE DISPOSAL)
12. 4490 CONTRACT EXTENSION FOR REFRACTORY AND SANDBLASTING SERVICES (SOLID WASTE DISPOSAL)
13. 4490 VALUE BLANKET FOR THE PURCHASE OF FABRIC FILTER BAGS (SOLID WASTE DISPOSAL)
14. 4490 CONTRACT AMENDMENT FOR ANNUAL HVAC SERVICES (SOLID WASTE DISPOSAL)
15. 4490 PURCHASE OF HIGH CALCIUM QUICKLIME (SOLID WASTE DISPOSAL)
16. 4500-PURCHASE OF COMPRESSED NATURAL GAS (CNG) BACKUP GENERATOR (SOLID WASTE COLLECTION)
17. 4250 – DEPT OF ECOLOGY LOAN AGREEMENT MARION HAY INTERTIE (INTEGRATED CAPITAL MANAGEMENT)
18. 4250 – DEPT OF ECOLOGY LOAN AGREEMENT NINE MILE SEWER (INTEGRATED CAPITAL MANAGEMENT)
19. 4250 – PUBLIC WORKS BOARD LOAN AGREEMENT FREYA STREET IMPROVEMENTS (INTEGRATED CAPITAL MANAGEMENT)
20. 4250 – DEPT OF ECOLOGY GRANT CSO BASIN 34 (INTEGRATED CAPITAL MANAGEMENT)

21. 4250 – DEPT OF ECOLOGY GRANT FRANCIS STORMWATER FACILITY (INTEGRATED CAPITAL MANAGEMENT)
22. 1100 - STREET DEPARTMENT SIGN POSTS (STREETS)
23. 5300 SHI – CO-MANAGED LOGRHYTHM SERVICES (INNOVATION & TECHNOLOGY SERVICES)
24. 5300 STATE & LOCAL CYBER SECURITY GRANT PROGRAM - ISE (INNOVATION & TECHNOLOGY SERVICES)

**V. Executive Session**

Executive Session may be held or reconvened during any Public Infrastructure, Environment & Sustainability Committee meeting.

**VI. Adjournment**

**VII. Next Meeting**

**Next Public Infrastructure, Environment & Sustainability Committee**

The next meeting will be held at the special date and time of **10:00 AM. February 26, 2024.**

**AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION:** The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. The Spokane City Council Chamber in the lower level of Spokane City Hall, 808 W. Spokane Falls Blvd., is wheelchair accessible and is equipped with an infrared assistive listening system for persons with hearing loss. Headsets may be checked out (upon presentation of picture I.D.) at the City Cable 5 Production Booth located on the First Floor of the Municipal Building, directly above the Chase Gallery or through the meeting organizer. Individuals requesting reasonable accommodations or further information may call, write, or email Risk Management at 509.625.6221, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or [m\\_lowmaster@spokanecity.org](mailto:m_lowmaster@spokanecity.org). Persons who are deaf or hard of hearing may contact Risk Management through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

**STANDING COMMITTEE MINUTES**  
**City of Spokane**  
**Public Infrastructure, Environment, and Sustainability (PIES) Committee**  
**November 27, 2023**

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**Call to Order:** 1:18 p.m.

Recording of the meeting may be viewed here: <https://vimeo.com/888879815>

**Attendance**

Committee Members Present:

CP Kinnear (Chair), CM Bingle (Vice Chair), CM Stratton, CM Cathcart, CM Wilkerson, CM Oelrich, and CM Zappone.

Committee Members Absent: none

Staff/Others Present:

Marlene Feist, Katherine Miller, Clint Harris, Spencer Gardner, Tirrell Black, Taylor Berberich, Sean Jordan, Mike Piccolo, Lynden Smithson, Ted Kummert, Assistant Chief Justin Lundgren, Eric Finch, Steve MacDonald, Tonya Wallace, David Dunkin, Kim McCollim, Jenn Cerecedes, Raylene Gennett, Collin Tracy, Marcia Davis, Teri Stripes, Eldon Brown, Trey George, Abbey Martin, Chris Wright, Erik Poulsen, Giacobbe Byrd, Candi Davis, Nicolette Ocheltree, and Ginny Ramos.

**Approval of Minutes**

➤ Action taken

CM Cathcart moved to approve the minutes of the October 23, 2023 meeting; the motion was seconded by CM Wilkerson. The minutes were approved unanimously.

**Agenda Items**

Discussion items

1. Clark Lift Station Bypass ITB

➤ Action taken

CP Kinnear agreed to sponsor this item to move forward for formal Council consideration.

2. Warehouse Roof ITB

➤ Action taken

CP Kinnear agreed to sponsor this item to move forward for formal Council consideration.

3. Burner Boiler Controls Upgrade ITB

- Action taken  
CP Kinnear agreed to sponsor this item to move forward for formal Council consideration.
- 4. Water System Plan Approval
  - Action taken  
CP Kinnear and CM Bingle agreed to sponsor this item to move forward for formal Council consideration.
- 5. Highway Safety Improvement Program Grant
  - Action taken  
CM Bingle agreed to sponsor this item to move forward for formal Council consideration.
- 6. SBO - Solid Waste Disposal & Collect
  - Action taken  
CP Kinnear and CM Bingle agreed to sponsor this item to move forward for formal Council consideration
- 7. Golf Course Irrigation Conservation
  - Action taken  
CP Kinnear and CM Bingle agreed to sponsor this item to move forward for formal Council consideration.
- 8. West Central Infrastructure Project
  - Action taken  
CM Stratton and CM Zappone agreed to sponsor this item to move forward for formal Council consideration.
- 9. Council Board and Commission Update
  - Action taken  
CP Kinnear and CM Wilkerson agreed to sponsor this item to move forward for formal Council consideration.
- 10. Resolution repealing Resolution 2023-0043
  - Action taken  
CM Zappone and CM Willkerson agreed to sponsor this item to move forward for formal Council consideration.
- 11. SBO for SMC Recodification
  - Action taken  
CM Bingle and CM Cathcart agreed to sponsor this item to move forward for formal Council consideration.
- 12. Streets Road Maintenance Update
  - Action taken  
Presentation and discussion only.
- 13. TRAC Shelter Extension Amendment
  - Action taken  
CM Stratton agreed to sponsor this item to move forward for formal Council consideration.

#### Consent items

1. Haven Grind & Overlay

2. Outside Counsel Contract Amendment
3. SWD-Metals recycling contract renewal
4. SWD-Compressor rental value blanket renewal
5. SWD-Activated carbon value blanket renewal
6. SWD-Emissions testing contract renewal
7. SWD-Bridge crane maintenance contract renewal
8. SWD-Crane, hoist, trolley and lifeline maintenance contract renewal
9. 5100 - Fleet Services - Toby's Body & Fender Contract Amendment
10. SWD-Analytical services contract renewal
11. 5300 Structured - Cohesity Replacement Nodes
12. Federally Funded Grind and Overlay
13. MOA Between COS and NEPDA for ARP

**Executive session**

None.

**Adjournment**

The meeting adjourned at 2:39 p.m.

Prepared by:

Giacobbe Byrd, Council Office Director

Approved by:

---

CP Wilkerson  
PIES Committee Chair





**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Discussion

**Date Rec'd**

1/18/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

**Submitting Dept**

PUBLIC WORKS

**Project #**

**Contact Name/Phone**

MARLENE FEIST 625-6505

**Bid #**

**Contact E-Mail**

MFEIST@SPOKANECITY.ORG

**Requisition #**

**Agenda Item Type**

First Reading Ordinance

**Council Sponsor(s)**

BWILKERSON JBINGLE

**Agenda Item Name**

5200 - ORDINANCE FOR UTILITY RATE REVIEW SCHEDULE AND WORK PLAN

**Agenda Wording**

AN ORDINANCE relating to Water-Wastewater and Water & Hydroelectric Department rates, amending SMC sections 13.035.500 and 13.04.2014 to chapters 13.035 and 13.04 of the Spokane Municipal Code and declaring an emergency.

**Summary (Background)**

This ordinance revises rates related to Water-Wastewater and Water, creating a new classification for wholesale water rates

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? N/A

Total Cost

\$

Current Year Cost

\$

Subsequent Year(s) Cost

\$

**Narrative**

**Amount**

**Budget Account**

Select

\$

#

Select

\$

#

Select

\$

#

Select

\$

#

\$

#

\$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

**Dept Head**

MILLER, KATHERINE E

**Division Director**

MILLER, KATHERINE E

**Accounting Manager**

ALBIN-MOORE, ANGELA

**Legal**

SCHOEDEL, ELIZABETH

**For the Mayor**

PICCOLO, MIKE

**Additional Approvals**

**Distribution List**

	eraea@spokanecity.org
publicworksaccounting@spokanecity.org	jrhall@spokanecity.org
mfeist@spokanecity.org	kemiller@spokanecity.org

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	1/29/24
<b>Submitting Department</b>	Public Works Division
<b>Contact Name</b>	Marlene Feist, Division Director
<b>Contact Email &amp; Phone</b>	<a href="mailto:mfeist@spokanecity.org">mfeist@spokanecity.org</a>
<b>Council Sponsor(s)</b>	<u>CP Wilkerson</u>
<b>Select Agenda Item Type</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion    Time Requested: 10 min
<b>Agenda Item Name</b>	Utility Rates Review Schedule and Work Plan
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>	<p>The City of Spokane is a regional water purveyor and supplies water to other/neighborhood water systems under contract; those systems then supply water to their direct customers. Generally, these other water systems have typically utilized water from the City during peak summer months to keep up with demand within their systems. The rate that these purveyors pay is generally tied to the amount they use and the City of Spokane's cost to provide that service. Due to recent environmental issues, the City has seen increases in wholesale water demand and has created the need to develop a new type of wholesale water rate that better captures this higher usage and reflects the City's cost to provide this kind of service. It costs the City of Spokane somewhat less per gallon to provide consistent supplemental water than it costs to provide intermittent water on an emergency or standby basis. The proposed ordinance would create a new classification of wholesale water rate called "continuous supplemental water service". The City retained a consultant, FCS, who assisted in evaluation and development of a new rate that reflects the City's costs to provide continuous supplemental water. The proposed changes are captured in the attached draft ordinance.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input type="checkbox"/> Yes    <input type="checkbox"/> No    <input checked="" type="checkbox"/> N/A</p> <p>Total Cost: <u>Click or tap here to enter text.</u></p> <p>    Current year cost:</p> <p>    Subsequent year(s) cost: N/A</p> <p><b>Narrative:</b> Please provide financial due diligence review, as applicable, such as number and type of positions, grant match requirements, summary type details (personnel, maintenance and supplies, capital, revenue), impact on rates, fees, or future shared revenue</p> <p><b>Funding Source</b>            <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Select Funding Source*</p> <p>Is this funding source sustainable for future years, months, etc? This proposed rate reflects the City's cost to provide the water service to Airway Heights</p> <p><b>Expense Occurrence</b>    <input type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input checked="" type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>Operations Impacts</b> (If N/A, please give a brief description as to why)	

What impacts would the proposal have on historically excluded communities?

*Public Works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible.*

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

*N/A A cost of service analysis was done to develop a new rate that reflects Airway Heights current water use and the City of Spokane's cost to deliver the water.*

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

*After this new rate is established, Public Works will continue to monitor Airway Heights' water usage overtime and make any needed adjustments.*

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

*Having rates that reflect the future cost to maintain our utilities is consistent with the Comprehensive Plan's Utility chapter.*

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to Water-Wastewater and Water & Hydroelectric Department rates, amending SMC sections 13.035.500 and 13.04.2014 to chapters 13.035 and 13.04 of the Spokane Municipal Code and declaring an emergency.

WHEREAS, the City has retained a consultant (FCS) to evaluate its utility rates for all of its utilities including water services and delivery of wholesale water to other water purveyors; and

WHEREAS, neighboring jurisdictions own and operate their own water service systems and deliver water to customers in accordance with their Water System Plans on file with Washington State Department of Health; and

WHEREAS, the City charges these other water purveyors a water service rate as set out of SMC 13.04.2014 entitled "Outside City Rate to Other Purveyors", which differs from the commercial rate in that the City does not have to maintain the receiving water providers systems; and

WHEREAS, Other Purveyors are required to have a written Agreement with the City for water service. There are two main types of "Agreements, (1) emergency or standby service Agreement where the City intermittently could supply water and (2) continuous supplemental water service where the City provides large quantities of water on a daily basis; and

WHEREAS, FCS has conducted an evaluation as to the costs and impacts for the City to provide these two different types of services to other purveyors and concluded that the cost to provide continuous supplemental water services is less than the costs associated with intermittent, standby or emergency services; and

WHEREAS, costs associated with continuous supplemental water on a daily basis are less than costs associated with standby or intermittent water services.

THEREFORE, the water rate ordinances need to be amended.

The City of Spokane does ordain:

Section 1: That SMC section 13.035.500 is amended to read as follows:

**13.035.500 Water-Wastewater Capital Rates**

- A. In addition to user charges (basic charges and consumption charges) for providing utility services to customers, all accounts are assessed a water-wastewater capital management fund charge which shall be placed in a separate fund, reserved for purposes of contribution to water-wastewater capital infrastructure.

- B. The following rates shall apply to the water-wastewater capital management fund charge and shall be separately itemized on the utility bill:

Water-wastewater Capital Rates – per month	
	2024
Domestic user (Per single-family residence or equivalent residential unit):	
Domestic user – In City	\$33.11
Domestic user – Outside City	\$37.94
Commercial User:	
Commercial user – In City: Minimum commercial user charge (includes first forty eight units)	\$33.11
Commercial user – In City: Water-wastewater consumption charge (over forty eight units) (per hundred cubic feet)	\$0.6945
Commercial user – Outside City: Minimum commercial user charge (includes first twenty eight units)	\$37.94
Commercial user – Outside City: Water-wastewater consumption charge (over twenty eight units) (per hundred cubic feet)	\$1.3886
Other services:	
PDA - Domestic User	\$33.11
PDA - Commercial user Minimum commercial user charge (includes first forty eight units)	\$33.11
PDA - Commercial user Water-wastewater consumption charge (over forty eight units) (per hundred cubic feet)	\$0.6945
PDA Water only Domestic User - Capital Charge	\$13.25
PDA Water only Commercial User Minimum commercial user charge (includes first forty eight units)	\$13.25
PDA Water Only Commercial User Capital consumption charge (over forty eight units) (per hundred cubic feet)	\$0.2777

PDA Wastewater only Domestic User– Capital Charge	\$19.86
PDA Wastewater only Commercial User – minimum commercial user charge (includes first forty-eight units)	\$19.86
PDA Wastewater only Commercial User Capital consumption charge (over forty eight units) (per hundred cubic feet)	\$0.4167
Service outside City utility service area (per hundred cubic feet). This rate shall apply unless modified by separate agreement	\$1.3886
Non-domestic process water-wastewater capital rate (per thousand gallons)	\$47.60
Septage charge (per thousand gallons)	\$47.60
Water Service Only Domestic User-Capital Charge – In City	\$13.25
Water Service Only Domestic User-Capital Charge – Outside City	\$15.18
Water Service Only Commercial User – Minimum Capital Charge – In City (includes first forty eight units)	\$13.25
Water Service Only Commercial User – In City -capital consumption charge (over forty eight units) (per hundred cubic feet)	\$0.2777
Water Service Only Commercial User – Minimum Capital Charge – Outside City (includes first twenty eight units)	\$15.18
Water Service Only Commercial User – Outside City – capital consumption charge (over twenty eight units) (per hundred cubic feet)	\$0.5555
Water Service Only - Other Purveyors - Continuous Supplemental Water User – Outside City – capital consumption charge (per hundred cubic feet)	\$0.391
Wastewater Service Only Domestic User – Capital Charge – In City	\$19.86

Wastewater Service Only Domestic User – Capital Charge – Outside City	\$22.76
Wastewater Service Only – Commercial User – Minimum Capital Charge – In City (includes first forty eight units)	\$19.86
Wastewater Service Only Commercial User – In City – capital consumption charge (over forty eight units) (per hundred cubic feet)	\$0.4167
Wastewater Service Only Commercial User – Minimum Capital Charge – Outside City (includes first twenty eight units)	\$22.76
Wastewater Service Only Commercial User – Outside City – capital consumption charge (over twenty eight units) (per hundred cubic feet)	\$0.833

Section 2: That SMC section 13.04.2014 is amended to read as follows:

**13.04.2014 Outside City Rate to Other Purveyors**

- A. Standby/Emergency Water: The charge to other purveyors for standby and/or emergency water service and use outside the City’s service area shall be at the following rate per one hundred cubic feet of water used plus outside City commercial monthly service charge, unless modified by separate agreement:

2024
\$1.3913

1. Operations and Maintenance Capital Charge for Standby and/or Emergency Water Service.

In addition to the basic charge and consumption charge, there shall be charged a capital charge for all accounts as established and provided for in [SMC 13.035.500 - Water Service Only Commercial User – Minimum Capital Charge – Outside City \(includes first twenty eight units\) and Water Service Only Commercial User – Outside City – capital consumption charges.](#)

- B. Continuous Supplemental Water: Continuous Supplemental Water is defined as those Purveyors who draw water for at least nine (9) consecutive months at a time.



The charge to other purveyors for continuous supplemental water service to be used outside the City's service area shall be at the following rate per one hundred cubic feet of water used plus outside City commercial monthly service charge, unless modified by separate agreement:

2024
\$1.3913

1. Operations and Maintenance Capital Charge for Continuous Supplemental Water Service.

In addition to the basic charge and consumption charge, there shall be charged a capital charge for all accounts as established and provided for in [SMC 13.035.500 - Water Service Only - Other Purveyors - Continuous Supplemental Water User – Outside City – capital consumption charge.](#)

Section 3: Effective Date. This ordinance shall take effect and be in force on January 1, 2024.

Section 4: Emergency Clause. This Ordinance is necessary for the immediate preservation of the public peace, health, or safety or for the immediate support of city government and its exiting public institutions.

ADOPTED BY THE CITY COUNCIL ON \_\_\_\_\_

\_\_\_\_\_  
Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

<b>Date Rec'd</b>	1/18/2024
<b>Clerk's File #</b>	OPR 1984-0475
<b>Renews #</b>	
<b>Cross Ref #</b>	

**Council Meeting Date:** 02/12/2024

<b>Submitting Dept</b>	PUBLIC WORKS	<b>Project #</b>	
<b>Contact Name/Phone</b>	MARLENE FEIST 625-6505	<b>Bid #</b>	
<b>Contact E-Mail</b>	MFEIST@SPOKANECITY.ORG	<b>Requisition #</b>	
<b>Agenda Item Type</b>	Contract Item		
<b>Council Sponsor(s)</b>	BWILKERSON		
<b>Agenda Item Name</b>	4100 – AMENDMENT TO AIRWAY HEIGHTS WATER SUPPLY AGREEMENT		

**Agenda Wording**

Amendment 2 of the Amended Water Supply Agreement with the City of Airway Heights providing for additional supplemental water capacity for Airway Heights - \$642,857.00 Revenue.

**Summary (Background)**

The amendment provides for an additional 250 gallons per minute of supplemental water capacity for Airway Heights.

Lease? NO Grant related? NO Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget?	N/A
Total Cost	\$ 642,857.00
Current Year Cost	\$ 642,857.00
Subsequent Year(s) Cost	\$

**Narrative**

<b>Amount</b>	<b>Budget Account</b>
Revenue \$ 642,857.00	# 0
Select \$	#
Select \$	#
Select \$	#
\$	#
\$	#



## Continuation of Wording, Summary, Approvals, and Distribution

### Agenda Wording

### Summary (Background)

#### **Approvals**

##### Dept Head

FEIST, MARLENE

##### Division Director

FEIST, MARLENE

##### Accounting Manager

ALBIN-MOORE, ANGELA

##### Legal

SCHOEDEL, ELIZABETH

##### For the Mayor

PICCOLO, MIKE

#### **Additional Approvals**

#### **Distribution List**

Albert Tripp atripp@cawh.org

eraea@spokanecity.org

jrhall@spokanecity.org

publicworksaccounting@spokanecity.org

mfeist@spokanecity.org

kemiller@spokanecity.org

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	January 29, 2024
<b>Submitting Department</b>	Public Works – Water & Hydroelectric Department/ICM
<b>Contact Name</b>	Marlene Feist
<b>Contact Email &amp; Phone</b>	<a href="mailto:MFeist@spokanecity.org">MFeist@spokanecity.org</a> 509-625-6505
<b>Council Sponsor(s)</b>	<u>CM Wilkerson</u>
<b>Select Agenda Item Type</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion    Time Requested: 10 min
<b>Agenda Item Name</b>	2nd Amendment to the Amended Water Supply Agreement between City of Spokane and City of Airway Heights to Address Additional Supplemental Water Capacity
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>The City of Spokane has a long-term agreement with the City of Airway Heights for both emergency and supplemental water supply. The latest Agreement was executed in 2018.</p> <p>This 2nd Amendment to the Agreement, addresses additional supplemental water supply of 250 gpm and provides for a capacity buy in charge for the additional 250 gpm – which will become part of the supplemental water capacity. Buy in charge is set at \$642,857 to be paid within 60 days of execution of the Amendment.</p> <p>Both Parties agree to continue to negotiate and execute an Agreement regarding conversion of the emergency provisions into long-term supplemental capacity, future capital contributions, and future long term capacity.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input type="checkbox"/> Yes    <input type="checkbox"/> No    <input checked="" type="checkbox"/> N/A</p> <p>Total Cost: <u>Click or tap here to enter text.</u></p> <p>Current year cost:</p> <p>Subsequent year(s) cost:</p> <p><b>Narrative:</b> <u>This is a onetime revenue paid by Airway Heights.</u></p> <p><b>Funding Source</b>    <input type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input checked="" type="checkbox"/> N/A</p> <p>Specify funding source: Select Funding Source*</p> <p>Is this funding source sustainable for future years, months, etc? N/A</p> <p><b>Expense Occurrence</b>    <input type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input checked="" type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.) One time capital payment equivalent to a GFC charge for the added capacity.</p>	

**Operations Impacts** (If N/A, please give a brief description as to why)

What impacts would the proposal have on historically excluded communities?

Public works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers and we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

N/A

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Public Works follows the City's established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This work is consistent with annual budget strategies to limit costs and approved projects in the 6-year CIP.



**City of Spokane**  
**2<sup>nd</sup> Amendment to the Amended Water Supply Agreement between City of Spokane and City of Airway Heights to Address Additional Supplemental Water Capacity**

This 2<sup>nd</sup> Amendment of the Amended Water Supply Agreement between Spokane and Airway Heights and Emergency Water Service Agreement ("2<sup>nd</sup> Amendment") is made and entered into by and between the **City of Spokane** ("City" or "Spokane"), a Washington municipal corporation, and **City of Airway Heights**, whose address is 13120 W. 13<sup>th</sup> Avenue, Airway Heights, Washington 99001 ("Airway Heights") (collectively referred to as the "Parties").

*WHEREAS, the parties entered into an Amended Water Supply Agreement and Emergency Water Service Agreement (the "Amended Agreement") on April 12, 2018, wherein, amongst other things, Spokane agreed to provide to Airway Heights additional short term emergency water in the amount of approximately 1,400 gallons per minute ("GPM") for a period of two (2) years from the initial date of emergency water service; and*

*WHEREAS, in addition to the emergency provisions, the Amended Agreement provided for supplemental water supply in the amount of approximately 1,500 GPM; and*

*WHEREAS, on October 20, 2022, the parties entered into a #3 Extension of Amended Water Supply Agreement Between the City of Spokane and the City of Airway Heights & 1<sup>st</sup> Amendment to the Amended Water Supply Agreement between the City of Spokane and the City of Airway Heights (together with the Amended Agreement, the "Agreement") which amongst other things provided for a three-year extension of the Agreement through June 15, 2026; and*

*WHEREAS, Airway Heights has requested an amendment of the Agreement to increase the water supply and volume from Spokane to support its continued water usage; and*

*WHEREAS, Spokane is willing to provide additional water of 250 GPM requested by Airway Heights on the terms set forth in this 2<sup>nd</sup> Amendment.*

*NOW, THEREFORE, in consideration of these terms, the parties mutually agree as follows:*

**1. AGREEMENT DOCUMENTS.**

The Agreement, dated April 12, 2018, as well as all previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE DATE.**

This 2nd Amendment shall become effective immediately upon signature of all Parties. Terms and conditions shall be effective commencing January 1, 2024 and as provided herein.

**3. PURPOSE.**

- A. To amend the Water Supply Agreement between the Parties to add 250 gallons per minute as supplemental quantity of water supplied to Airway Heights by Spokane. Total quantity of supplemental water supply shall not exceed 1,750 GPM. Total Supplemental water quantity is allocated as available volumes at the connection located at HWY 2 and Hayford Road – is limited to 1,500 GPM; and available supplemental volume at the connection located at Craig and McFarlane Roads in a supplemental amount not to exceed 250 GPM.
- B. To address capital component associated with the new increased supplemental quantity of water.

**4. AMENDMENTS.**

- A. All references in the Agreement (including, but not limited to Paragraphs 1.1, 5.1.1) to Spokane providing 1,500 GPM of water to Airway Heights as supplemental water quantity supplied through the two points of connection shall be amended to reflect total supplemental water quantity supplied to Airway Heights from Spokane is an amount not to exceed 1,750 GPM. (2024 Additional Supplemental Capacity).
- B. The 2024 Additional Supplemental Capacity shall be available once the items listed in this section B are installed and operational and upon the completion of any additional necessary construction or improvements to the Points of Connection by Airway Heights necessary for Spokane to provide the 2024 Additional Supplemental Capacity. The Parties anticipate all necessary improvements to be completed by March 5, 2024.
  - a. Airway Heights Improvements: As a condition of the additional supplemental capacity of 250 gpm, Airway Heights shall make physical improvements to their vault, to include at a minimum verification of the Pressure Reducing Valve (PRV) capacity. Airway Heights is responsible for all maintenance of the PRV.
  - b. Airway Heights will fund Spokane’s installation of a flow restrictor.
  - c. All improvements shall be completed prior to supplying the additional 250 gpm. Cost to include labor and materials.
- C. Capacity Buy -In Charge: As condition of receiving the 2024 Additional Supplemental Water Capacity, Airway Heights agrees to pay a capital charge for capacity buy-in. This charge is based on the objective of securing the level of service described in the Agreement and fair compensation to Spokane for long-term use of the additional 250 GPM in supplemental capacity. Capacity Buy-In charge is set at \$642,857.00 (Six Hundred Forty-Two Thousand Eight Hundred Fifty-Seven Dollars and no/cents) and shall be paid within 60 days of execution of this Amendment.

**5. ADDITIONAL AGREED TERMS.**

- A. The Parties agree to continue to negotiate and to execute an Amendment to the Water Supply Agreement. Said Amendment shall address, at a minimum, among other things, (1) conversion of the emergency provisions into long-term supplemental water supply, (2) capital contributions, and (3) future long-term capacity.





**Agenda Sheet for City Council:****Committee:** PIES **Date:** 01/29/2024**Committee Agenda type:** Information Only**Date Rec'd**

1/18/2024

**Clerk's File #****Renews #****Cross Ref #****Council Meeting Date:****Submitting Dept**

PUBLIC WORKS

**Project #****Contact Name/Phone**

KATHERINE 625-6700

**Bid #****Contact E-Mail**

KEMILLER@SPOKANECITY.ORG

**Requisition #****Agenda Item Type**

Information Only - Committee

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

5200 - UTILITY RATES REVIEW SCHEDULE AND WORK PLAN

**Agenda Wording**

Utility rates review of schedule and work plan discussion at PIES Committee.

**Summary (Background)**

See Briefing Paper

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? N/A

Total Cost \$ 0

Current Year Cost \$

Subsequent Year(s) Cost \$

**Narrative****Amount****Budget Account**

Neutral \$

#

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

Dept Head

Division Director

Accounting Manager

Legal

For the Mayor

**Additional Approvals**

**Distribution List**

eraea@spokanecity.org

publicworksaccounting@spokanecity.org

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	1/29/24
<b>Submitting Department</b>	Public Works Division
<b>Contact Name</b>	Marlene Feist, Division Director
<b>Contact Email &amp; Phone</b>	<a href="mailto:mfeist@spokanecity.org">mfeist@spokanecity.org</a>
<b>Council Sponsor(s)</b>	<u>CP Wilkerson</u>
<b>Select Agenda Item Type</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion    Time Requested: 10 min
<b>Agenda Item Name</b>	Utility Rates Review Schedule and Work Plan
<b>Proposed Council Action</b>	<input type="checkbox"/> Approval to proceed to Legislative Agenda <input checked="" type="checkbox"/> Information Only
<b>Summary (Background)</b>	<p>In 2024, Public Works will focus on a comprehensive update to the water, sewer, and solid waste rates. In addition to a look at costs in the utilities, the work will review rates for customers within the City limits and outside the City limits. Also needed is a revision of water consumption tiers for commercial customers and work to align rates with our cost of service analysis. Under state law, one class of customer should not subsidize another class.</p> <p>This comprehensive rate review also complements the work the City did in 2023 to update the City's General Facilities Charges.</p> <p>For the January PIES meeting, we will share the work schedule to complete the rate review in time to incorporate results into the 2025 budget.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input type="checkbox"/> Yes    <input type="checkbox"/> No    <input checked="" type="checkbox"/> N/A</p> <p>Total Cost: <a href="#">Click or tap here to enter text.</a></p> <p>    Current year cost:</p> <p>    Subsequent year(s) cost: N/A</p> <p><b>Narrative:</b> Please provide financial due diligence review, as applicable, such as number and type of positions, grant match requirements, summary type details (personnel, maintenance and supplies, capital, revenue), impact on rates, fees, or future shared revenue</p> <p><b>Funding Source</b>    <input type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input checked="" type="checkbox"/> N/A</p> <p>Specify funding source: Select Funding Source*</p> <p>Is this funding source sustainable for future years, months, etc? <a href="#">Click or tap here to enter text.</a></p> <p><b>Expense Occurrence</b>    <input type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input checked="" type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
<p>What impacts would the proposal have on historically excluded communities?</p> <p><i>Public Works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and</i></p>	

*predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible.*

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

*N/A Rates will be collected city wide when water, sewer, garbage services are used. State, Federal and local funding is available to help with affordability issues.*

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

*Utility rates will initially be reviewed after two years and then after every 4 years.*

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

*Having rates that reflect the future cost to maintain our utilities is consistent with the Comprehensive Plan's Utility chapter.*

**Agenda Sheet for City Council:****Committee:** PIES **Date:** 01/29/2024**Committee Agenda type:** Information Only**Date Rec'd**

1/19/2024

**Clerk's File #****Renews #****Cross Ref #****Council Meeting Date:****Submitting Dept**

PUBLIC WORKS

**Project #****Contact Name/Phone**

CORIN MORSE 625-6855

**Bid #****Contact E-Mail**

CMORSE@SPOKANECITY.ORG

**Requisition #****Agenda Item Type**

Information Only - Committee

**Council Sponsor(s)**

KKLITZKE JBINGLE BWILKERSON

**Agenda Item Name**

5200 - UTILITY BILLING PANDEMIC RELIEF AND DELINQUENCY UPDATE

**Agenda Wording**

Public Works/Utility Billing would like to update Council on assistance provided to customers who had fallen behind on their City utility bills during and after the pandemic.

**Summary (Background)**

Between March 2020 and today, we have worked to assist customers through multiple programs. Funding support for customers has come from ARPA funds (approved by Council) State Commerce dollars, T-Rap rental assistance, the federal LIHWAP program, and the City's own U-Help program. This work is now coming to a close, and we would like to provide an update on the status of the work, the customers who have been helped, and remaining delinquencies.

Lease? NO Grant related? NO Public Works? YES

**Fiscal Impact**

Approved in Current Year Budget? N/A

Total Cost \$

Current Year Cost \$

Subsequent Year(s) Cost \$

**Narrative**

N/A

**Amount****Budget Account**

Neutral \$ #

Select \$ #

Select \$ #

Select \$ #

\$ #

\$ #



## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	01/29/2024
<b>Submitting Department</b>	Public Works
<b>Contact Name</b>	Corin Morse
<b>Contact Email &amp; Phone</b>	<a href="mailto:cmorse@spokanecity.org">cmorse@spokanecity.org</a> and 509.625.6855
<b>Council Sponsor(s)</b>	Please enter the name of the Council Sponsor(s)
<b>Select Agenda Item Type</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion    Time Requested: 5
<b>Agenda Item Name</b>	Utility Bill Delinquency Update
<b>Proposed Council Action</b>	<input type="checkbox"/> Approval to proceed to Legislative Agenda <input checked="" type="checkbox"/> Information Only
<b>Summary (Background)</b>	<p>Public Works/Utility Billing has worked diligently to assist customers who had fallen behind on their City utility bills.</p> <p>*use the Fiscal Impact box below for relevant financial information</p> <p>Between March 2020 and today, we have worked to assist customers through multiple programs. Funding support for customers has come from ARPA funds, State Commerce dollars, T-Rap rental assistance, the federal LIHWAP program, and the City's own U-Help program.</p> <p>Over the last 13 months, the City worked to distribute ARPA funds provided by City Council, along with some writes offs of past-due amounts.</p> <p>This work is now coming to a close, and we would like to provide an update on the status of the work, the customers who have been helped, and remaining delinquencies.</p>
<b>Fiscal Impact</b>	
<b>Approved in current year budget?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A Total Cost: <u>N/A</u> Current year cost: Subsequent year(s) cost:	
<b>Narrative:</b> Please provide financial due diligence review, as applicable, such as number and type of positions, grant match requirements, summary type details (personnel, maintenance and supplies, capital, revenue), impact on rates, fees, or future shared revenue	
<b>Funding Source</b> <input type="checkbox"/> One-time <input type="checkbox"/> Recurring <input checked="" type="checkbox"/> N/A Specify funding source: Select Funding Source* Is this funding source sustainable for future years, months, etc? <a href="#">Click or tap here to enter text.</a>	
<b>Expense Occurrence</b> <input type="checkbox"/> One-time <input type="checkbox"/> Recurring <input checked="" type="checkbox"/> N/A  Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
What impacts would the proposal have on historically excluded communities?	

Public works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers and we are committed to delivering work that is both financially and environmentally responsible. This project is specifically designed to assist low-income residents get caught up on their City utility bills.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

N/A

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Public Works follows the City's established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

Supporting low-income residents is consistent with City policies.





**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Information Only

**Date Rec'd**

1/24/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:**

**Submitting Dept**

PUBLIC WORKS

**Project #**

**Contact Name/Phone**

MARLENE FEIST 625-6505

**Bid #**

**Contact E-Mail**

MFEIST@SPOKANECITY.ORG

**Requisition #**

**Agenda Item Type**

Information Only - Committee

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

5200 - SNOW REMOVAL PRIMER AND FULL-CITY PLOW REVIEW

**Agenda Wording**

Snow removal primer and full-city plow review discussion at PIES committee.

**Summary (Background)**

See briefing paper

Lease? NO

Grant related? NO

Public Works?

**Fiscal Impact**

Approved in Current Year Budget? N/A

Total Cost

\$

Current Year Cost

\$

Subsequent Year(s) Cost

\$

**Narrative**

**Amount**

**Budget Account**

Select

\$

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## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	01/29/2024
<b>Submitting Department</b>	Public Works
<b>Contact Name</b>	Marlene Feist
<b>Contact Email &amp; Phone</b>	<a href="mailto:mfeist@spokanecity.org">mfeist@spokanecity.org</a> ; (509) 625-6505
<b>Council Sponsor(s)</b>	<u>CP Wilkerson</u>
<b>Select Agenda Item Type</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion    Time Requested: 5
<b>Agenda Item Name</b>	Snow Removal Primer and Full-City Plow Review
<b>Proposed Council Action</b>	<input type="checkbox"/> Approval to proceed to Legislative Agenda <input checked="" type="checkbox"/> Information Only
<b>Summary (Background)</b>	With the addition of two new Council Members, Public Works would like to present the basics of the City's Snow Response Plan, along with a review of the response to the snow that blanketed the area starting on Jan. 17 and led to the first Full-City Plow Response of the 2023-24 Season.
*use the Fiscal Impact box below for relevant financial information	
<b>Fiscal Impact</b>	
<b>Approved in current year budget?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	
Total Cost: <u>N/A</u>	
Current year cost:	
Subsequent year(s) cost:	
<b>Narrative:</b> Please provide financial due diligence review, as applicable, such as number and type of positions, grant match requirements, summary type details (personnel, maintenance and supplies, capital, revenue), impact on rates, fees, or future shared revenue	
<b>Funding Source</b> <input type="checkbox"/> One-time <input type="checkbox"/> Recurring <input checked="" type="checkbox"/> N/A	
Specify funding source: Select Funding Source*	
Is this funding source sustainable for future years, months, etc? <a href="#">Click or tap here to enter text.</a>	
<b>Expense Occurrence</b> <input type="checkbox"/> One-time <input type="checkbox"/> Recurring <input checked="" type="checkbox"/> N/A	
Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
What impacts would the proposal have on historically excluded communities?	
Public works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers and we are committed to delivering work that is both financially and environmentally responsible. This project is specifically designed to assist low-income residents get caught up on their City utility bills.	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?	

N/A

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Public Works follows the City's established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

Supporting low-income residents is consistent with City policies.

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	1/29/24
<b>Submitting Department</b>	Integrated Capital Management (ICM)
<b>Contact Name</b>	Katherine Miller
<b>Contact Email &amp; Phone</b>	<a href="mailto:kemiller@spokanecity.org">kemiller@spokanecity.org</a> ; 625-6338
<b>Council Sponsor(s)</b>	<u>CP Wilkerson</u>
<b>Select Agenda Item Type</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion    Time Requested: 5 min
<b>Agenda Item Name</b>	Climate Pollution Reduction Grant
<b>Proposed Council Action</b>	<input type="checkbox"/> Approval to proceed to Legislative Agenda <input checked="" type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	The City of Spokane’s two highest green house gas emissions come from our fleet vehicles and buildings. There is a Federal grant opportunity coming in April that Integrated Capital Management (ICM) is currently pursuing. The Feds are requiring States to establish the types of projects that are eligible to apply for this grant. In working with the State Commerce Department, they have decided to create a State level grant that the City of Spokane will be a part of. Currently the State is interested in our proposal that would replace approximately 80-90 light duty vehicles within the Public Works departments of Wastewater, Solid Waste, Streets and Water. This proposal includes a demonstration of smart charging technology that will communicate with our local power company, Avista, to help during peak times. During peak power usage times, we will also look to deploy an EV to a City booster station or lift station to power the station as a demonstration of removing the load from the grid when there is a micro grid strain that could lead to a rolling blackout. ICM is also working with Facilities to upgrade 12 public works buildings to reduce green house gas emissions. The proposal to convert light duty vehicles to EV’s, develop the smart charging network and create a mobile power solution would cost approximately \$14M. The upgrades to the 12 buildings is approximately \$20-\$25 M. The grant does not require matching funds.
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input type="checkbox"/> Yes    <input type="checkbox"/> No    <input checked="" type="checkbox"/> N/A</p> <p>Total Cost: <a href="#">Click or tap here to enter text.</a></p> <p>    Current year cost:</p> <p>    Subsequent year(s) cost: N/A</p> <p><b>Narrative:</b> Please provide financial due diligence review, as applicable, such as number and type of positions, grant match requirements, summary type details (personnel, maintenance and supplies, capital, revenue), impact on rates, fees, or future shared revenue</p> <p><b>Funding Source</b>    <input type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input checked="" type="checkbox"/> N/A</p> <p>Specify funding source: Select Funding Source*</p> <p>Is this funding source sustainable for future years, months, etc? <a href="#">Click or tap here to enter text.</a></p> <p><b>Expense Occurrence</b>    <input type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input checked="" type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	

<b>Operations Impacts</b> (If N/A, please give a brief description as to why)
What impacts would the proposal have on historically excluded communities? <i>Public Works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible.</i>
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? <i>All reporting requirements required by the grant will be followed</i>
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? <i>Grant requirements for project assessment will be followed</i>
Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others? <i>Removing green house gas emissions aligns with current City policies</i>

**Continuation of Wording, Summary, and Distribution**

**Agenda Item Name:** 4250 – AMENDMENT TO INTERDEPARTMENTAL AGREEMENT BO

**Agenda Wording** (601 character max)

Street Bridge - \$161,442.00.

**Summary (Background)** (870 character max)

**Fiscal Impact**

**Budget Account**

Select \$ #

Select \$ #

**Distribution List**


Save

Cancel

**Agenda Sheet for City Council:****Committee:** PIES **Date:** 01/29/2024**Committee Agenda type:** Consent**Date Rec'd**

1/16/2024

**Clerk's File #**

OPR 2016-0370

**Renews #****Cross Ref #****Council Meeting Date:** 02/12/2024**Submitting Dept**

INTEGRATED CAPITAL

**Project #**

2017105

**Contact Name/Phone**

KATHERINE X6338

**Bid #****Contact E-Mail**

KEMILLER@SPOKANECITY.ORG

**Requisition #****Agenda Item Type**

Contract Item

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

4250 – AMENDMENT TO INTERDEPARTMENTAL AGREEMENT BOSCH LOT

**Agenda Wording**

2nd Amendment to Interdepartmental Agreement between the Parks & Recreation Department and the Utilities/Public Works Division related to reimbursement of lost parking revenue at Bosch Lot and Lot 6 (Council parking) during the construction of Post

**Summary (Background)**

This amendment extends the prior agreement through August 2024 and allows for prorated monthly payments should Post Street Bridge construction complete sooner than August 2024.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 161,442.00

Current Year Cost \$ 161,442.00

Subsequent Year(s) Cost \$

**Narrative****Amount****Budget Account**

Expense \$ 80,721.00

# 4250-43387-94350-56501-14392

Expense \$ 80,721.00

# 1400-54370-76901-36231-99999

Select \$

#

Select \$

#

Select \$

#

Select \$

#





# Continuation of Wording, Summary, Approvals, and Distribution

## **Agenda Wording**

Street Bridge - \$161,442.00.

## **Summary (Background)**

### **Approvals**

<b><u>Dept Head</u></b>	DAVIS, MARCIA
<b><u>Division Director</u></b>	FEIST, MARLENE
<b><u>Accounting Manager</u></b>	ALBIN-MOORE, ANGELA
<b><u>Legal</u></b>	HARRINGTON,
<b><u>For the Mayor</u></b>	JONES, GARRETT

### **Additional Approvals**


### **Distribution List**

	kemiller@spokanecity.org
eraea@spokanecity.org	ddaniels@spokanecity.org
publicworksaccounting@spokanecity.org	parksaccounting@spokanecity.org
jmoog@spokanecity.org	

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	1/29/24
<b>Submitting Department</b>	Integrated Capital Management (ICM)
<b>Contact Name</b>	Katherine Miller
<b>Contact Email &amp; Phone</b>	<a href="mailto:kemiller@spokanecity.org">kemiller@spokanecity.org</a> ; 625-6338
<b>Council Sponsor(s)</b>	<u>CP Wilkerson</u>
<b>Select Agenda Item Type</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion    Time Requested: 5 min
<b>Agenda Item Name</b>	Utilities/Parks Interdepartmental Agreement Amendment/Riverfront Park Parking Lots
<b>Proposed Council Action</b>	<input type="checkbox"/> Approval to proceed to Legislative Agenda <input checked="" type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>Public Works Division desires continued use of Riverfront Park parking lots during construction of the Post Street Bridge. This amendment extends the prior agreement through August 2024 and allows for prorated monthly payments should Post St Bridge Construction complete sooner than August 2024. Utilities and integrated Capital Management has been using various portions of Riverfront parking lots formerly known as the Bosch lot (lot# 7) and lot #6 since 2016 for the purpose of constructing a Combined Sewer Overflow (CSO) tank on premises, a lay-down yard for CSO construction adjacent to the Downtown Library and construction of the Post St Bridge. Park Board approval has been given, this amendment will need to be approved by City Council before it may be fully executed.</p> <p>A copy of the amendment is included with this briefing paper.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$161,442.00 max</u>  Current year cost: \$161,442.00  Subsequent year(s) cost: N/A</p> <p><b>Narrative:</b> Please provide financial due diligence review, as applicable, such as number and type of positions, grant match requirements, summary type details (personnel, maintenance and supplies, capital, revenue), impact on rates, fees, or future shared revenue</p> <p><b>Funding Source</b>    <input checked="" type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input type="checkbox"/> N/A  Specify funding source: Select Funding Source*  Is this funding source sustainable for future years, months, etc? <a href="#">Click or tap here to enter text.</a></p> <p><b>Expense Occurrence</b>    <input checked="" type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
<p>What impacts would the proposal have on historically excluded communities?  <i>Public Works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to</i></p>	

*gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible.*

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

*N/A This is an amendment to an existing contract and no data will be collected.*

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

*N/A This is an amendment to an existing contract not a program or policy.*

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

*N/A This is an amendment to an existing contract that compensates the Parks Department for lost parking revenue due to both the CSO past project on the parking site and now the Post St Bridge Project utilizing the parking area as material storage for the project.*

# Spokane Park Board

## Briefing Paper



<b>Committee</b>	Riverfront Park	<b>Committee meeting date:</b> January 8, 2023	
<b>Requester</b>	Jonathan Moog	<b>Phone number:</b> 509-625-6243	
<b>Type of agenda item</b>	<input type="radio"/> Consent <input type="radio"/> Discussion <input type="radio"/> Information <input checked="" type="radio"/> Action		
<b>Type of contract/agreement</b>	<input type="radio"/> New <input type="radio"/> Renewal/ext. <input type="radio"/> Lease <input checked="" type="radio"/> Amendment/change order <input type="radio"/> Other		
<b>City Clerks file</b> (OPR or policy #)			
<b>Master Plan Goal, Objective, Strategy</b> (Click <a href="#">HERE</a> for link to the adopted plan)	Goal L, Objective 1	<b>Master Plan Priority Tier:</b> (pg. 171-175)	First Tier
<b>Item title:</b> (Use exact language noted on the agenda)	Utilities/Parks interdepartmental agreement amendment/Riverfront Park parking lots (Revenue: \$161,441, no tax)		
<b>Begin/end dates</b>	Begins: 01/01/2023	Ends: 08/31/2024	<input type="checkbox"/> 06/01/2525
<b>Background/history:</b>	<p>Utilities Division desires continued use of Riverfront Park parking lots during construction of the Post Street Bridge. This amendment extends the prior agreement by 1 year and 8 months and allows for prorated monthly payments should Post St Bridge Construction complete sooner than Aug 2024. Utilities and integrated Capital Management has been using various portions of Riverfront parking lots formerly known as as the Bosch lot (lot# 7) and lot #6 since 2016 for the purpose of constructing a Combined Sewer Overflow (CSO) tank on premises, a lay-down yard for CSO construction adjacent to the Downtown Library and construction of the Post St Bridge. Should Park Board approval be given, this amendment will need to be approved by City Council before it may be fully executed.</p>		
<b>Motion wording:</b>	Approve Utilities/Parks interdepartmental agreement amendment/Riverfront Park parking lots (Revenue: \$161,441, no tax)		
<b>Approvals/signatures outside Parks:</b>	<input checked="" type="radio"/> Yes <input type="radio"/> No If so, who/what department, agency or company: Name: Marlene Feist    Email address: mfeist@spokanecity.org    Phone: 509-625-6505		
<b>Distribution:</b>	Parks – Accounting Parks – Sarah Deatrach Requester: Jonathan Moog Grant Management Department/Name:		
<b>Fiscal impact:</b>	<input type="radio"/> Expenditure <input checked="" type="radio"/> Revenue Amount: \$161,441    Budget code: 1400-54370-76901-36250		
<b>Vendor:</b>	<input checked="" type="radio"/> Existing vendor <input type="radio"/> New vendor		
<b>Supporting documents:</b>	<input type="checkbox"/> Quotes/solicitation (RFP, RFQ, RFB) <input type="checkbox"/> W-9 (for new contractors/consultants/vendors) <input type="checkbox"/> Contractor is on the City's A&E Roster - City of Spokane <input type="checkbox"/> ACH Forms (for new contractors/consultants/vendors) <input type="checkbox"/> UBI:    Business license expiration date: <input type="checkbox"/> Insurance Certificate (min. \$1 million in General Liability)		



**City of Spokane**  
**AMENDMENT TO  
INTERDEPARTMENTAL AGREEMENT**  
**Title: BOSCH LOT PROPERTY**

**THIS INTERDEPARTMENTAL AGREEMENT AMENDMENT** is between the City of Spokane, Utilities Division, on behalf of the Water-Wastewater Management Department, whose address is Second Floor City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, hereafter referred to as "Water-Wastewater Department" and the City of Spokane, Parks and Recreation Department, whose address is Fifth Floor City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, herein after referred to as "Parks Department," hereinafter jointly referred to as the "Parties".

*WHEREAS, on November 30, 2011, and May 4, 2015, the Parties entered into Interdepartmental Agreements for CSO Control Facilities and Stormwater Surface and Infiltration Facilities to be sited on Parks Property; and*

*WHEREAS, the Parties recorded permanent easements for CSO and stormwater projects installed on Parks-owned properties, including the Bosch Lot Property, which is located at the northwest corner of Summit Boulevard and Lincoln Street; and*

*WHEREAS, the Parties would like to use Riverfront Park Lot 6 as a staging area for the Post Street Bridge Project; and*

*WHEREAS, a change or revision of the Work has been requested, thus the original Contract needs to be formally Amended by this written document; and*

*NOW, THEREFORE, in consideration of these terms, the parties mutually agree as follows:*

**1. CONTRACT DOCUMENTS.**

The original Agreements, dated November 30, 2011, and May 4, 2015, and the first Amendment attested by the City Clerk on May 2, 2016, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE DATE.**

This Contract Amendment shall become effective on January 1, 2023 and shall remain in effect until the earlier of completion of the two (2) construction projects or August 31, 2024.

**3. AMENDMENT.**

The Original Agreement and First Amendment are revised to include the following:

3. CONSIDERATION: The parties agree as follows:

b. Utilities will pay to Parks for the number of parking stalls used during the duration of each project. The expected number of stalls for the Bosch Lot is 42 charged at a rate of \$924 per stall annually and upper portion of Parking Lot #6 is 29 charged at a rate of \$2003 per stall annually. Total annual compensation is \$96,865.

d. Utilities will pay Parks a prorated share on a **monthly** basis of EIGHT THOUSAND SEVENTY TWO AND 8/100 DOLLARS (\$8,072.08) for the term of this Agreement or when the contractor for the Post Street Bridge Project vacates Bosch Lot, whichever action occurs first.

**4. TERMINATION.**

Either party may terminate this Agreement without cause, upon thirty (30) days written notice to the other party.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Contract Amendment by having legally-binding representatives affix their signatures below.

**CITY OF SPOKANE PARKS  
AND RECREATION DEPARTMENT**

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature Date

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Approved:

Approved:

\_\_\_\_\_  
Attorney for Park Board

\_\_\_\_\_  
Director of Utilities Division

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

# Expenditure Control Form



- 1. All requests being made, including those against master agreements, must be accompanied by this form.
- 2. All requests requiring City Council approval exceeding \$100,000 must be accompanied by this form.
- 3. Route **ALL** requests to the Division Director first and then the CFO for signature.
- 4. The CFO will route for signature to the City Administrator.

Today's Date: 12/27/23

Type of expenditure:

Goods  Services

Department: Public Works

Approving Supervisor: Katherine Miller

Amount of Proposed Expenditure: not to exceed \$161,442

Is this against a master agreement? If yes, please provide the number: OPR2016-0370

Funding Source Wastewater and Arterial Street Funds

**Please verify correct funding sources. Indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

This cost is apart of the project costs for the Post Street Bridge. The Post St Bridge is expected to be completed in 2024 and this agreement will end once the Bosch Lot is free of construction equipments and staging areas and put back into use as a parking lot

**What are the impacts if expenses are deferred?**

Parks Department would not be reimbursed for lost parking revenue due to the bridge project taking up space in the parking lot.

**What alternative resources have been considered?**

Any costs that are eligible for grant and loan funds will be utilized first. After those are exhausted, Wastewater and Arterial Street funds will then be utilized in that order.

**Description of the goods or service and any additional information?**

The agreement between the Parks Dept and Public Works is in regards to the Post Street Bridge project and the staging area located on the Riverfront Park Lot 6 aka the Bosch Lot. The Bridge project pays for the lost parking revenue Lot 6 has experienced since the project has been utilizing the space

**Person Submitting Form/Contact:**

Division Director: Therese Christ

CFO Signature: Mark Kowman

City Administrator Signature: [Signature]

**Additional Comments:**

This amended agreement covers both 2023 and the remaining months needed in 2024 until the project is complete.



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd** 1/17/2024

**Clerk's File #**

**Renews #**

**Cross Ref #** OPR 2019-0461

**Council Meeting Date:** 02/12/2024

<b>Submitting Dept</b>	ENGINEERING SERVICES	<b>Project #</b>	2024040
------------------------	----------------------	------------------	---------

<b>Contact Name/Phone</b>	DAN BULLER 6391	<b>Bid #</b>	
---------------------------	-----------------	--------------	--

<b>Contact E-Mail</b>	DBULLER@SPOKANECITY.ORG	<b>Requisition #</b>	MASTER
-----------------------	-------------------------	----------------------	--------

<b>Agenda Item Type</b>	Resolutions		
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<b>Council Sponsor(s)</b>	BWILKERSON JBINGLE		
---------------------------	--------------------	--	--

<b>Agenda Item Name</b>	0370 – CONTAMINATED MATERIAL DISPOSAL RESOLUTION & CONTRACT		
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**Agenda Wording**

Resolution and contract with Waste Management (Medical Lake, WA) for contaminated material disposal at Graham Road facility, 3 years from February 15, 2024 through December 31, 2026 - \$300,000.00

**Summary (Background)**

Engineering Services proposes to enter a sole source contract with Waste Management to accept non-hazardous contaminated materials encountered on city public works projects. This will reduce delays and markup associated with tasking the various contractors on our projects who may be unfamiliar with the process of permitting and disposal of this type of material.

Lease? NO Grant related? NO Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost	\$ 300,000.00
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Current Year Cost	\$ 300,000.00
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Subsequent Year(s) Cost	\$ 0.00
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**Narrative**

<b>Amount</b>	<b>Budget Account</b>
---------------	-----------------------

Expense \$ 300,000.00	# Various
-----------------------	-----------

Select \$	#
-----------	---

Select \$	#
-----------	---

Select \$	#
-----------	---

\$	#
----	---

\$	#
----	---





## Continuation of Wording, Summary, Approvals, and Distribution

### Agenda Wording

### Summary (Background)

#### **Approvals**

##### Dept Head

BULLER, DAN

##### Division Director

FEIST, MARLENE

##### Accounting Manager

ORLOB, KIMBERLY

##### Legal

SCHOEDEL, ELIZABETH

##### For the Mayor

PICCOLO, MIKE

#### **Additional Approvals**

#### **Distribution List**

Fred Downs - fdowns1@wm.com

ddaniels@spokanecity.org

pwaccounting@spokanecity.org

mmelnick@spokanecity.org

tprince@spokanecity.org

kgoodman@spokanecity.org

jgraff@spokanecity.org

SOLE-SOURCE RESOLUTION

A RESOLUTION declaring WASTE MANAGEMENT SERVICES (Graham Road Facility) (Medical Lake, WA) a sole-source provider and authorizing the City to enter into a contract for disposal of non-hazardous contaminated material from construction projects to be used on an "as needed" basis for a three (3) year period - approximately \$300,000 maximum over the three (3) year period.

WHEREAS, Waste Management Services Graham Road Facility is the only location in the area licensed to dispose of non-hazardous contaminated materials; and

WHEREAS, the amounts of material varies from construction project to construction project; and

WHEREAS, the estimated annual expenditure for disposal of non-hazardous contaminated materials exceeds the 2024 public bid limit of \$50,000

-- Now, Therefore,

BE IT RESOLVED by the City Council for the City of Spokane that it hereby declares the disposal of non-hazardous contaminated waste a sole source through WASTE MANAGEMENT SYSTEMS GRAHAM ROAD FACILITY; and

BE IT FURTHER RESOLVED that the City Council authorizes a three (3) year contract for the Disposal of non-hazardous contaminated materials on an "as needed" basis - \$300,000 maximum for the three (3) year period, without public bidding.

ADOPTED BY THE CITY COUNCIL ON \_\_\_\_\_

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney



**City of Spokane**  
**PERSONAL SERVICE AGREEMENT**  
**Title: LANDFILL SERVICES**  
**FOR CONTAMINATED SOIL**

This Agreement is made and entered into by and between the **CITY OF SPOKANE** as (“City”), a Washington municipal corporation, and **WASTE MANAGEMENT OF WASHINGTON, INC.**, whose address is 1820 South Graham Road, Medical Lake, Washington 99022 as (“Company”), individually hereafter referenced as a “party”, and together as the “parties”.

The parties agree as follows:

**1. PERFORMANCE.**

The Company shall provide Landfill Services for Contaminated Soil in accordance with the Sole Source Justification Form attached as Exhibit B. In the event of a conflict between these documents and this City Contract, the terms of this contract will control.

**2. TERM OF AGREEMENT.**

The term of this Agreement begins on February 15, 2024, and shall run through December 31, 2026, unless amended by written agreement or terminated earlier under the provisions of this Agreement.

**3. COMPENSATION / PAYMENT.**

Under this unit price contract the City will pay up to a maximum of **THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00)**, for the contract term, excluding tax for everything furnished and done under this Agreement. This is an optional use contract. Services by the Company are provided on an as-needed basis upon request in accordance with the terms of the Contract documents. Only the services requested, received and accepted will be paid for by the City.

The Company shall submit its applications for payment to Engineering Services Department, 998 E North Foothills Drive Spokane, WA 99207-2735. **Payment will be made via direct deposit/ACH** within thirty (30) days after receipt of the Company's application except as provided by state law. If the City objects to all or any portion of the invoice, it shall notify the Company and reserves the right to only pay that portion of the invoice not in dispute. In that event, the parties shall immediately make every effort to settle the disputed amount.

#### **4. TAXES, FEES AND LICENSES.**

- A. Company shall pay and maintain in current status, all necessary licenses, fees, assessments, permit charges, etc. necessary to conduct the work included under this Agreement. It is the Company's sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.
- B. The cost of any permits, licenses, fees, etc. arising as a result of the projects included in this Agreement shall be included in the project budgets.

#### **5. CITY OF SPOKANE BUSINESS LICENSE.**

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Company shall be responsible for contacting the State of Washington Business License Services at [www.dor.wa.gov](http://www.dor.wa.gov) or 360-705-6741 to obtain a business registration. If the Company does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

#### **6. SOCIAL EQUITY REQUIREMENTS / NON-DISCRIMINATION.**

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Company agrees to comply with, and to require that all subcontractors comply with, federal, state and local nondiscrimination laws, including but not limited to: the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination in Employment Act, and the American's With Disabilities Act, to the extent those laws are applicable.

#### **7. INDEMNIFICATION.**

The Company shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from the Company's negligence or willful misconduct under this Agreement, including attorneys' fees and litigation costs; provided that nothing herein shall require a Company to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of the Company's agents or employees and the City, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of the Company, its agents or employees. The Company specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by the Company's own employees against the City and, solely for the purpose of this indemnification and defense, the Company specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. The Company recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

## **8. INSURANCE.**

During the period of the Agreement, the Company shall maintain in force at its own expense, each insurance noted below with companies or through sources approved by the State Insurance Commissioner pursuant to RCW 48:

- A. **Worker's Compensation Insurance** in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;
- B. **General Liability Insurance** on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this agreement. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Company's services to be provided under this Agreement;
  - i. Acceptable **supplementary Umbrella insurance** coverage combined with Company's General Liability insurance policy must be a minimum of \$1,000,000, in order to meet the insurance coverage limits required in this Agreement; and
- C. **Automobile Liability Insurance** with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without forty-five (45) days written notice from the Company or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, the Company shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns this signed Agreement. The certificate shall specify the City of Spokane as "Additional Insured" specifically for Company's services under this Agreement, as well as all of the parties who are additional insureds, and include applicable policy endorsements, the forty-five (45) day cancellation clause, and the deduction or retention level. The Company shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

## **10. DEBARMENT AND SUSPENSION.**

The Company has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

## **11. AUDIT.**

The Company and its sub-contractor shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Agreement. The Company and its sub-contractors shall provide access to authorized City representatives, at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Agreement, the federal law shall prevail.

## **12. ASSIGNMENT AND SUBCONTRACTING.**

The Company shall not assign or subcontract its obligations under this Agreement without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by the Company shall incorporate by reference this Agreement, except as otherwise provided. The Company shall ensure that all subcontractors comply with the

obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release the Company from liability or any obligation within this Agreement, whether before or after City consent, assignment or subcontract.

### **13. TERMINATION.**

Either party may terminate this Agreement, with or without cause, by sixty (60) days written notice to the other party. In the event of such termination, the City shall pay the Company for all work previously authorized and performed prior to the termination date.

### **14. STANDARD OF PERFORMANCE.**

The standard of performance applicable to Company's services will be the degree of skill and diligence normally employed by professional Companies performing the same or similar services at the time the services under this Agreement are performed.

### **15. OWNERSHIP AND USE OF RECORDS AND DOCUMENTS.**

Original documents, drawings, designs, reports, or any other records developed or created under this Agreement shall belong to and become the property of the City. All records submitted by the City to the Company shall be safeguarded by the Company. The Company shall make such data, documents and files available to the City upon the City's request. If the City's use of the Company's records or data is not related to this project, it shall be without liability or legal exposure to the Company.

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act* [PRA]) all materials received or created by the City of Spokane are **public records** and are available to the public for viewing via the City Clerk's Records (online) or a valid Public Records Request (PRR).

### **16. ANTI KICK-BACK.**

No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Agreement shall have or acquire any interest in the Agreement, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in this Agreement.

### **17. MISCELLANEOUS PROVISIONS.**

- A. **Amendments/Modifications:** This Agreement may be modified by the City in writing when necessary, and no modification or Amendment of this Agreement shall be effective unless signed by an authorized representative of each of the parties hereto.
- B. The Company, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, the Company shall comply with the requirements of this Section.
- C. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in a court of competent jurisdiction, located in Spokane County, Washington.
- D. **Captions:** The titles of sections or subsections are for convenience only and do not define or limit the contents.
- E. **Severability:** If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.

- F. **Waiver:** No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Company after the time the same shall have become due nor payment to the Company for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- G. **Entire Agreement:** This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Company. If conflict occurs between Agreement documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Agreement to afford the City the maximum benefits.
- H. **No personal liability:** No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Agreement, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Agreement by having legally-binding representatives affix their signatures below.

**WASTE MANAGEMENT OF WASHINGTON, INC.**

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature                      Date

By \_\_\_\_\_  
Signature                      Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

**Attachments that are part of this Agreement:**

- Exhibit A – Certificate Regarding debarment
- Exhibit B – Sole Source Justification Form

**EXHIBIT A**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
  - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
  - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.
  
2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
  
3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The lower tier contractor certifies, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  
  2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. I understand that a false statement of this certification may be grounds for termination of the contract.

<hr/> Name of Subrecipient / Contractor / Consultant (Type or Print)	<hr/> Program Title (Type or Print)
<hr/> Name of Certifying Official (Type or Print)	<hr/> Signature
<hr/> Title of Certifying Official (Type or Print)	<hr/> Date (Type or Print)



**EXHIBIT B**

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	1-29-24
<b>Submitting Department</b>	Engineering Services
<b>Contact Name</b>	Dan Buller
<b>Contact Email &amp; Phone</b>	<a href="mailto:dbuller@spokanecity.org">dbuller@spokanecity.org</a> , 625-6391
<b>Council Sponsor(s)</b>	<a href="#">CM-CatheartBingle</a>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Contaminated Material Disposal <del>Value Blanket</del> <a href="#">Sole Source Contract</a>
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>Every year, contaminated soil is encountered during the construction of at least one of the city’s public works projects. Contamination in this context is defined as foreign material in the soil that would restrict future use of that soil, generally meaning debris (bricks, concrete, bottles, or other objects previously dumped and which have not broken down over time) or petroleum-based contamination due to prior dumping or leakage of gasoline, heating oil, etc.</p> <p>Hazardous contaminated material must be disposed of at a licensed hazardous waste landfill and is not the subject of this briefing paper.</p> <p>Non-hazardous contaminated material, the subject of this briefing paper, must be disposed of at a landfill licensed for that purpose. The only such landfill anywhere near Spokane is Waste Management’s Graham Road facility in Airway Heights, about 15 miles away. The nearest similar landfill is 170 miles away in Wenatchee. Disposal fees in Wenatchee are similar, but hauling to Wenatchee is very expensive, making the Wenatchee option cost-prohibitive.</p> <p><del>Public Works</del><a href="#">Engineering Services</a> proposes to enter into a <del>value blanket</del><a href="#">sole source</a> contract with Waste Management to accept non-hazardous contaminated materials encountered on city public works projects. This will reduce delays and markup associated with tasking the various contractors on our projects who may be unfamiliar with the process of permitting and disposal of this type of material.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in the current year budget?</b>    <input type="checkbox"/> Yes    <input type="checkbox"/> No    <input checked="" type="checkbox"/> N/A</p> <p>Total Cost: <u>\$300,000 over 3 years</u></p> <p>    Current year cost: unknown</p> <p>    Subsequent year(s) cost: unknown</p> <p><b>Narrative:</b> <u>Costs incurred on an as-needed basis under this contract will be repaid by the public works projects for which this contract is used.</u></p> <p><b>Funding Source</b>            <input type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input checked="" type="checkbox"/> N/A</p> <p>Specify funding source: Program revenue</p> <p>Is this funding source sustainable for future years, months, etc? Yes</p>	

**Expense Occurrence**     One-time     Recurring     N/A

Other budget impacts: (revenue generating, match requirements, etc.)

**Operations Impacts** (If N/A, please give a brief description as to why) n/a – this expense will occur periodically on public works projects and will be paid for by those same projects.

What impacts would the proposal have on historically excluded communities?

Public Works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

N/A – This contract supports multiple public works projects and should not impact racial, gender identity, national origin, income level, disability, sexual orientation or other existing disparity factors.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Public Works follows the City’s established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

The projects is consistent with our adopted six year programs as well as the annual budget and strategic initiative to advance street and utility improvement activities.



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd**

1/17/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

**Submitting Dept**

INTEGRATED CAPITAL

**Project #**

2017170 &

**Contact Name/Phone**

MARK PAPICH 625-6310

**Bid #**

**Contact E-Mail**

MPAPICH@SPOKANECITY.ORG

**Requisition #**

**Agenda Item Type**

Resolutions

**Council Sponsor(s)**

BWILKERSON JBINGLE

**Agenda Item Name**

4250 – RESOLUTION FOR ECOLOGY LOANS

**Agenda Wording**

Authorizing loan agreements with the State of Washington Department of Ecology for the Marion Hay Sewer Intertie and Nine Mile Sewer Reroute - \$9,726,655.00 Revenue.

**Summary (Background)**

The State of Washington Department of Ecology has awarded two loans to the City of Spokane for a total amount of \$9,726,655.00 to be used for the construction of the Marion Hay Sewer Intertie and the Nine Mile Sewer Reroute. These are both gravity sanitary sewer line projects that will eliminate maintenance-intensive pump stations. Ecology agreements WQC 2024-Spokane-00109 and WQC-2024-Spokane-00122.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 9,726,665.00

Current Year Cost \$ 9,726,665.00

Subsequent Year(s) Cost \$

**Narrative**

The low interest loans allow the City to pay for the construction over a 20 year period. This allows costs to be spread over a longer time period, ease cashflow concerns, and protects the infrastructure by not delay construction.

**Amount**

**Budget Account**

Revenue \$ 5,226,665.00

# 4250 98817 99999 38271 14354

Revenue \$ 4,500,000.00

# 4250 98817 99999 38271 10156

Select \$

#

Select \$

#

\$

#

\$

#



## Committee Agenda Sheet

### Public Safety & Community Health Committee

<b>Committee Date</b>	1/29/2024
<b>Submitting Department</b>	Integrated Capital Management
<b>Contact Name</b>	Mark Papich
<b>Contact Email &amp; Phone</b>	mpapich@spokanecity.org
<b>Council Sponsor(s)</b>	<u>Council President Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Department of Ecology CWSRF Loan Agreements
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>The Department of Ecology annually awards funding for grants and loans based on competitive process and legislature approval. In October of 2022 the City applied for Clean Water State Revolving Fund (CWSRF) loans through the Washington State Department of Ecology to construct the Marion Hay Sewer Intertie (Holland Sewer) and the Nine Mile Sewer Re-route, both gravity sanitary sewer line construction projects that eliminate maintenance intensive pump stations. These agreements require City Council approval by resolution.</p> <p>Below are the pertinent details of the loan agreements:</p> <ul style="list-style-type: none"> <li>• Marion Hay Intertie (Holland Sewer)               <ul style="list-style-type: none"> <li>▪ Total Loan Amount: \$5,226,665</li> <li>▪ Interest Rate: 2.4%</li> <li>▪ Loan Term: 20-years</li> </ul> </li> <li>• Nine Mile Sewer Re-route               <ul style="list-style-type: none"> <li>▪ Total Loan Amount: \$4,500,000</li> <li>▪ Interest Rate: 2.4%</li> <li>▪ Loan Term: 20-years</li> </ul> </li> </ul>
<b>Fiscal Impact</b> <b>Approved in current year budget?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Total Cost: <u>\$9,726,655</u> Current year cost: <u>\$9,726,665</u> Subsequent year(s) cost:	
<b>Narrative:</b> <u>The low interest loan allows the City to pay for the construction over a 20 year period. This allows costs to be spread over a longer time period, ease cashflow concerns, and protects the infrastructure by not delay construction.</u>	
<b>Funding Source</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A Specify funding source: Select Funding Source* Is this funding source sustainable for future years, months, etc? <a href="#">Click or tap here to enter text.</a>	
<b>Expense Occurrence</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A	
Other budget impacts: (revenue generating, match requirements, etc.)	

<p><b>Operations Impacts</b> (If N/A, please give a brief description as to why)</p>
<p><b>What impacts would the proposal have on historically excluded communities?</b></p> <p>Public Works services and projects are designed to serve all residents and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.</p>
<p><b>How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?</b></p> <p>N/a - This is a public works project and should not impact racial, gender identity, national origin, income level, disability, sexual orientation, or other existing disparity factors.</p>
<p><b>How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?</b></p> <p>Public Works follows the City’s established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.</p>
<p><b>Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?</b></p> <p>This project is consistent with the City’s adopted policies and programs.</p>

Resolution No. \_\_\_\_\_

A Resolution authorizing the execution of the funding agreements between the City of Spokane and State of Washington, Department of Ecology for the Marion Hay Intertie and Nine Mile Sewer Re-Route Project.

WHEREAS, the State of Washington, Department of Ecology has awarded loan funds to the City of Spokane for a total amount of \$9,726,665.00, to be used for the Marion Hay Intertie (Ecology Agreement No. WQC-2024-Spokane-00109) and Nine Mile Sewer Re-route (Ecology Agreement No. WQC-2024-Spokane-00122).

WHEREAS, of the \$9,726,665.00 loan referenced above, \$5,226,665.00 is awarded to be used for the Marion Hay Intertie and \$4,500,000.00 is allocated to be used for the Nine Mile Sewer Re-route.

WHEREAS, the proceeds of the loan will be used to reduce the potential of untreated sewage discharges to the ground and to the Spokane River.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Spokane that the City of Spokane is authorized to execute the above referenced Loan Agreements and any subsequent amendments between the City of Spokane and the State of Washington Department of Ecology for the above referenced projects in substantially the form attached to this resolution.

ADOPTED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney





## Agreement No. WQC-2024-Spokane-00122

### WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF SPOKANE

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as “ECOLOGY,” and City of Spokane, hereinafter referred to as the “RECIPIENT,” to carry out with the provided funds activities described herein.

#### GENERAL INFORMATION

Project Title:	Nine Mile Sewer Re-Route
Total Cost:	\$4,500,000.00
Total Eligible Cost:	\$4,500,000.00
Ecology Share:	\$4,500,000.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	07/01/2023
The Expiration Date of this Agreement is no later than:	11/30/2026
Project Type:	Wastewater Facility

#### Project Short Description:

This project improves water quality in the Spokane River through the construction of an 8-inch sewer line which replaces the lift station at Francis Avenue and Assembly Street in the City of Spokane. Approximately 2,700 feet of sewer line will be constructed from Nine Mile Road to Royal Drive. This project will replace a lift station at Francis and Assembly. Benefits include eliminating an additional location for failure and sanitary sewer overflow into the Spokane River.

#### Project Long Description:

This project improves water quality in the Spokane River through the construction of an 8-inch sewer line which replaces the lift station at Francis Avenue and Assembly Street in the City of Spokane. Approximately 2,700 feet of sewer line will be constructed from Nine Mile Road to Royal Drive. Benefits include eliminating an additional location for failure and sanitary sewer overflow into the Spokane River.

Agreement No: WQC-2024-Spokane-00122  
Project Title: Nine Mile Sewer Re-Route  
Recipient Name: City of Spokane

The Francis and Assembly Lift Station is located in northwest Spokane at the southwest corner of Francis Avenue and Assembly Street. This is an older lift station that was constructed in 1961 and is beyond its useful life. In a failure scenario, this lift station drains to an overflow pipe which flows northwest down West Nine Mile Road then southwest down West Rifle Club Road and then discharges to the Spokane River. This project will create a dedicated 8-inch gravity sewer pipe which will connect into downstream gravity piping in Royal Drive and reduce the possibility of a SSO event.

The RECIPIENT wants to remove as many SSO overflow locations as possible. The Francis and Assembly Lift station covers a small sewer service area but provides an additional location in the collection system for failure and overflow. It was deemed redundant due to the proximity to the collection system that runs to the Rifle Club Lift Station nearby. The Nine Mile Sewer Re-Route Project aims to accomplish the goals stated previously in the most efficient and cost-effective manner possible.

Overall Goal:

The goal of the project is to prevent water quality in the Spokane River from untreated discharge.

Agreement No: WQC-2024-Spokane-00122  
 Project Title: Nine Mile Sewer Re-Route  
 Recipient Name: City of Spokane

**RECIPIENT INFORMATION**

Organization Name: City of Spokane

Federal Tax ID: 91-6001280  
 UEI Number: PDNCLY8MYJN3

Mailing Address: 808 W Spokane Falls Blvd  
 Spokane, WA 99201

Organization Email: mpapich@spokanecity.org  
 Organization Fax: (509) 343-5760

**Contacts**

<p><b>Project Manager</b></p>	<p>Mark Papich                  Senior Engineer</p> <p>808 W Spokane Falls Blvd                  Spokane, Washington 99201                  Email: mpapich@spokanecity.org                  Phone: (509) 625-6310</p>
<p><b>Billing Contact</b></p>	<p>LaVonne Martelle                  Accountant I</p> <p>44 W Riverside                  Spokane, Washington 99201-3343                  Email: lmartelle@spokanecity.org                  Phone: (509) 625-7000</p>
<p><b>Authorized Signatory</b></p>	<p>Nadine Woodward                  Mayor</p> <p>808 W Spokane Falls Blvd                  Spokane, Washington 99201                  Email: mayor@spokanecity.org                  Phone: (509) 625-6310</p>

Agreement No: WQC-2024-Spokane-00122  
 Project Title: Nine Mile Sewer Re-Route  
 Recipient Name: City of Spokane

**ECOLOGY INFORMATION**

Mailing Address: Department of Ecology  
 Water Quality  
 PO BOX 47600  
 Olympia, WA 98504-7600

Physical Address: Water Quality  
 300 Desmond Drive SE  
 Lacey, WA 98503

**Contacts**

<p><b>Project Manager</b></p>	<p>Charlotte Daskalopoulos</p> <p>4601 N Monroe Street                  Spokane, Washington 99205-1295                  Email: CDAS461@ecy.wa.gov                  Phone: (509) 863-2186</p>
<p><b>Financial Manager</b></p>	<p>Jeanna Ridner</p> <p>PO Box 47600                  Olympia, Washington 98504-7600                  Email: jmac461@ecy.wa.gov                  Phone: (360) 628-4918</p>
<p><b>Technical Advisor</b></p>	<p>Diana Washington</p> <p>4601 N Monroe Street                  Spokane, Washington 99205-1295                  Email: DWAS461@ecy.wa.gov                  Phone: (509) 329-3519</p>

Agreement No: WQC-2024-Spokane-00122  
 Project Title: Nine Mile Sewer Re-Route  
 Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 1 **Task Cost:** \$0.00

Task Title: Grant and Loan Administration

### Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: Maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and the EAGL (Ecology Administration of Grants and Loans) recipient closeout report (including photos, if applicable). In the event that the RECIPIENT elects to use a contractor to complete project elements, the RECIPIENT shall retain responsibility for the oversight and management of this funding agreement.

B. The RECIPIENT shall keep documentation that demonstrates the project is in compliance with applicable procurement, contracting, and interlocal agreement requirements; permitting requirements, including application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items. This documentation shall be available upon request.

C. The RECIPIENT shall maintain effective communication with ECOLOGY and maintain up-to-date staff contact information in the EAGL system. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

### Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant or loan administrative requirements.

### Task Expected Outcome:

- \* Timely and complete submittal of requests for reimbursement, quarterly progress reports, Recipient Closeout Report, and two-page outcome summary report.
- \* Properly maintained project documentation.

Recipient Task Coordinator: Mark Papich

## Grant and Loan Administration

### Deliverables

Number	Description	Due Date
1.1	Progress Reports that include descriptions of work accomplished, project challenges or changes in the project schedule. Submitted at least quarterly.	
1.2	Recipient Closeout Report (EAGL Form)	

Agreement No: WQC-2024-Spokane-00122  
Project Title: Nine Mile Sewer Re-Route  
Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 2 **Task Cost:** \$0.00

Task Title: Project Design

### Task Description:

- A. The RECIPIENT will procure engineering services in accordance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT must submit all contracts for engineering services before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will design the Nine Mile Sewer Re-Route. Plans and specifications developed by the RECIPIENT must be consistent with the requirements of Chapter 173-240 WAC. Elements of the design will include:
- Approximately 2,700 LF of 8-inch sanitary sewer line.
  - Road repair including stormwater collection and drainage.
- C. The plans and specifications, construction contract documents, and addenda will be approved by the RECIPIENT prior to submittal for ECOLOGY review. All construction plans submitted to ECOLOGY for review and approval will be reduced to no larger than 11" x 17" in size. Plans should note if they are to scale or not. The project manager may request plans be submitted in either PDF or AutoCAD electronic format, and specifications in a searchable PDF or Microsoft Word electronic file. An updated construction cost estimate will be submitted with each plan/specification submittal. The project manager may request a spreadsheet of the estimate in electronic file format.
- D. The RECIPIENT will complete the facility designs within one year of Ecology signing this AGREEMENT.
- E. As a condition of receiving this funding, the RECIPIENT will conduct an Investment Grade Efficiency Audit (IGEA). As a condition of receiving this funding, the RECIPIENT will review their energy use looking for cost-effective energy savings. The RECIPIENT may also submit documentation of an energy efficiency review conducted within the last 5 years.
- F. The RECIPIENT will notify Ecology when deliverables are available and have been uploaded to EAGL.

### Task Goal Statement:

Design the Nine Mile Sewer Re-Route.

### Task Expected Outcome:

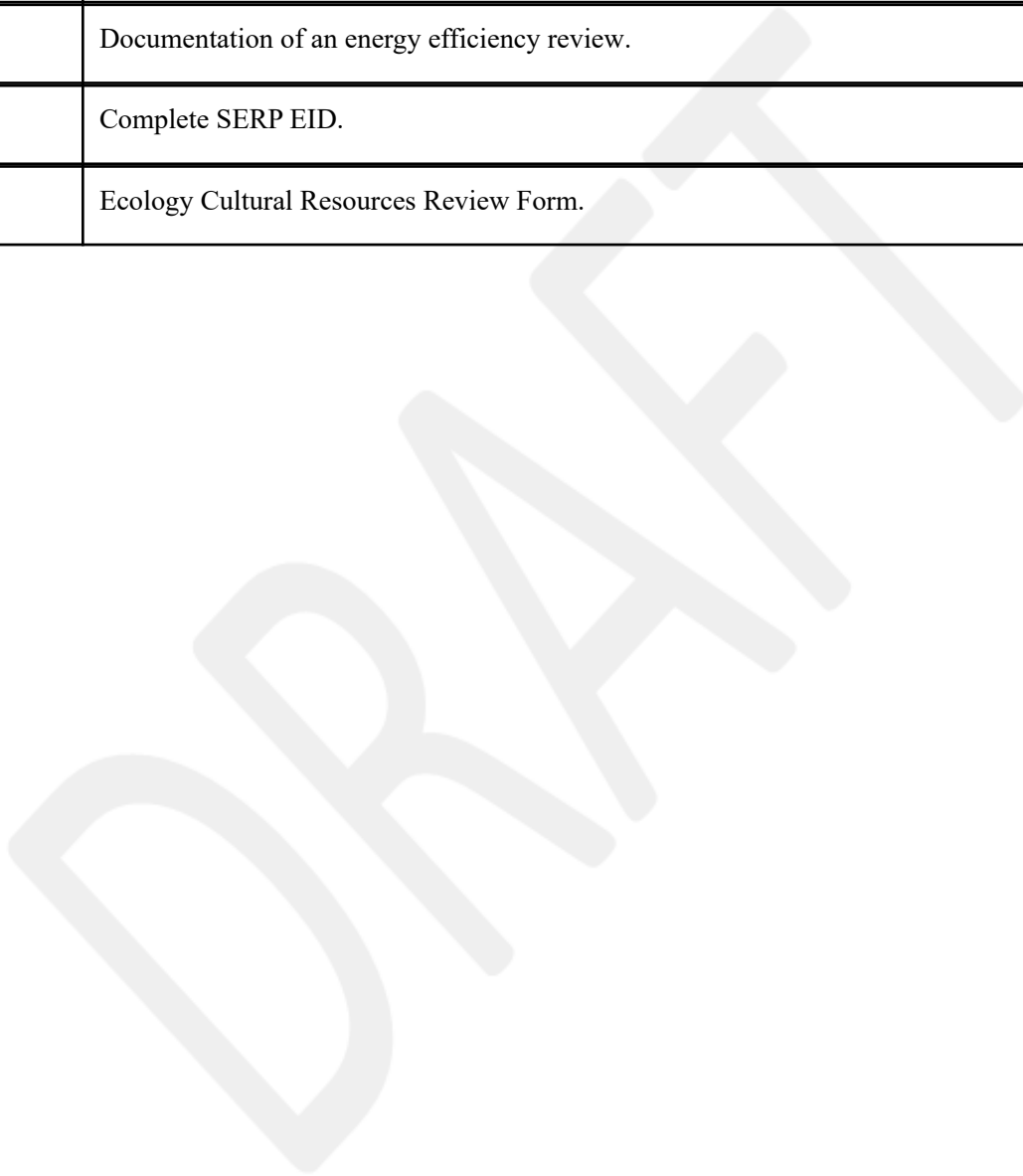
Completed design of the Nine Mile Sewer Re-Route.

Agreement No: WQC-2024-Spokane-00122  
 Project Title: Nine Mile Sewer Re-Route  
 Recipient Name: City of Spokane

**Project Design**

**Deliverables**

Number	Description	Due Date
2.1	Executed contracts for engineering services and documentation of the RECIPIENT’s process for procuring engineering services.	
2.2	Copy of the final design.	
2.3	Documentation of an energy efficiency review.	
2.4	Complete SERP EID.	
2.5	Ecology Cultural Resources Review Form.	



Agreement No: WQC-2024-Spokane-00122  
Project Title: Nine Mile Sewer Re-Route  
Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 3 **Task Cost:** \$3,900,000.00

Task Title: Project Construction

### Task Description:

- A. The RECIPIENT will execute a contract with a contractor selected in compliance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT will submit Bid Tabs, the Notice of Award, and a copy of the executed contract before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will complete the construction in accordance with the approved Plans and Specifications. The construction project will include:
- Approximately 2,600LF of 8-inch sanitary sewer line.
  - Road repair including stormwater and drainage.
- C. The RECIPIENT will conduct a pre-construction conference and will invite ECOLOGY staff to the meeting.
- D. The RECIPIENT will negotiate all change orders to the construction contract necessary for successful completion of the project. The RECIPIENT will submit the change orders to ECOLOGY for approval. Change orders that are a significant deviation from the approved plans/specifications must be submitted for approval, prior to execution. A significant deviation shall be as defined in the Water Quality Program Orange Book, section G1-4.2.6 and mean a change in the selected treatment process, facility size, design criteria, or performance standards that result in changes in expected facility performance or environmental impacts. All other change orders will be submitted to ECOLOGY within 30 days of execution and contain a P.E. stamp if the change order contains engineering content.
- E. All mitigation measures committed to in documents developed in the SERP process, such as the environmental mitigation plan, environmental checklist, environmental report, SEPA environmental impact statement (EIS), the finding of no significant impact/environmental assessment, or record of decision/federal EIS will become revolving fund loan agreement conditions. All recipients of funding for water pollution control facility projects must comply with the SERP in accordance with WAC 173-98-720.

### Task Goal Statement:

Complete construction of Nine Mile Sewer Re-Route in accordance with the approved Plans and Specifications.

### Task Expected Outcome:

Completed construction of Nine Mile Sewer Re-Route in accordance with the approved Plans and Specifications.



Agreement No: WQC-2024-Spokane-00122  
 Project Title: Nine Mile Sewer Re-Route  
 Recipient Name: City of Spokane

**Project Construction**

**Deliverables**

Number	Description	Due Date
3.1	Documentation of the RECIPIENTS procurement process.	
3.2	Bid Tabs, the Notice of Award, and a copy of the executed construction contract.	
3.3	Copy of the notice to proceed.	
3.4	Minutes of the pre-construction meeting.	
3.5	A copy of all change orders.	
3.6	Certification that the asset management program (fiscal sustainability plan) has been developed and is being implemented.	
3.7	Inadvertent Discovery Plan. (IDP)	
3.8	Environmental Mitigation Plan.	

Agreement No: WQC-2024-Spokane-00122  
Project Title: Nine Mile Sewer Re-Route  
Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 4 **Task Cost:** \$600,000.00

Task Title: Construction Management

### Task Description:

- A. The RECIPIENT will provide adequate and competent construction management and inspection for the Project. This may involve procuring the professional services. If professional services are procured, the RECIPIENT will procure them in accordance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT must submit all contracts for construction management services before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will develop a detailed Construction Quality Assurance Plan (WAC 173-240-075) and submit it to ECOLOGY for approval prior to any ground disturbing activities. This plan will describe the activities which the RECIPIENT will undertake to achieve adequate and competent oversight of all construction work.
- C. The RECIPIENT will ensure construction progresses according to a timely schedule developed to meet completion dates indicated in the construction contract. The RECIPIENT will revise or update the schedule whenever major changes occur and resubmit to ECOLOGY. A significant change in the scope of work may trigger a SERP review and should be discussed and coordinated with ECOLOGY. In the absence of any major changes, the RECIPIENT will describe progress of the construction in the monthly/quarterly progress reports.
- D. Upon completion of construction, the RECIPIENT will provide ECOLOGY's Project Manager with a set of "as-built" plans by the expiration date of this agreement (i.e., record construction drawings which reflect changes, modifications, or other significant revisions made to the project during construction).
- E. Upon substantial completion, the recipient will notify ECOLOGY and coordinate the project's closeout with ECOLOGY's Project Manager.
- F. Upon project completion, the RECIPIENT will submit the Declaration of Construction Completion form to ECOLOGY in accordance with WAC 173-240-090. The form, when signed by a professional engineer, indicates that the project was completed in accordance with the plans, specifications, and major change orders approved by ECOLOGY, and is accurately shown on the as-built plans.

### Task Goal Statement:

Provide adequate and competent construction management and inspection for the Project.

### Task Expected Outcome:

Adequate and competent construction management and inspection provided for the Project.

Agreement No: WQC-2024-Spokane-00122  
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**Construction Management**

**Deliverables**

Number	Description	Due Date
4.1	Executed contract for construction management services.	
4.2	Documentation of the RECIPIENT’s process for procuring engineering services.	
4.3	Construction Quality Assurance Plan.	
4.4	“As-built” plans.	
4.5	Declaration of Construction Completion.	

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<b>SRF Loan</b>	<b>Task Total</b>
Grant and Loan Administration	\$ 0.00
Project Design	\$ 0.00
Project Construction	\$ 3,900,000.00
Construction Management	\$ 600,000.00

**Total: \$ 4,500,000.00**

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## **Funding Distribution Summary**

### **Recipient / Ecology Share**

<b>Funding Distribution Name</b>	<b>Recipient Match %</b>	<b>Recipient Share</b>	<b>Ecology Share</b>	<b>Total</b>
SRF Loan	0.00 %	\$ 0.00	\$ 4,500,000.00	\$ 4,500,000.00
<b>Total</b>		<b>\$ 0.00</b>	<b>\$ 4,500,000.00</b>	<b>\$ 4,500,000.00</b>

### **AGREEMENT SPECIFIC TERMS AND CONDITIONS**

N/A

### **SPECIAL TERMS AND CONDITIONS**

WQC-2024—Water Quality Program Special Terms and Conditions (Update June 2023)

#### **SECTION 1: DEFINITIONS**

Unless otherwise provided, the following terms will have the respective meanings for all purposes of this agreement:

“Administration Charge” means a charge established in accordance with Chapter 90.50A RCW and Chapter 173-98 WAC, to be used to pay Ecology’s cost to administer the State Revolving Fund by placing a percentage of the interest earned in an Administrative Charge Account.

“Administrative Requirements” means the effective edition of ECOLOGY's Administrative Requirements for Recipients of Ecology Grants and Loans at the signing of this agreement.

“Annual Debt Service” for any calendar year means for any applicable bonds or loans including the loan, all interest plus all principal due on such bonds or loans in such year.

“Average Annual Debt Service” means, at the time of calculation, the sum of the Annual Debt Service for the remaining years of the loan to the last scheduled maturity of the loan divided by the number of those years.

“Accrued Interest” means the interest incurred as loan funds are disbursed.

“Acquisition” means the purchase or receipt of a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

“Build American Buy American (BABA)” means a portion of the Infrastructure Investment and Jobs Act and establishes a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022.

“Bipartisan Infrastructure Law (BIL)” means funding to improve drinking water, wastewater and stormwater infrastructure.

“Centennial Clean Water Program” means the state program funded from various state sources.

“Contract Documents” means the contract between the RECIPIENT and the construction contractor for construction of the project.

“Construction Materials” means an article, material, or supply (other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; aggregate binding agents or additives; or non-permanent products) that is or consists primarily of, non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), (including optic glass), lumber, and drywall.

“Cost Effective Analysis” means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water quality problem as described in Chapter 173-98-730 WAC.

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“Davis Bacon Prevailing Wage Act” means the federal law mandating on-site workers on public works projects be paid certain wages, benefits, and overtime (also known as “prevailing wage” on all government-funded construction, alteration, and repair projects.

“Defeasement” or “Defeasance” means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

“Effective Date” means the earliest date on which eligible costs may be incurred.

“Effective Interest Rate” means the total interest rate established by Ecology that includes the Administrative Charge.

“Estimated Loan Amount” means the initial amount of funds loaned to the RECIPIENT.

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount and the estimated schedule for completion of the project.

“Equivalency” means the amount of State Revolving Fund (SRF) funding each funding cycle equivalent to the EPA grant to Ecology.

“Equivalency Project” means State Revolving Fund (SRF) funded project(s) designated by ECOLOGY to receive federal funding and meet additional federal requirements.

“Expiration Date” means the latest date on which eligible costs may be incurred.

“Final Accrued Interest” means the interest accrued beginning with the first disbursement of funds to the RECIPIENT through such time as the loan is officially closed out and a final loan repayment schedule is issued.

“Final Loan Amount” means all principal of and accrued interest on the loan from the Project Start Date through the Project Completion Date.

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount and the initiation of operation or completion date, whichever comes first.

“Forgivable Principal” means the portion of a loan that is not required to be paid back by the borrower.

“General Obligation Debt” means an obligation of the RECIPIENT secured by annual ad valorem taxes levied by the RECIPIENT and by the full faith, credit, and resources of the RECIPIENT.

“General Obligation Payable from Special Assessments Debt” means an obligation of the RECIPIENT secured by a valid general obligation of the Recipient payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.

“Gross Revenue” means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to Defeasement or refund Utility obligations or (B) in an obligation redemption fund or account other than the Loan Fund until commingled with other earnings and revenues of the Utility or (C) held in a special account for the purpose of paying a rebate to the United States Government under the Internal Revenue Code.

“Guidelines” means the ECOLOGY’s Funding Guidelines that that correlate to the State Fiscal Year in which the project is funded.

“Initiation of Operation Date” means the actual date the facility financed with proceeds of the loan begins to operate for its intended purpose. (For loans only)

“Iron and Steel Products” means products made primarily of iron or steel including but may not be limited to: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

“Loan” means the Washington State Water Pollution Control Revolving Fund Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this loan agreement.

“Loan Amount” means either an Estimated Loan Amount or a Final Loan Amount, as applicable.

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“Loan Fund” means the special fund created by the RECIPIENT for the repayment of the principal of and interest on the loan.

“Loan Security” means the mechanism by which the RECIPIENT pledges to repay the loan.

“Loan Term” means the repayment period of the loan.

“Maintenance and Operation Expense” means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties, but will not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

“Manufactured Products” means, items and construction materials composed in whole or in part of non-ferrous metals such as aluminum plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

“Produced in the United States” means for iron and steel products, that all manufacturing processes, from the initial melting state through the application of coatings, occurred in the United States.

“Net Revenue” means the Gross Revenue less the Maintenance and Operation Expense.

“Original Engineer’s Estimate” means the engineer’s estimate of construction costs included with bid documents.

“Prevailing Wage” means hourly wage, usual benefits, and overtime paid in the largest city in each county, to the majority of workers, laborers, and mechanics performing the same work. The rate is established separately for each county.

“Principal and Interest Account” means, for a loan that constitutes Revenue-Secured Debt, the account created in the loan fund to be first used to repay the principal of and interest on the loan.

“Project” means the project described in this agreement.

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed and is the last day eligible costs can be incurred. This term is only used in loan agreements.

“Project Schedule” means that schedule for the project specified in the agreement.

“Revenue-Secured Debt” means an obligation of the RECIPIENT secured by a pledge of the revenue of a utility and one not a general obligation of the RECIPIENT.

“Reserve Account” means, for a loan that constitutes a Revenue Secured Debt and if specifically identified as a term and condition of the funding agreement, the account of that name created in the loan fund to secure the payment of the principal of and interest on the loan.

“Risk-Based Determination” means an approach to sub-recipient monitoring and oversight based on risk factors associated to a RECIPIENT or project.

“Scope of Work” means the tasks and activities constituting the project.

“Section 319” means the section of the Clean Water Act that provides funding to address nonpoint sources of water pollution.

“Senior Lien Obligations” means all revenue bonds and other obligations of the RECIPIENT outstanding on the date of execution of this loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or issued after the date of execution of this loan agreement having a claim or lien on the Gross Revenue of the Utility prior and superior to the claim or lien of the loan, subject only to Maintenance and Operation Expense.

“State Water Pollution Control Revolving Fund (Revolving Fund)” means the water pollution control revolving fund established by Chapter 90.50A.020 RCW.

“Termination Date” means the effective date of ECOLOGY’s termination of the agreement.

“Termination Payment Date” means the date on which the RECIPIENT is required to repay to ECOLOGY any outstanding balance of the loan and all accrued interest.

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been determined to be eligible for ECOLOGY grant or loan funding, including any required recipient match.

“Total Project Cost” means the sum of all costs associated with a water quality project, including costs that are not eligible for ECOLOGY grant or loan funding.

“Unique Entity Identity Identifier (UEI)” means a 12-character alphanumeric ID assigned by SAM.gov. to an entity doing



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business with or receiving funds from the federal government. This number replaces the DUNS number.

“ULID” means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility.

“ULID Assessments” means all assessments levied and collected in any ULID. Such assessments are pledged to be paid into the Loan Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments will include principal installments and any interest or penalties which may be due.

“Utility” means the sewer system, stormwater system, or the combined water and sewer system of the RECIPIENT, the Net Revenue of which is pledged to pay and secure the loan.

## SECTION 2: CONDITIONS APPLY TO ALL RECIPIENTS OF WATER QUALITY COMBINED FINANCIAL ASSISTANCE FUNDING.

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference and are available on ECOLOGY’s Water Quality Program website.

A. Accounting Standards: The RECIPIENT shall maintain accurate records and accounts for the project (PROJECT Records) in accordance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB), including standards related to the reporting of infrastructure assets or in accordance with the standards in Chapter 43.09.200 RCW “Local Government Accounting – Uniform System of Accounting.”

B. Architectural and Engineering Services: The RECIPIENT certifies by signing this agreement that the requirements of Chapter 39.80 RCW, “Contracts for Architectural and Engineering Services,” have been, or shall be, met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final architectural/engineering services contract and submit a copy of the contract to ECOLOGY.

C. Acquisition: The following provisions shall be in force only if the project described in this agreement is an acquisition project:

- a. Evidence of Land Value and Title. The RECIPIENT shall submit documentation of the cost of the property rights and the type of ownership interest that has been acquired.
- b. Legal Description of Real Property Rights Acquired. The legal description of the real property rights purchased with funding assistance provided through this agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the agreement before final payment.
- c. Conveyance of Rights to the State of Washington. Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT shall execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired, and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT shall use language provided by ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

### Documentation Options:

1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. RECIPIENTS shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes. The RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the deed of right.
2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
3. Easements and Leases. The RECIPIENT may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; therefore, the RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing

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the easement or lease.

d. Real Property Acquisition and Relocation Assistance.

1. Federal Acquisition Policies. See Section 4 of this agreement for requirements specific to Section 319 and SRF funded projects.
2. State Acquisition Policies. When state funds are part of this agreement, the RECIPIENT agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.
3. Housing and Relocation. In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the RECIPIENT agrees to provide any housing and relocation assistance required.

e. Hazardous Substances.

1. Certification. The RECIPIENT shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:

- i. No hazardous substances were found on the site, or
- ii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site is deemed “clean.”

2. Responsibility. Nothing in this provision alters the RECIPIENT's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.

3. Hold Harmless. The RECIPIENT will defend, protect and hold harmless ECOLOGY and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the RECIPIENT is acquiring.

f. Restriction On Conversion Of Real Property And/Or Facilities To Other Uses

The RECIPIENT shall not at any time convert any real property (including any interest therein) or facility acquired, developed, maintained, renovated, and/or restored pursuant to this agreement to uses other than those purposes for which funds were approved without prior approval of ECOLOGY. For acquisition projects that are term limited, such as one involving a lease or a term-limited restoration, renovation or development project or easement, this restriction on conversion shall apply only for the length of the term, unless otherwise provided in written documents or required by applicable state or federal law. In such case, the restriction applies to such projects for the length of the term specified by the lease, easement, deed, or landowner agreement.

D. Best Management Practices (BMP) Implementation: If the RECIPIENT installs BMPs that are not approved by ECOLOGY prior to installation, the RECIPIENT assumes the risk that part or all of the reimbursement for that activity may be delayed or ineligible. For more details regarding BMP Implementation, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY's Water Quality Program funding website.

E. Electronic Fund Transfers: Payment will be issued through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process or electronic fund transfers, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).

F. Equipment Purchase: Equipment purchases over \$5,000 and not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase. All equipment purchases over \$5,000 and not included in a contract for work being completed on the funded project, must also be reported on the Equipment Purchase Report in EAGL.

G. Funding Recognition: The RECIPIENT must inform the public about any ECOLOGY or EPA funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other

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public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Contact your Ecology Project Team to determine the appropriate recognition for your project.

H. Growth Management Planning: The RECIPIENT certifies by signing this agreement that it is in compliance with the requirements of Chapter 36.70A RCW, "Growth Management Planning by Selected Counties and Cities." If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify ECOLOGY in writing of this change within 30 days.

I. Interlocal: The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements necessary for the project are, or shall be, consistent with the terms of this agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the project to ECOLOGY upon request.

J. Lobbying and Litigation: Costs incurred for the purposes of lobbying or litigation are not eligible for funding under this agreement.

K. Post Project Assessment Survey: The RECIPIENT agrees to participate in a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project approximately three years after project completion. A representative from ECOLOGY's Water Quality Program may contact the RECIPIENT to request this data. ECOLOGY may also conduct site interviews and inspections, and may otherwise evaluate the project, as part of this assessment.

L. Project Status Evaluation: ECOLOGY may evaluate the status at any time. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

M. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State and specific requirements outlined in the Water Quality Funding Guidelines. Technical assistance, proposed practices, or project designs that do not meet these standards may be eligible if approved in writing by ECOLOGY.

### SECTION 3: CONDITIONS APPLY TO SECTION 319 AND CENTENNIAL CLEAN WATER FUNDED PROJECTS BEING USED TO MATCH SECTION 319 FUNDS.

The RECIPIENT must submit the following documents to ECOLOGY before this agreement is signed by ECOLOGY:

1. Federal Funding Accountability and Transparency Act (FFATA) Form is available on the Water Quality Program website and must be completed and submitted to Ecology. (This form is used for Section 319 (federal) funds only)
2. "Section 319 Initial Data Reporting" form must be completed in EAGL.

A. Data Reporting: The RECIPIENT must complete the "Section 319 Initial Data Reporting" form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project for EPA.

B. Funding Recognition and Outreach: In addition to Section 2.F. of these Special Terms and Conditions, the RECIPIENT shall provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA logo and follow usage requirements available at <http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. To obtain the appropriate EPA logo or seal graphic file, the RECIPIENT may send a request to their Ecology Financial Manager.

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable. (Applies to both the Section 319 funded projects and the Centennial match projects)

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement: (Applies to Section 319 funded projects only)

"This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute

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endorsement or recommendation for use.”

C. Load Reduction Reporting: The RECIPIENT shall complete the “Section 319 Annual Load Reduction Reporting” form in EAGL by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has completed the form. This form is used to gather information on best management practices (BMPs) installed and associated pollutant load reductions that were funded as a part of this project.

D. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA’s assistance agreement. In the event a time extension is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date. (For Section 319 funded projects only)

#### SECTION 4: CONDITIONS APPLY TO ALL FEDERAL FUNDING AGREEMENTS, INCLUDING SECTION 319, State Revolving Fund (SRF) Equivalency Projects, and SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANT (OSG)

A. Acquisitions: RECIPIENTS shall comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.

B. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse’s Internet Data Entry System available at: <https://facweb.census.gov/>.

C. Archaeological Resources and Historic Properties (Section 106): This requires completion of the Ecology Cultural Resources Review Form, coordination with Ecology Cultural Resources staff, and receipt of the Ecology Final Determination prior to any property acquisition and above and below ground disturbing activities.

D. Architectural and Engineering Services Procurement: The RECIPIENT must procure architectural and engineering services in accordance with the federal requirements in Chapter 11 of Title 40, U.S.C. (see <https://uscode.house.gov/view.xhtml?path=/prelim@title40/subtitle1/chapter11&edition=prelim>).

E Build America, Buy America (BABA – Pub. L. No. 117-58, 70901-52) (Federally funded SRF Equivalency projects only): The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding agrees to comply with all federal requirements applicable to the assistance received (including those imposed by the Infrastructure Investment and Jobs Act (“IIJA”/BIL), Public Law No. 117-58) which the RECIPIENT understands includes, but is not limited to, the following requirements: that all the iron and steel, manufactured products, and construction materials used in the Project are to be produced in the United States (“Build America, Buy America Requirements”) unless (i) the RECIPIENT has requested and obtained a waiver from the cognizant Agency pertaining to the Project or the Project is otherwise covered by a general applicability waiver; or (ii) all of the contributing Agencies have otherwise advised the RECIPIENT in writing that the Build America, Buy America Requirements are not applicable to the project.

RECIPIENT shall comply with all record keeping and reporting requirements under all applicable legal authorities, including any reports required by the funding authority (such as EPA and/or a state), such as performance indicators of program deliverables, information on costs and project progress. The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding, understands that (i) each contract and subcontract related to the project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the applicable legal requirements and this Agreement may result in a default hereunder that results in a repayment of the assistance agreement in advance of termination and/or repayment of assistance, and/or other remedial actions.

EPA has granted an adjustment period waiver of the requirements of Section 70914(a) of the BIL, pursuant to Section

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70914(b)(1) (public interest waiver), for eligible projects financed by SRF projects that have initiated project design planning prior to May 14, 2022, the statutory effective date of the BABA requirements. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. Sections 70917(a) and (b) of BIL provide a savings provision for existing statutory requirements that meet or exceed BABA requirements. The statutory American Iron and Steel (AIS) requirements of Clean Water Act (CWA) Section 608 and Safe Drinking Water Act (SDWA) Section 1452(a)(4) has previously applied to SRF projects and will continue to do so as part of BABA requirements.

Where manufactured products used in the project are required to be produced in the United States, manufactured product shall mean manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation. The manufactured products included cover the majority of potential water infrastructure products, including complex products made up of a variety of material types and components. For water infrastructure projects, commonly manufactured products would include, but not be limited to, pumps, motors, blowers, aerators, generators, instrumentation and control systems, gauges, meters, measurement equipment, treatment equipment, dewatering equipment, actuators, and many other mechanical and electrical items.

F. Disadvantaged Business Enterprise (DBE): General Compliance, 40 CFR, Part 33. The RECIPIENT agrees to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises (MBE/WBE) 40CFR, Part 33 in procurement under this agreement.

Six Good Faith Efforts, 40 CFR, Part 33, Subpart C. The RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under this agreement. Records documenting compliance with the following six good faith efforts shall be retained:

- 1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- 2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- 3) Consider, in the contracting process, whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State, and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- 4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- 5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request. Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin, or sex in the

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performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

This does not preclude the RECIPIENT from enacting broader nondiscrimination protections.

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including but not limited to, Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).

In the event of the RECIPIENT's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this agreement may be rescinded, canceled, or terminated in whole or in part and the RECIPIENT may be declared ineligible for further funding from ECOLOGY. The RECIPIENT shall, however, be given a reasonable time in which to cure this noncompliance.

The RECIPIENT shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

"The Contractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor will carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in termination of this Contract or other legally available remedies."

Bidder List, 40 CFR, Section 33.501(b) and (c). The RECIPIENT agrees to create and maintain a bidders list. The bidders list shall include the following information for all firms that bid or quote on prime contracts, or bid or quote subcontracts, including both MBE/WBEs and non-MBE/WBEs.

1. Entity's name with point of contact
2. Entity's mailing address, telephone number, and e-mail address
3. The procurement on which the entity bid or quoted, and when
4. Entity's status as an MBE/WBE or non-MBE/WBE

G. Electronic and information Technology (EIT) Accessibility: RECIPIENTS shall ensure that loan funds provided under this agreement for costs in the development or purchase of EIT systems or products provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology as per Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7. Systems or products funded under this agreement must be designed to meet the diverse needs of users without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

H. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.

I. Hotel-Motel Fire Safety Act: The RECIPIENT shall ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (15 USC 2225a, PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act. Pursuant to 15 USC 2225a.

J. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

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The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request. Wage determinations and instructions for their use can be found at <https://sam.gov/>.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request. Where conflicts arise between the State prevailing wage rates and Davis-Bacon Act prevailing wage requirements the more stringent requirement shall govern. Washington State prevailing wage rates can be found at <https://www.lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>

K. Trafficking in Persons: The RECIPIENT and RECIPIENT employees that are private entities shall not engage in forms of trafficking in persons. This includes, but is not limited to, the procurement of a commercial sex act or forced labor. The RECIPIENT shall notify ECOLOGY immediately of any information received from any source alleging a violation under this provision.

L. Unique Entity Identity Identifier (UEI): The RECIPIENT agrees to register with and make their registration public in the System for Award Management (SAM.gov). The RECIPIENT will be assigned a UEI and agree to include their UEI Number under their organization’s information in EAGL. The UEI number must be entered into EAGL before a funding agreement is signed.

#### SECTION 5: CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

The RECIPIENT must submit the following documents/forms to ECOLOGY before this agreement is signed by ECOLOGY:

1. Financial Capability Assessment Documentation (upon request)
2. Opinion of RECIPIENT’s Legal Council – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
3. Authorizing Ordinance or Resolution – Must be uploaded to the General Uploads form in EAGL.
4. Federal Funding Accountability and Transparency Act (FFATA) Form (Required for all federally funded SRF Equivalency projects – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
5. CWSRF Federal Reporting Information form – Must be completed in EAGL.
6. Fiscal Sustainability Plan (Asset Management) Certification Form (Only required if the project includes construction of a wastewater or stormwater facility construction) – Must be completed in EAGL.
7. Cost and Effectiveness Analysis Certification Form (Required for all projects receiving SRF Loan funding) – Must be completed in EAGL.
8. State Environmental Review Process (SERP) Documentation (Required for treatment works projects only) – Must be uploaded to the Environmental and Cultural Review form in EAGL.

A. Alteration and Eligibility of Project: During the term of this agreement, the RECIPIENT (1) shall not materially alter the design or structural character of the project without the prior written approval of ECOLOGY and (2) shall take no action which would adversely affect the eligibility of the project as defined by applicable funding program rules and state statutes, or which would cause a violation of any covenant, condition, or provision herein.

B. American Iron and Steel (Buy American – P.L 113-76, Consolidated Appropriations Act 2014, Section 436): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a “treatment works” as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron

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or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

C. Authority of RECIPIENT: This agreement is authorized by the Constitution and laws of the state of Washington, including the RECIPIENT's authority, and by the RECIPIENT pursuant to the authorizing ordinance or resolution. The RECIPIENT shall submit a copy of the authorizing ordinance or resolution to the ECOLOGY Financial Manager before this agreement shall be signed by ECOLOGY.

D. Equivalency Projects: ECOLOGY designated equivalency project and alternative designated equivalency project RECIPIENTS agree to accept federal funds and the federal requirements that accompany the funds. This includes all the requirements in Section 4 and this Section.

E. Fiscal Sustainability Plan Certification: The RECIPIENT shall submit a completed Fiscal Sustainability Plan Certification before this agreement is signed by ECOLOGY. The Fiscal Sustainability Plan Certification is available from the ECOLOGY Financial Manager or on the Water Quality Program website.

F. Funding Recognition and Outreach: The RECIPIENT agrees to comply with the EPA SRF Signage Guidance to enhance public awareness of EPA assistance agreements nationwide. Signage guidance can be found at: <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Water-Quality-grants-and-loans/Facility-project-resources>.

G. Insurance: The RECIPIENT shall at all times carry fire and extended insurance coverage, public liability, and property damage, and such other forms of insurance with responsible insurers and policies payable to the RECIPIENT on such of the buildings, equipment, works, plants, facilities, and properties of the Utility as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, or it shall self-insure or participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

H. Litigation Authority: No litigation is now pending, or to the RECIPIENT's knowledge, threatened, seeking to restrain, or enjoin:

- (i) the execution of this agreement; or
- (ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or
- (iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or
- (iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence, or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

I. Loan Interest Rate and Terms: This loan agreement shall remain in effect until the date of final repayment of the loan, unless terminated earlier according to the provisions herein.

When the Project Completion Date has occurred, ECOLOGY and the RECIPIENT shall execute an amendment to this loan agreement which details the final loan amount (Final Loan Amount), and ECOLOGY shall prepare a final loan repayment schedule. The Final Loan Amount shall be the combined total of actual disbursements made on the loan and all accrued interest to the computation date.

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a



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365-day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments, semiannually, over the term of this loan "Loan Term" as outlined in this agreement.

#### J. Loan Repayment:

##### Sources of Loan Repayment

1. Nature of RECIPIENT's Obligation. The obligation of the RECIPIENT to repay the loan from the sources identified below and to perform and observe all other agreements and obligations on its part, contained herein, shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all the covenants, agreements, and attachments contained herein.

2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.

3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.

4. For Revenue-Secured: Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.

6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

If the RECIPIENT defeases or advance refunds the loan, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay both of the following:

(i) The Loan Amount with interest

(ii) Any other obligations of the RECIPIENT to ECOLOGY under this agreement, unless in its sole discretion ECOLOGY finds that repayment from those additional sources would not be in the public interest.

Failure to repay the Loan Amount plus interest within the time specified in ECOLOGY's notice to make such repayment shall incur Late Charges and shall be treated as a Loan Default.

7. Refinancing or Early Repayment of the Project. So long as ECOLOGY shall hold this loan, the RECIPIENT shall give ECOLOGY thirty days written notice if the RECIPIENT intends to refinance or make early repayment of the loan.

##### Method and Conditions on Repayments

1. Semiannual Payments. Notwithstanding any other provision of this agreement, the first semiannual payment of principal and interest on this loan shall be due and payable no later than one year after the project completion date or initiation of operation date, whichever comes first.

Thereafter, equal payments shall be due every six months.

If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington State agencies, the payment shall be due on the next business day for Washington State agencies.

Payments shall be mailed to:

Department of Ecology

Cashiering Unit

P.O. Box 47611

Olympia WA 98504-7611

In lieu of mailing payments, electronic fund transfers can be arranged by working with ECOLOGY's Financial Manager.

No change to the amount of the semiannual principal and interest payments shall be made without a mutually signed amendment

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to this agreement. The RECIPIENT shall continue to make semiannual payments based on this agreement until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended agreement.

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.

3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.

4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

#### K. Loan Security

Due Regard: For loans secured with a Revenue Obligation: The RECIPIENT shall exercise due regard for Maintenance and Operation Expense and the debt service requirements of the Senior Lien Obligations and any other outstanding obligations pledging the Gross Revenue of the Utility, and it has not obligated itself to set aside and pay into the loan Fund a greater amount of the Gross Revenue of the Utility than, in its judgment, shall be available over and above such Maintenance and Operation Expense and those debt service requirements.

Where collecting adequate gross utility revenue requires connecting additional users, the RECIPIENT shall require the sewer system connections necessary to meet debt obligations and expected operation and maintenance expenses.

Levy and Collection of Taxes (if used to secure the repayment of the loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of its electors on all of the taxable property within the boundaries of the RECIPIENT in an amount sufficient, together with other money legally available and to be used therefore, to pay when due the principal of and interest on the loan, and the full faith, credit and resources of the RECIPIENT are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

Not an Excess Indebtedness: For loans secured with a general obligation pledge or a general obligation pledge on special assessments: The RECIPIENT agrees that this agreement and the loan to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the Loan Fund and used to pay the principal of and interest on the loan.

L. Maintenance and Operation of a Funded Utility: The RECIPIENT shall, at all times, maintain and keep the funded Utility in good repair, working order, and condition.

M. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an "Opinion of Legal Counsel to the RECIPIENT" to ECOLOGY before this agreement will be signed. ECOLOGY will provide the form.

N. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for

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bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request.

O. Progress Reports: RECIPIENTS funded with State Revolving Fund Loan or Forgivable Principal shall include the following verification statement in the “General Comments” text box of each progress report.

“We verified that we are in compliance with all the requirements as outlined in our funding agreement(s) with the Department of Ecology. This includes but is not limited to:

- The Davis-Bacon Act, 29 CFR , prevailing wage requirements, certified weekly payroll, etc.
- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33
- The American Iron and Steel Act (Buy American)
- The Build America Buy America Act (BABA) (equivalency projects only)”

P. Representations and Warranties: The RECIPIENT represents and warrants to ECOLOGY as follows:

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct.

There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT, which has not been disclosed in writing to ECOLOGY.

Existence; Authority. It is a duly formed and legally existing municipal corporation or political subdivision of the state of Washington or a federally recognized Indian Tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this agreement and to undertake the project identified herein.

Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this loan agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the project or to repay the principal of or interest on the loan, have occurred since the date of this loan agreement. Any changes in the RECIPIENT’s financial condition shall be disclosed in writing to ECOLOGY by the RECIPIENT in its request for payment.

Q. Sale or Disposition of Funded Utility: The RECIPIENT shall not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities, or other part of the funded Utility or any real or personal property comprising a part of the funded Utility unless:

1. The facilities or property transferred are not material to the operation of the funded Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the funded Utility or are no longer necessary, material, or useful to the operation of the funded Utility; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the funded Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the funded Utility from the portion of the funded Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the ECOLOGY.

The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.

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R. Sewer-Use Ordinance or Resolution for Funded Wastewater Facility Projects: If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution. Such ordinance or resolution shall be submitted to ECOLOGY upon request.

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater into separated sewer systems.
- 3) Require that new sewers and connections be properly designed and constructed.

S. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient ECOLOGY or RECIPIENT funds.
2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

Procedures for Termination. If this loan agreement is terminated prior to project completion, ECOLOGY shall provide to the RECIPIENT a written notice of termination at least five working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the ECOLOGY shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the loan and all accrued interest (the "Termination Payment Date").

Termination and Default Remedies

No Further Payments. On and after the Termination Date, or in the event of a default event, ECOLOGY may, at its sole discretion, withdraw the loan and make no further payments under this agreement.

Repayment Demand. In response to an ECOLOGY initiated termination event, or in response to a loan default event, ECOLOGY may at its sole discretion demand that the RECIPIENT repay the outstanding balance of the Loan Amount and all accrued interest.

Interest after Repayment Demand. From the time that ECOLOGY demands repayment of funds, amounts owed by the RECIPIENT to ECOLOGY shall accrue additional interest at the rate of one percent per month, or fraction thereof.

Accelerate Repayments. In the event of a default, ECOLOGY may, in its sole discretion, declare the principal of and interest on the loan immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien Obligation upon the Net Revenue. That is, the loan is not subject to acceleration so long as any Senior Lien Obligations are outstanding.

Repayments not made immediately upon such acceleration will incur Late Charges.

Late Charges. All amounts due to ECOLOGY and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur late charges.

Intercept State Funds. In the event of a default event and in accordance with Chapter 90.50A.060 RCW, "Defaults," any state funds otherwise due to the RECIPIENT may, at ECOLOGY's sole discretion, be withheld and applied to the repayment of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings,

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maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due, or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this agreement.

Fees and Expenses. In any action to enforce the provisions of this agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) shall be awarded to the prevailing party as that term is defined in Chapter 4.84.330 RCW.

Damages. Notwithstanding ECOLOGY's exercise of any or all the termination or default remedies provided in this agreement, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and/or the state of Washington because of any breach of this agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

T. User-Charge System for Funded Utilities: The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and shall adopt a system of user-charges to assure that each user of the funded utility shall pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the project. The user-charge system will include provisions for a connection charge.

In addition, the RECIPIENT shall regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the funded utility, to establish reserves to pay for replacement, and to repay the loan.

## GENERAL FEDERAL CONDITIONS

**If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.**

### A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY

#### EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

#### B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$30,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required Unique Entity Identifier in [www.sam.gov](http://www.sam.gov) <http://www.sam.gov> within 30 days of agreement signature. The FFATA information will be available to the public at [www.usaspending.gov](http://www.usaspending.gov) <http://www.usaspending.gov>.

For more details on FFATA requirements, see [www.fsrc.gov](http://www.fsrc.gov) <http://www.fsrc.gov>.

#### C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf) <https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or

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services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management \(SAM\)](https://sam.gov/SAM/) <<https://sam.gov/SAM/>> exclusion list.

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## GENERAL TERMS AND CONDITIONS

### Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

#### GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

07/01/2023 Version

#### 1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/2301002.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

#### 2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

#### 3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

#### 4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
  - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.
  - \* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.
  - For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).



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b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
  - Make the IDP readily available to anyone working at the project site.
  - Discuss the IDP with staff, volunteers, and contractors working at the project site.
  - Implement the IDP when Cultural Resources or human remains are found at the project site.
- c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

## 5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

## 6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

## 7. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.
- j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and

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other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

#### 8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

#### 9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

#### 10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

#### 11. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review. The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such

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decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

## 12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at:

<http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at:

<https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

## 13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

## 14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

## 15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

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#### 16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

#### 17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

#### 18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

#### 19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

#### 20. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to

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ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.

- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

## 21. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
  - 1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
  - 2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

## 22. RECORDS, AUDITS, AND INSPECTIONS

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RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
  - b) Be kept in a common file to facilitate audits and inspections.
  - c) Clearly indicate total receipts and expenditures related to this Agreement.
  - d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.
- RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

### 23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

### 24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

### 25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

### 26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

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## 27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing,

<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

## 28. TERMINATION

### a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. 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.

**Failure to Commence Work.** ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

**Non-Performance.** The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

### b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. 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.

**Non-Allocation of Funds.** ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments.

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If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

29. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

30. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

End of General Terms and Conditions





## Agreement No. WQC-2024-Spokane-00109

### WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF SPOKANE

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY," and City of Spokane, hereinafter referred to as the "RECIPIENT," to carry out with the provided funds activities described herein.

#### GENERAL INFORMATION

Project Title:	Marion Hay Intertie
Total Cost:	\$5,700,000.00
Total Eligible Cost:	\$5,226,665.00
Ecology Share:	\$5,226,665.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	01/01/2023
The Expiration Date of this Agreement is no later than:	06/30/2024
Project Type:	Wastewater Facility

#### Project Short Description:

This project improves water quality in the Spokane River through the design and construction of wastewater collection facilities at 9470 N Colton Street in the City of Spokane. This project improves collection capacity and repairs/replaces existing infrastructure. Benefits include more reliable collection and transport of waste.

#### Project Long Description:

This project improves water quality in the Spokane River through the design and construction of wastewater collection facilities at 9470 N Colton Street in the City of Spokane. This project improves collection capacity and repairs/replaces existing infrastructure. Benefits include more reliable collection and transport of waste.

North Pointe Lift Station is one of the 3 lift stations that provides sewer service to the northeast portion of the City of Spokane, north of Francis Avenue and east of Division Street. Located at 9470 N Colton Street, on the southeast

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Project Title: Marion Hay Intertie  
Recipient Name: City of Spokane

corner of Colton and Holland, service is provided to approximately 1200 acres of commercial, multiple family and single-family residential land use. Construction of the lift station concluded in 1979. The lift station is a former package plant originally used at Glenaire Lagoons and reused at North Pointe. Flows are conveyed 12,000 feet through a 16-inch diameter ductile iron force main to Nevada and Lyons, where it connects to the gravity line and the sewer ultimately flows into Interceptor I03 in Jackson Avenue.

The overall project will construct 6,400 feet of 15-inch sanitary sewer in two phases. This agreement covers phase 1. Phase 1 will include the north segment which begins at the intersection of Colton Street and Hoerner Avenue then north to Holland Avenue then west in Holland Avenue to Normandie Street where the new line will connect into Spokane County's sewer system and drain to Spokane County's Marion Hay lift station. This lift station discharges back into the RECIPIENT's sewer system at Rowan Avenue and Cannon Street. Construction of the new conveyance piping will allow the existing lift station to be abandoned with the existing forcemain also being abandoned and filled with sand or controlled density fill (CDF). This will allow for the RECIPIENT to eliminate the problematic Northpointe Lift Station and associated forcemain.

Overall Goal:

The overall goal of the project is to eliminate the Northpointe Lift Station to eliminate the potential of an sanitary sewer overflow which would drain to drywells and potentially the Spokane Valley Rathdrum Prairie (SVRP) and nearby wellhead protection areas (both of which connect to waterbodies). In addition, the existing forcemain would be eliminated which will reduce hydrogen sulfide issues.

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 Project Title: Marion Hay Intertie  
 Recipient Name: City of Spokane

**RECIPIENT INFORMATION**

Organization Name: City of Spokane

Federal Tax ID: 91-6001280  
 UEI Number: PDNCLY8MYJN3

Mailing Address: 808 W Spokane Falls Blvd  
 Spokane, WA 99201

Organization Email: mpapich@spokanecity.org  
 Organization Fax: (509) 343-5760

**Contacts**

<p><b>Project Manager</b></p>	<p>Mark Papich                  Senior Engineer</p> <p>808 W Spokane Falls Blvd                  Spokane, Washington 99201                  Email: mpapich@spokanecity.org                  Phone: (509) 625-6310</p>
<p><b>Billing Contact</b></p>	<p>LaVonne Martelle                  Accountant I</p> <p>44 W Riverside                  Spokane, Washington 99201-3343                  Email: lmartelle@spokanecity.org                  Phone: (509) 625-7000</p>
<p><b>Authorized Signatory</b></p>	<p>Nadine Woodward                  Mayor</p> <p>808 W Spokane Falls Blvd                  Spokane, Washington 99201                  Email: mayor@spokanecity.org                  Phone: (509) 625-6310</p>

Agreement No: WQC-2024-Spokane-00109  
 Project Title: Marion Hay Intertie  
 Recipient Name: City of Spokane

**ECOLOGY INFORMATION**

Mailing Address: Department of Ecology  
 Water Quality  
 PO BOX 47600  
 Olympia, WA 98504-7600

Physical Address: Water Quality  
 300 Desmond Drive SE  
 Lacey, WA 98503

**Contacts**

<p><b>Project Manager</b></p>	<p>Greg Dobb</p> <p>4601 N Monroe Street                  Spokane, Washington 99205-1295                  Email: GDOB461@ecy.wa.gov                  Phone: (509) 329-3440</p>
<p><b>Financial Manager</b></p>	<p>Jeanna Ridner</p> <p>PO Box 47600                  Olympia, Washington 98504-7600                  Email: jmac461@ecy.wa.gov                  Phone: (360) 628-4918</p>
<p><b>Technical Advisor</b></p>	<p>Diana Washington</p> <p>4601 N Monroe Street                  Spokane, Washington 99205-1295                  Email: DWAS461@ecy.wa.gov                  Phone: (509) 329-3519</p>

Agreement No: WQC-2024-Spokane-00109  
 Project Title: Marion Hay Intertie  
 Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 1 **Task Cost:** \$0.00

Task Title: Grant and Loan Administration

### Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: Maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and the EAGL (Ecology Administration of Grants and Loans) recipient closeout report (including photos, if applicable). In the event that the RECIPIENT elects to use a contractor to complete project elements, the RECIPIENT shall retain responsibility for the oversight and management of this funding agreement.

B. The RECIPIENT shall keep documentation that demonstrates the project is in compliance with applicable procurement, contracting, and interlocal agreement requirements; permitting requirements, including application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items. This documentation shall be available upon request.

C. The RECIPIENT shall maintain effective communication with ECOLOGY and maintain up-to-date staff contact information in the EAGL system. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

### Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant or loan administrative requirements.

### Task Expected Outcome:

- \* Timely and complete submittal of requests for reimbursement, quarterly progress reports, Recipient Closeout Report, and two-page outcome summary report.
- \* Properly maintained project documentation.

## Grant and Loan Administration

### Deliverables

Number	Description	Due Date
1.1	Progress Reports that include descriptions of work accomplished, project challenges or changes in the project schedule. Submitted at least quarterly.	
1.2	Recipient Closeout Report (EAGL Form)	

Agreement No: WQC-2024-Spokane-00109  
Project Title: Marion Hay Intertie  
Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 2 **Task Cost:** \$0.00

Task Title: Project Design

### Task Description:

- A. The RECIPIENT will procure engineering services in accordance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT must submit all contracts for engineering services before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will design the Holland Ave Sewer. Plans and specifications developed by the RECIPIENT must be consistent with the requirements of Chapter 173-240 WAC. Elements of the design will include:
1. Approximately 6,400 LF of 15" sewer
  2. Abandonment of XX LF of Forcemain
  3. Abandonment of an Existing Lift Station
  4. Associated roadway repair and area improvements as indicated on the project plans.
- C. The plans and specifications, construction contract documents, and addenda will be approved by the RECIPIENT prior to submittal for ECOLOGY review. All construction plans submitted to ECOLOGY for review and approval will be reduced to no larger than 11" x 17" in size. Plans should note if they are to scale or not. The project manager may request plans be submitted in either PDF or AutoCAD electronic format, and specifications in a searchable PDF or Microsoft Word electronic file. An updated construction cost estimate will be submitted with each plan/specification submittal. The project manager may request a spreadsheet of the estimate in electronic file format.
- D. As a condition of receiving this funding, the RECIPIENT will conduct an Investment Grade Efficiency Audit (IGEA). As a condition of receiving this funding, the RECIPIENT will review their energy use looking for cost-effective energy savings. The recipient may also submit documentation of an energy efficiency review conducted within the last 5 years.
- E. The RECIPIENT will notify Ecology when deliverables are available and have been uploaded to EAGL.

### Task Goal Statement:

Design of the Holland Ave Sewer. Plans and specifications developed by the RECIPIENT must be consistent with the requirements of Chapter 173-240 WAC.

### Task Expected Outcome:

Completed design of the Holland Ave Sewer.

Agreement No: WQC-2024-Spokane-00109

Project Title: Marion Hay Intertie

Recipient Name: City of Spokane

### Project Design

#### Deliverables

Number	Description	Due Date
2.1	Executed contracts for engineering services and documentation of the RECIPIENT's process for procuring engineering services.	
2.2	Copies of the final design.	
2.3	Documentation of an energy efficiency review.	

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Agreement No: WQC-2024-Spokane-00109  
Project Title: Marion Hay Intertie  
Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 3 **Task Cost:** \$5,226,665.00

Task Title: Project Construction

### Task Description:

- A. The RECIPIENT will execute a contract with a contractor selected in compliance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT will submit Bid Tabs, the Notice of Award, and a copy of the executed contract before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will complete the construction in accordance with the approved Plans and Specifications. The construction project will include:
1. Approximately 2600LF of 18" sewer
  2. Road repair including stormwater and drainage
- C. This project includes appropriate and approved mitigation measures necessary to offset clearly identified impacts and allow this water quality project to proceed. No alternative is available. The following specific mitigation work is included in the project scope:
1. Archaeological monitoring plan
- D. The RECIPIENT will conduct a pre-construction conference and will invite ECOLOGY staff to the meeting.
- E. The RECIPIENT will negotiate all change orders to the construction contract necessary for successful completion of the project. The RECIPIENT will submit the change orders to ECOLOGY for approval. Change orders that are a significant deviation from the approved plans/specifications must be submitted for approval, prior to execution. A significant deviation shall be as defined in the Water Quality Program Orange Book, section G1-4.2.6 and mean a change in the selected treatment process, facility size, design criteria, or performance standards that result in changes in expected facility performance or environmental impacts. All other change orders will be submitted to ECOLOGY within 30 days of execution and contain a P.E. stamp if the change order contains engineering content.
- F. The RECIPIENT will submit the minimum requirements as outlined in the EID Guidance, Part A and in the SERP EID at the time plans and specification are submitted to ECOLOGY for approval.
- G. The RECIPIENT will provide an Ecology Cultural Resources Review form as part of the minimum SERP requirements. The RECIPIENT will provide any additional information for ECOLOGY to lead the required cultural resources consultation. Costs incurred for ground disturbing activities that occur before cultural resources review will not be eligible for reimbursement.
- H. The RECIPIENT will complete an Ecology inadvertent discovery plan template for their project.
- I. All mitigation measures committed to in documents developed in the SERP process, such as the environmental mitigation plan, environmental checklist, environmental report, SEPA environmental impact statement (EIS), the finding of no significant impact/environmental assessment, or record of decision/federal EIS will become revolving fund loan agreement conditions. All recipients of funding for water pollution control facility projects must comply with the SERP in accordance with WAC



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173-98-720.

**Task Goal Statement:**

Complete construction of the Holland Ave Sewer in accordance with the approved Plans and Specifications.

**Task Expected Outcome:**

Completed construction of the Holland Ave Sewer in accordance with the approved Plans and Specifications

**Project Construction**

**Deliverables**

Number	Description	Due Date
3.1	Documentation of the RECIPIENTS procurement process.	
3.2	Bid Tabs, the Notice of Award, and a copy of the executed construction contract.	
3.3	Copy of the notice to proceed.	
3.4	Minutes of the pre-construction meeting.	
3.5	A copy of all change orders.	
3.6	Certification that the asset management program (fiscal sustainability plan) has been developed and is being implemented.	
3.7	Complete SERP EID	
3.8	Ecology Cultural Resources Review Form.	
3.9	Inadvertent Discovery Plan. (IDP)	
3.10	Archaeological Monitoring Plan	

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Project Title: Marion Hay Intertie  
Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 4 **Task Cost:** \$0.00

Task Title: Construction Management

### Task Description:

- A. The RECIPIENT will provide adequate and competent construction management and inspection for the Project. This may involve procuring the professional services. If professional services are procured, the RECIPIENT will procure them in accordance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT must submit all contracts for construction management services before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will develop a detailed Construction Quality Assurance Plan (WAC 173-240-075) and submit it to ECOLOGY for approval prior to any ground disturbing activities. This plan will describe the activities which the RECIPIENT will undertake to achieve adequate and competent oversight of all construction work.
- C. The RECIPIENT will ensure construction progresses according to a timely schedule developed to meet completion dates indicated in the construction contract. The RECIPIENT will revise or update the schedule whenever major changes occur and resubmit to ECOLOGY. A significant change in the scope of work may trigger a SERP review and should be discussed and coordinated with ECOLOGY. In the absence of any major changes, the RECIPIENT will describe progress of the construction in the monthly/quarterly progress reports.
- D. Upon completion of construction, the RECIPIENT will provide ECOLOGY's Project Manager with a set of "as-built" plans by the expiration date of this agreement (i.e., record construction drawings which reflect changes, modifications, or other significant revisions made to the project during construction).
- E. Upon substantial completion, the recipient will notify ECOLOGY and coordinate the project's closeout with ECOLOGY's Project Manager.
- F. Upon project completion, the RECIPIENT will submit the Declaration of Construction Completion form to ECOLOGY in accordance with WAC 173-240-090. The form, when signed by a professional engineer, indicates that the project was completed in accordance with the plans, specifications, and major change orders approved by ECOLOGY, and is accurately shown on the as-built plans.

### Task Goal Statement:

Provide adequate and competent construction management and inspection for the Project.

### Task Expected Outcome:

Provide adequate and competent construction management and inspection for the Project.

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Project Title: Marion Hay Intertie

Recipient Name: City of Spokane

**Construction Management**

**Deliverables**

Number	Description	Due Date
4.1	Executed contract for construction management services.	
4.2	Documentation of the RECIPIENT’s process for procuring engineering services.	
4.3	Construction Quality Assurance Plan.	
4.4	“As-built” plans.	
4.5	Declaration of Construction Completion.	

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Agreement No: WQC-2024-Spokane-00109  
Project Title: Marion Hay Intertie  
Recipient Name: City of Spokane

**BUDGET**

**Funding Distribution EL240438**

**NOTE:** The above funding distribution number is used to identify this specific agreement and budget on payment remittances and may be referenced on other communications from ECOLOGY. Your agreement may have multiple funding distribution numbers to identify each budget.

Funding Title: SRF Loan Funding Type: Loan  
Funding Effective Date: 01/01/2023 Funding Expiration Date: 06/30/2024

Funding Source:

Title: CWSRF-SFY24 (State)

Fund: FD0727

Type: State

Funding Source %: 100%

Description: The Clean Water Act (CWA) (33 U.S.C 1251-1387) established the State Revolving Fund (SRF) low interest loans program (40. C.F.R. Part 31, 35 Sub Part K). Washington State administers the program under Chapter 173-98 WAC. The portion of this project funded with this funding distribution comes from non-federal source and are not subject to Federal Funding Accountability and Transparency Act (FFATA) and Single Audit Act (SAA). However, this project is subject to the federal requirements outlined in Section 4 and 5 of agreement terms and conditions.

Approved Indirect Costs Rate: Approved State Indirect Rate: 30%

Recipient Match %: 0%

InKind Interlocal Allowed: No

InKind Other Allowed: No

Is this Funding Distribution used to match a federal grant? No

Effective Interest Rate: 1.2% Interest Rate: 0.9% Admin Charge: 0.3%

Terms: 20 years

Project Start Date: 01/01/2023 Project Completion Date: 06/30/2024

Estimated Initiation of Operation date: 11/01/2023

Loan Security: Revenue Secure Lien Obligation of the Recipient

Final Accrued Interest: \$

Final Loan Amount: \$

Repayment Schedule Number: 755

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Project Title: Marion Hay Intertie

Recipient Name: City of Spokane

<b>SRF Loan</b>	<b>Task Total</b>
Grant and Loan Administration	\$ 0.00
Project Design	\$ 0.00
Project Construction	\$ 5,226,665.00
Construction Management	\$ 0.00

**Total: \$ 5,226,665.00**

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Agreement No: WQC-2024-Spokane-00109  
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### **Funding Distribution Summary**

#### **Recipient / Ecology Share**

<b>Funding Distribution Name</b>	<b>Recipient Match %</b>	<b>Recipient Share</b>	<b>Ecology Share</b>	<b>Total</b>
SRF Loan	0.00 %	\$ 0.00	\$ 5,226,665.00	\$ 5,226,665.00
<b>Total</b>		<b>\$ 0.00</b>	<b>\$ 5,226,665.00</b>	<b>\$ 5,226,665.00</b>

#### **AGREEMENT SPECIFIC TERMS AND CONDITIONS**

N/A

#### **SPECIAL TERMS AND CONDITIONS**

WQC-2024—Water Quality Program Special Terms and Conditions (Update June 2023)

##### **SECTION 1: DEFINITIONS**

Unless otherwise provided, the following terms will have the respective meanings for all purposes of this agreement:

“Administration Charge” means a charge established in accordance with Chapter 90.50A RCW and Chapter 173-98 WAC, to be used to pay Ecology’s cost to administer the State Revolving Fund by placing a percentage of the interest earned in an Administrative Charge Account.

“Administrative Requirements” means the effective edition of ECOLOGY's Administrative Requirements for Recipients of Ecology Grants and Loans at the signing of this agreement.

“Annual Debt Service” for any calendar year means for any applicable bonds or loans including the loan, all interest plus all principal due on such bonds or loans in such year.

“Average Annual Debt Service” means, at the time of calculation, the sum of the Annual Debt Service for the remaining years of the loan to the last scheduled maturity of the loan divided by the number of those years.

“Accrued Interest” means the interest incurred as loan funds are disbursed.

“Acquisition” means the purchase or receipt of a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

“Build American Buy American (BABA)” means a portion of the Infrastructure Investment and Jobs Act and establishes a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022.

“Bipartisan Infrastructure Law (BIL)” means funding to improve drinking water, wastewater and stormwater infrastructure.

“Centennial Clean Water Program” means the state program funded from various state sources.

“Contract Documents” means the contract between the RECIPIENT and the construction contractor for construction of the project.

“Construction Materials” means an article, material, or supply (other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; aggregate binding agents or additives; or non-permanent products) that is or consists primarily of, non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), (including optic glass), lumber, and drywall.

“Cost Effective Analysis” means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water quality problem as described in Chapter 173-98-730 WAC.

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“Davis Bacon Prevailing Wage Act” means the federal law mandating on-site workers on public works projects be paid certain wages, benefits, and overtime (also known as “prevailing wage” on all government-funded construction, alteration, and repair projects.

“Defeasance” or “Defeasance” means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

“Effective Date” means the earliest date on which eligible costs may be incurred.

“Effective Interest Rate” means the total interest rate established by Ecology that includes the Administrative Charge.

“Estimated Loan Amount” means the initial amount of funds loaned to the RECIPIENT.

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount and the estimated schedule for completion of the project.

“Equivalency” means the amount of State Revolving Fund (SRF) funding each funding cycle equivalent to the EPA grant to Ecology.

“Equivalency Project” means State Revolving Fund (SRF) funded project(s) designated by ECOLOGY to receive federal funding and meet additional federal requirements.

“Expiration Date” means the latest date on which eligible costs may be incurred.

“Final Accrued Interest” means the interest accrued beginning with the first disbursement of funds to the RECIPIENT through such time as the loan is officially closed out and a final loan repayment schedule is issued.

“Final Loan Amount” means all principal of and accrued interest on the loan from the Project Start Date through the Project Completion Date.

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount and the initiation of operation or completion date, whichever comes first.

“Forgivable Principal” means the portion of a loan that is not required to be paid back by the borrower.

“General Obligation Debt” means an obligation of the RECIPIENT secured by annual ad valorem taxes levied by the RECIPIENT and by the full faith, credit, and resources of the RECIPIENT.

“General Obligation Payable from Special Assessments Debt” means an obligation of the RECIPIENT secured by a valid general obligation of the Recipient payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.

“Gross Revenue” means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to Defeasance or refund Utility obligations or (B) in an obligation redemption fund or account other than the Loan Fund until commingled with other earnings and revenues of the Utility or (C) held in a special account for the purpose of paying a rebate to the United States Government under the Internal Revenue Code.

“Guidelines” means the ECOLOGY’s Funding Guidelines that that correlate to the State Fiscal Year in which the project is funded.

“Initiation of Operation Date” means the actual date the facility financed with proceeds of the loan begins to operate for its intended purpose. (For loans only)

“Iron and Steel Products” means products made primarily of iron or steel including but may not be limited to: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

“Loan” means the Washington State Water Pollution Control Revolving Fund Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this loan agreement.

“Loan Amount” means either an Estimated Loan Amount or a Final Loan Amount, as applicable.

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“Loan Fund” means the special fund created by the RECIPIENT for the repayment of the principal of and interest on the loan.

“Loan Security” means the mechanism by which the RECIPIENT pledges to repay the loan.

“Loan Term” means the repayment period of the loan.

“Maintenance and Operation Expense” means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties, but will not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

“Manufactured Products” means, items and construction materials composed in whole or in part of non-ferrous metals such as aluminum plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

“Produced in the United States” means for iron and steel products, that all manufacturing processes, from the initial melting state through the application of coatings, occurred in the United States.

“Net Revenue” means the Gross Revenue less the Maintenance and Operation Expense.

“Original Engineer’s Estimate” means the engineer’s estimate of construction costs included with bid documents.

“Prevailing Wage” means hourly wage, usual benefits, and overtime paid in the largest city in each county, to the majority of workers, laborers, and mechanics performing the same work. The rate is established separately for each county.

“Principal and Interest Account” means, for a loan that constitutes Revenue-Secured Debt, the account created in the loan fund to be first used to repay the principal of and interest on the loan.

“Project” means the project described in this agreement.

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed and is the last day eligible costs can be incurred. This term is only used in loan agreements.

“Project Schedule” means that schedule for the project specified in the agreement.

“Revenue-Secured Debt” means an obligation of the RECIPIENT secured by a pledge of the revenue of a utility and one not a general obligation of the RECIPIENT.

“Reserve Account” means, for a loan that constitutes a Revenue Secured Debt and if specifically identified as a term and condition of the funding agreement, the account of that name created in the loan fund to secure the payment of the principal of and interest on the loan.

“Risk-Based Determination” means an approach to sub-recipient monitoring and oversight based on risk factors associated to a RECIPIENT or project.

“Scope of Work” means the tasks and activities constituting the project.

“Section 319” means the section of the Clean Water Act that provides funding to address nonpoint sources of water pollution.

“Senior Lien Obligations” means all revenue bonds and other obligations of the RECIPIENT outstanding on the date of execution of this loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or issued after the date of execution of this loan agreement having a claim or lien on the Gross Revenue of the Utility prior and superior to the claim or lien of the loan, subject only to Maintenance and Operation Expense.

“State Water Pollution Control Revolving Fund (Revolving Fund)” means the water pollution control revolving fund established by Chapter 90.50A.020 RCW.

“Termination Date” means the effective date of ECOLOGY’s termination of the agreement.

“Termination Payment Date” means the date on which the RECIPIENT is required to repay to ECOLOGY any outstanding balance of the loan and all accrued interest.

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been determined to be eligible for ECOLOGY grant or loan funding, including any required recipient match.

“Total Project Cost” means the sum of all costs associated with a water quality project, including costs that are not eligible for ECOLOGY grant or loan funding.

“Unique Entity Identity Identifier (UEI)” means a 12-character alphanumeric ID assigned by SAM.gov. to an entity doing



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business with or receiving funds from the federal government. This number replaces the DUNS number.

“ULID” means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility.

“ULID Assessments” means all assessments levied and collected in any ULID. Such assessments are pledged to be paid into the Loan Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments will include principal installments and any interest or penalties which may be due.

“Utility” means the sewer system, stormwater system, or the combined water and sewer system of the RECIPIENT, the Net Revenue of which is pledged to pay and secure the loan.

## SECTION 2: CONDITIONS APPLY TO ALL RECIPIENTS OF WATER QUALITY COMBINED FINANCIAL ASSISTANCE FUNDING.

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference and are available on ECOLOGY’s Water Quality Program website.

A. Accounting Standards: The RECIPIENT shall maintain accurate records and accounts for the project (PROJECT Records) in accordance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB), including standards related to the reporting of infrastructure assets or in accordance with the standards in Chapter 43.09.200 RCW “Local Government Accounting – Uniform System of Accounting.”

B. Architectural and Engineering Services: The RECIPIENT certifies by signing this agreement that the requirements of Chapter 39.80 RCW, “Contracts for Architectural and Engineering Services,” have been, or shall be, met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final architectural/engineering services contract and submit a copy of the contract to ECOLOGY.

C. Acquisition: The following provisions shall be in force only if the project described in this agreement is an acquisition project:

- a. Evidence of Land Value and Title. The RECIPIENT shall submit documentation of the cost of the property rights and the type of ownership interest that has been acquired.
- b. Legal Description of Real Property Rights Acquired. The legal description of the real property rights purchased with funding assistance provided through this agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the agreement before final payment.
- c. Conveyance of Rights to the State of Washington. Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT shall execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired, and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT shall use language provided by ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

### Documentation Options:

1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. RECIPIENTS shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes. The RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the deed of right.
2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
3. Easements and Leases. The RECIPIENT may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; therefore, the RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing

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the easement or lease.

d. Real Property Acquisition and Relocation Assistance.

1. Federal Acquisition Policies. See Section 4 of this agreement for requirements specific to Section 319 and SRF funded projects.
2. State Acquisition Policies. When state funds are part of this agreement, the RECIPIENT agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.
3. Housing and Relocation. In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the RECIPIENT agrees to provide any housing and relocation assistance required.

e. Hazardous Substances.

1. Certification. The RECIPIENT shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:

- i. No hazardous substances were found on the site, or
  - ii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site is deemed “clean.”
2. Responsibility. Nothing in this provision alters the RECIPIENT's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.

3. Hold Harmless. The RECIPIENT will defend, protect and hold harmless ECOLOGY and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the RECIPIENT is acquiring.

f. Restriction On Conversion Of Real Property And/Or Facilities To Other Uses

The RECIPIENT shall not at any time convert any real property (including any interest therein) or facility acquired, developed, maintained, renovated, and/or restored pursuant to this agreement to uses other than those purposes for which funds were approved without prior approval of ECOLOGY. For acquisition projects that are term limited, such as one involving a lease or a term-limited restoration, renovation or development project or easement, this restriction on conversion shall apply only for the length of the term, unless otherwise provided in written documents or required by applicable state or federal law. In such case, the restriction applies to such projects for the length of the term specified by the lease, easement, deed, or landowner agreement.

D. Best Management Practices (BMP) Implementation: If the RECIPIENT installs BMPs that are not approved by ECOLOGY prior to installation, the RECIPIENT assumes the risk that part or all of the reimbursement for that activity may be delayed or ineligible. For more details regarding BMP Implementation, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY's Water Quality Program funding website.

E. Electronic Fund Transfers: Payment will be issued through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process or electronic fund transfers, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).

F. Equipment Purchase: Equipment purchases over \$5,000 and not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase. All equipment purchases over \$5,000 and not included in a contract for work being completed on the funded project, must also be reported on the Equipment Purchase Report in EAGL.

G. Funding Recognition: The RECIPIENT must inform the public about any ECOLOGY or EPA funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other

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public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Contact your Ecology Project Team to determine the appropriate recognition for your project.

H. Growth Management Planning: The RECIPIENT certifies by signing this agreement that it is in compliance with the requirements of Chapter 36.70A RCW, "Growth Management Planning by Selected Counties and Cities." If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify ECOLOGY in writing of this change within 30 days.

I. Interlocal: The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements necessary for the project are, or shall be, consistent with the terms of this agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the project to ECOLOGY upon request.

J. Lobbying and Litigation: Costs incurred for the purposes of lobbying or litigation are not eligible for funding under this agreement.

K. Post Project Assessment Survey: The RECIPIENT agrees to participate in a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project approximately three years after project completion. A representative from ECOLOGY's Water Quality Program may contact the RECIPIENT to request this data. ECOLOGY may also conduct site interviews and inspections, and may otherwise evaluate the project, as part of this assessment.

L. Project Status Evaluation: ECOLOGY may evaluate the status at any time. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

M. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State and specific requirements outlined in the Water Quality Funding Guidelines. Technical assistance, proposed practices, or project designs that do not meet these standards may be eligible if approved in writing by ECOLOGY.

### SECTION 3: CONDITIONS APPLY TO SECTION 319 AND CENTENNIAL CLEAN WATER FUNDED PROJECTS BEING USED TO MATCH SECTION 319 FUNDS.

The RECIPIENT must submit the following documents to ECOLOGY before this agreement is signed by ECOLOGY:

1. Federal Funding Accountability and Transparency Act (FFATA) Form is available on the Water Quality Program website and must be completed and submitted to Ecology. (This form is used for Section 319 (federal) funds only)
2. "Section 319 Initial Data Reporting" form must be completed in EAGL.

A. Data Reporting: The RECIPIENT must complete the "Section 319 Initial Data Reporting" form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project for EPA.

B. Funding Recognition and Outreach: In addition to Section 2.F. of these Special Terms and Conditions, the RECIPIENT shall provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA logo and follow usage requirements available at <http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. To obtain the appropriate EPA logo or seal graphic file, the RECIPIENT may send a request to their Ecology Financial Manager.

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable. (Applies to both the Section 319 funded projects and the Centennial match projects)

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement: (Applies to Section 319 funded projects only)

"This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute

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endorsement or recommendation for use.”

C. Load Reduction Reporting: The RECIPIENT shall complete the “Section 319 Annual Load Reduction Reporting” form in EAGL by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has completed the form. This form is used to gather information on best management practices (BMPs) installed and associated pollutant load reductions that were funded as a part of this project.

D. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA’s assistance agreement. In the event a time extension is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date. (For Section 319 funded projects only)

#### SECTION 4: CONDITIONS APPLY TO ALL FEDERAL FUNDING AGREEMENTS, INCLUDING SECTION 319, State Revolving Fund (SRF) Equivalency Projects, and SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANT (OSG)

A. Acquisitions: RECIPIENTS shall comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.

B. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse’s Internet Data Entry System available at: <https://facweb.census.gov/>.

C. Archaeological Resources and Historic Properties (Section 106): This requires completion of the Ecology Cultural Resources Review Form, coordination with Ecology Cultural Resources staff, and receipt of the Ecology Final Determination prior to any property acquisition and above and below ground disturbing activities.

D. Architectural and Engineering Services Procurement: The RECIPIENT must procure architectural and engineering services in accordance with the federal requirements in Chapter 11 of Title 40, U.S.C. (see <https://uscode.house.gov/view.xhtml?path=/prelim@title40/subtitle1/chapter11&edition=prelim>).

E Build America, Buy America (BABA – Pub. L. No. 117-58, 70901-52) (Federally funded SRF Equivalency projects only): The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding agrees to comply with all federal requirements applicable to the assistance received (including those imposed by the Infrastructure Investment and Jobs Act (“IIJA”/BIL), Public Law No. 117-58) which the RECIPIENT understands includes, but is not limited to, the following requirements: that all the iron and steel, manufactured products, and construction materials used in the Project are to be produced in the United States (“Build America, Buy America Requirements”) unless (i) the RECIPIENT has requested and obtained a waiver from the cognizant Agency pertaining to the Project or the Project is otherwise covered by a general applicability waiver; or (ii) all of the contributing Agencies have otherwise advised the RECIPIENT in writing that the Build America, Buy America Requirements are not applicable to the project.

RECIPIENT shall comply with all record keeping and reporting requirements under all applicable legal authorities, including any reports required by the funding authority (such as EPA and/or a state), such as performance indicators of program deliverables, information on costs and project progress. The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding, understands that (i) each contract and subcontract related to the project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the applicable legal requirements and this Agreement may result in a default hereunder that results in a repayment of the assistance agreement in advance of termination and/or repayment of assistance, and/or other remedial actions.

EPA has granted an adjustment period waiver of the requirements of Section 70914(a) of the BIL, pursuant to Section

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70914(b)(1) (public interest waiver), for eligible projects financed by SRF projects that have initiated project design planning prior to May 14, 2022, the statutory effective date of the BABA requirements. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. Sections 70917(a) and (b) of BIL provide a savings provision for existing statutory requirements that meet or exceed BABA requirements. The statutory American Iron and Steel (AIS) requirements of Clean Water Act (CWA) Section 608 and Safe Drinking Water Act (SDWA) Section 1452(a)(4) has previously applied to SRF projects and will continue to do so as part of BABA requirements.

Where manufactured products used in the project are required to be produced in the United States, manufactured product shall mean manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation. The manufactured products included cover the majority of potential water infrastructure products, including complex products made up of a variety of material types and components. For water infrastructure projects, commonly manufactured products would include, but not be limited to, pumps, motors, blowers, aerators, generators, instrumentation and control systems, gauges, meters, measurement equipment, treatment equipment, dewatering equipment, actuators, and many other mechanical and electrical items.

F. Disadvantaged Business Enterprise (DBE): General Compliance, 40 CFR, Part 33. The RECIPIENT agrees to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises (MBE/WBE) 40CFR, Part 33 in procurement under this agreement.

Six Good Faith Efforts, 40 CFR, Part 33, Subpart C. The RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under this agreement. Records documenting compliance with the following six good faith efforts shall be retained:

- 1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- 2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- 3) Consider, in the contracting process, whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State, and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- 4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- 5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request. Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin, or sex in the

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performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

This does not preclude the RECIPIENT from enacting broader nondiscrimination protections.

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including but not limited to, Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).

In the event of the RECIPIENT's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this agreement may be rescinded, canceled, or terminated in whole or in part and the RECIPIENT may be declared ineligible for further funding from ECOLOGY. The RECIPIENT shall, however, be given a reasonable time in which to cure this noncompliance.

The RECIPIENT shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

"The Contractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor will carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in termination of this Contract or other legally available remedies."

Bidder List, 40 CFR, Section 33.501(b) and (c). The RECIPIENT agrees to create and maintain a bidders list. The bidders list shall include the following information for all firms that bid or quote on prime contracts, or bid or quote subcontracts, including both MBE/WBEs and non-MBE/WBEs.

1. Entity's name with point of contact
2. Entity's mailing address, telephone number, and e-mail address
3. The procurement on which the entity bid or quoted, and when
4. Entity's status as an MBE/WBE or non-MBE/WBE

G. Electronic and information Technology (EIT) Accessibility: RECIPIENTS shall ensure that loan funds provided under this agreement for costs in the development or purchase of EIT systems or products provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology as per Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7. Systems or products funded under this agreement must be designed to meet the diverse needs of users without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

H. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.

I. Hotel-Motel Fire Safety Act: The RECIPIENT shall ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (15 USC 2225a, PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act. Pursuant to 15 USC 2225a.

J. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

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The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request. Wage determinations and instructions for their use can be found at <https://sam.gov/>.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request. Where conflicts arise between the State prevailing wage rates and Davis-Bacon Act prevailing wage requirements the more stringent requirement shall govern. Washington State prevailing wage rates can be found at <https://www.lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>

K. Trafficking in Persons: The RECIPIENT and RECIPIENT employees that are private entities shall not engage in forms of trafficking in persons. This includes, but is not limited to, the procurement of a commercial sex act or forced labor. The RECIPIENT shall notify ECOLOGY immediately of any information received from any source alleging a violation under this provision.

L. Unique Entity Identity Identifier (UEI): The RECIPIENT agrees to register with and make their registration public in the System for Award Management (SAM.gov). The RECIPIENT will be assigned a UEI and agree to include their UEI Number under their organization’s information in EAGL. The UEI number must be entered into EAGL before a funding agreement is signed.

#### SECTION 5: CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

The RECIPIENT must submit the following documents/forms to ECOLOGY before this agreement is signed by ECOLOGY:

1. Financial Capability Assessment Documentation (upon request)
2. Opinion of RECIPIENT’s Legal Council – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
3. Authorizing Ordinance or Resolution – Must be uploaded to the General Uploads form in EAGL.
4. Federal Funding Accountability and Transparency Act (FFATA) Form (Required for all federally funded SRF Equivalency projects – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
5. CWSRF Federal Reporting Information form – Must be completed in EAGL.
6. Fiscal Sustainability Plan (Asset Management) Certification Form (Only required if the project includes construction of a wastewater or stormwater facility construction) – Must be completed in EAGL.
7. Cost and Effectiveness Analysis Certification Form (Required for all projects receiving SRF Loan funding) – Must be completed in EAGL.
8. State Environmental Review Process (SERP) Documentation (Required for treatment works projects only) – Must be uploaded to the Environmental and Cultural Review form in EAGL.

A. Alteration and Eligibility of Project: During the term of this agreement, the RECIPIENT (1) shall not materially alter the design or structural character of the project without the prior written approval of ECOLOGY and (2) shall take no action which would adversely affect the eligibility of the project as defined by applicable funding program rules and state statutes, or which would cause a violation of any covenant, condition, or provision herein.

B. American Iron and Steel (Buy American – P.L 113-76, Consolidated Appropriations Act 2014, Section 436): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a “treatment works” as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron

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or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

C. Authority of RECIPIENT: This agreement is authorized by the Constitution and laws of the state of Washington, including the RECIPIENT's authority, and by the RECIPIENT pursuant to the authorizing ordinance or resolution. The RECIPIENT shall submit a copy of the authorizing ordinance or resolution to the ECOLOGY Financial Manager before this agreement shall be signed by ECOLOGY.

D. Equivalency Projects: ECOLOGY designated equivalency project and alternative designated equivalency project RECIPIENTS agree to accept federal funds and the federal requirements that accompany the funds. This includes all the requirements in Section 4 and this Section.

E. Fiscal Sustainability Plan Certification: The RECIPIENT shall submit a completed Fiscal Sustainability Plan Certification before this agreement is signed by ECOLOGY. The Fiscal Sustainability Plan Certification is available from the ECOLOGY Financial Manager or on the Water Quality Program website.

F. Funding Recognition and Outreach: The RECIPIENT agrees to comply with the EPA SRF Signage Guidance to enhance public awareness of EPA assistance agreements nationwide. Signage guidance can be found at: <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Water-Quality-grants-and-loans/Facility-project-resources>.

G. Insurance: The RECIPIENT shall at all times carry fire and extended insurance coverage, public liability, and property damage, and such other forms of insurance with responsible insurers and policies payable to the RECIPIENT on such of the buildings, equipment, works, plants, facilities, and properties of the Utility as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, or it shall self-insure or participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

H. Litigation Authority: No litigation is now pending, or to the RECIPIENT's knowledge, threatened, seeking to restrain, or enjoin:

- (i) the execution of this agreement; or
- (ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or
- (iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or
- (iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence, or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

I. Loan Interest Rate and Terms: This loan agreement shall remain in effect until the date of final repayment of the loan, unless terminated earlier according to the provisions herein.

When the Project Completion Date has occurred, ECOLOGY and the RECIPIENT shall execute an amendment to this loan agreement which details the final loan amount (Final Loan Amount), and ECOLOGY shall prepare a final loan repayment schedule. The Final Loan Amount shall be the combined total of actual disbursements made on the loan and all accrued interest to the computation date.

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a



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365-day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments, semiannually, over the term of this loan "Loan Term" as outlined in this agreement.

#### J. Loan Repayment:

##### Sources of Loan Repayment

1. Nature of RECIPIENT's Obligation. The obligation of the RECIPIENT to repay the loan from the sources identified below and to perform and observe all other agreements and obligations on its part, contained herein, shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all the covenants, agreements, and attachments contained herein.

2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.

3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.

4. For Revenue-Secured: Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.

6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

If the RECIPIENT defeases or advance refunds the loan, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay both of the following:

(i) The Loan Amount with interest

(ii) Any other obligations of the RECIPIENT to ECOLOGY under this agreement, unless in its sole discretion ECOLOGY finds that repayment from those additional sources would not be in the public interest.

Failure to repay the Loan Amount plus interest within the time specified in ECOLOGY's notice to make such repayment shall incur Late Charges and shall be treated as a Loan Default.

7. Refinancing or Early Repayment of the Project. So long as ECOLOGY shall hold this loan, the RECIPIENT shall give ECOLOGY thirty days written notice if the RECIPIENT intends to refinance or make early repayment of the loan.

##### Method and Conditions on Repayments

1. Semiannual Payments. Notwithstanding any other provision of this agreement, the first semiannual payment of principal and interest on this loan shall be due and payable no later than one year after the project completion date or initiation of operation date, whichever comes first.

Thereafter, equal payments shall be due every six months.

If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington State agencies, the payment shall be due on the next business day for Washington State agencies.

Payments shall be mailed to:

Department of Ecology

Cashiering Unit

P.O. Box 47611

Olympia WA 98504-7611

In lieu of mailing payments, electronic fund transfers can be arranged by working with ECOLOGY's Financial Manager.

No change to the amount of the semiannual principal and interest payments shall be made without a mutually signed amendment

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to this agreement. The RECIPIENT shall continue to make semiannual payments based on this agreement until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended agreement.

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.

3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.

4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

#### K. Loan Security

Due Regard: For loans secured with a Revenue Obligation: The RECIPIENT shall exercise due regard for Maintenance and Operation Expense and the debt service requirements of the Senior Lien Obligations and any other outstanding obligations pledging the Gross Revenue of the Utility, and it has not obligated itself to set aside and pay into the loan Fund a greater amount of the Gross Revenue of the Utility than, in its judgment, shall be available over and above such Maintenance and Operation Expense and those debt service requirements.

Where collecting adequate gross utility revenue requires connecting additional users, the RECIPIENT shall require the sewer system connections necessary to meet debt obligations and expected operation and maintenance expenses.

Levy and Collection of Taxes (if used to secure the repayment of the loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of its electors on all of the taxable property within the boundaries of the RECIPIENT in an amount sufficient, together with other money legally available and to be used therefore, to pay when due the principal of and interest on the loan, and the full faith, credit and resources of the RECIPIENT are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

Not an Excess Indebtedness: For loans secured with a general obligation pledge or a general obligation pledge on special assessments: The RECIPIENT agrees that this agreement and the loan to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the Loan Fund and used to pay the principal of and interest on the loan.

L. Maintenance and Operation of a Funded Utility: The RECIPIENT shall, at all times, maintain and keep the funded Utility in good repair, working order, and condition.

M. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an "Opinion of Legal Counsel to the RECIPIENT" to ECOLOGY before this agreement will be signed. ECOLOGY will provide the form.

N. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for

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bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request.

O. Progress Reports: RECIPIENTS funded with State Revolving Fund Loan or Forgivable Principal shall include the following verification statement in the “General Comments” text box of each progress report.

“We verified that we are in compliance with all the requirements as outlined in our funding agreement(s) with the Department of Ecology. This includes but is not limited to:

- The Davis-Bacon Act, 29 CFR , prevailing wage requirements, certified weekly payroll, etc.
- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33
- The American Iron and Steel Act (Buy American)
- The Build America Buy America Act (BABA) (equivalency projects only)”

P. Representations and Warranties: The RECIPIENT represents and warrants to ECOLOGY as follows:

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct.

There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT, which has not been disclosed in writing to ECOLOGY.

Existence; Authority. It is a duly formed and legally existing municipal corporation or political subdivision of the state of Washington or a federally recognized Indian Tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this agreement and to undertake the project identified herein.

Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this loan agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the project or to repay the principal of or interest on the loan, have occurred since the date of this loan agreement. Any changes in the RECIPIENT’s financial condition shall be disclosed in writing to ECOLOGY by the RECIPIENT in its request for payment.

Q. Sale or Disposition of Funded Utility: The RECIPIENT shall not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities, or other part of the funded Utility or any real or personal property comprising a part of the funded Utility unless:

1. The facilities or property transferred are not material to the operation of the funded Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the funded Utility or are no longer necessary, material, or useful to the operation of the funded Utility; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the funded Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the funded Utility from the portion of the funded Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the ECOLOGY.

The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.

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R. Sewer-Use Ordinance or Resolution for Funded Wastewater Facility Projects: If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution. Such ordinance or resolution shall be submitted to ECOLOGY upon request.

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater into separated sewer systems.
- 3) Require that new sewers and connections be properly designed and constructed.

S. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient ECOLOGY or RECIPIENT funds.
2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

Procedures for Termination. If this loan agreement is terminated prior to project completion, ECOLOGY shall provide to the RECIPIENT a written notice of termination at least five working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the ECOLOGY shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the loan and all accrued interest (the "Termination Payment Date").

Termination and Default Remedies

No Further Payments. On and after the Termination Date, or in the event of a default event, ECOLOGY may, at its sole discretion, withdraw the loan and make no further payments under this agreement.

Repayment Demand. In response to an ECOLOGY initiated termination event, or in response to a loan default event, ECOLOGY may at its sole discretion demand that the RECIPIENT repay the outstanding balance of the Loan Amount and all accrued interest.

Interest after Repayment Demand. From the time that ECOLOGY demands repayment of funds, amounts owed by the RECIPIENT to ECOLOGY shall accrue additional interest at the rate of one percent per month, or fraction thereof.

Accelerate Repayments. In the event of a default, ECOLOGY may, in its sole discretion, declare the principal of and interest on the loan immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien Obligation upon the Net Revenue. That is, the loan is not subject to acceleration so long as any Senior Lien Obligations are outstanding.

Repayments not made immediately upon such acceleration will incur Late Charges.

Late Charges. All amounts due to ECOLOGY and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur late charges.

Intercept State Funds. In the event of a default event and in accordance with Chapter 90.50A.060 RCW, "Defaults," any state funds otherwise due to the RECIPIENT may, at ECOLOGY's sole discretion, be withheld and applied to the repayment of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings,

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maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due, or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this agreement.

Fees and Expenses. In any action to enforce the provisions of this agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) shall be awarded to the prevailing party as that term is defined in Chapter 4.84.330 RCW.

Damages. Notwithstanding ECOLOGY's exercise of any or all the termination or default remedies provided in this agreement, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and/or the state of Washington because of any breach of this agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

T. User-Charge System for Funded Utilities: The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and shall adopt a system of user-charges to assure that each user of the funded utility shall pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the project. The user-charge system will include provisions for a connection charge.

In addition, the RECIPIENT shall regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the funded utility, to establish reserves to pay for replacement, and to repay the loan.

## **GENERAL FEDERAL CONDITIONS**

**If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.**

### **A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:**

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

#### B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$30,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required Unique Entity Identifier in [www.sam.gov](http://www.sam.gov) <http://www.sam.gov> within 30 days of agreement signature. The FFATA information will be available to the public at [www.usaspending.gov](http://www.usaspending.gov) <http://www.usaspending.gov>.

For more details on FFATA requirements, see [www.fsrc.gov](http://www.fsrc.gov) <http://www.fsrc.gov>.

#### C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf) <https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or

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services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management \(SAM\)](https://sam.gov/SAM/) <<https://sam.gov/SAM/>> exclusion list.

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## GENERAL TERMS AND CONDITIONS

### Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

#### GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

07/01/2023 Version

#### 1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/2301002.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

#### 2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

#### 3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

#### 4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
  - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.
  - \* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.
  - For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).



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b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
- Make the IDP readily available to anyone working at the project site.
- Discuss the IDP with staff, volunteers, and contractors working at the project site.
- Implement the IDP when Cultural Resources or human remains are found at the project site.

c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

- Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.

d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.

e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

## 5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

## 6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

## 7. COMPENSATION

a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.

b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.

c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.

d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.

e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.

f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.

g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk.

To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).

h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.

i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and

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other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

#### 8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

#### 9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

#### 10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

#### 11. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review. The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such

Agreement No: WQC-2024-Spokane-00109  
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decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

## 12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at:

<http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at:

<https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

## 13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

## 14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

## 15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

Agreement No: WQC-2024-Spokane-00109  
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#### 16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

#### 17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

#### 18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

#### 19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

#### 20. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to

Agreement No: WQC-2024-Spokane-00109  
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ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.

- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

## 21. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
  - 1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
  - 2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

## 22. RECORDS, AUDITS, AND INSPECTIONS

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RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
  - b) Be kept in a common file to facilitate audits and inspections.
  - c) Clearly indicate total receipts and expenditures related to this Agreement.
  - d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.
- RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

#### 23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

#### 24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

#### 25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

#### 26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

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## 27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing,

<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

## 28. TERMINATION

### a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. 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.

**Failure to Commence Work.** ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

**Non-Performance.** The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

### b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. 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.

**Non-Allocation of Funds.** ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments.

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If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

29. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

30. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

End of General Terms and Conditions



**Continuation of Wording, Summary, and Distribution**

**Agenda Item Name:** 5300 SBO FOR STATE & LOCAL CYBER SECURITY GRANT PROG

**Agenda Wording** (630 character max)

**Summary (Background)** (497 character max)

The project will implement a system to validate the connected device's security posture, including its patch and signatures level. Systems not meeting the defined security posture will be quarantined to a network zone that only has access to the update server.

This project will provide security not currently available to the City of Spokane with our current systems.

**Fiscal Impact**

**Budget Account**

Select ▼ \$  #

Select ▼ \$  #

**Distribution List**

<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

**Save**

**Cancel**

**Agenda Sheet for City Council:****Committee:** PIES **Date:** 01/29/2024**Committee Agenda type:** Discussion**Date Rec'd**

1/18/2024

**Clerk's File #****Renews #****Cross Ref #****Council Meeting Date:** 02/12/2024**Submitting Dept**

INNOVATION &amp; TECHNOLOGY

**Project #****Contact Name/Phone**

MICHAEL 625-6468

**Bid #****Contact E-Mail**

MSLOON@SPOKANECITY.ORG

**Requisition #****Agenda Item Type**

Special Budget Ordinance

**Council Sponsor(s)**

JBINGLE MCATHCART

**Agenda Item Name**

5300 SBO FOR STATE &amp; LOCAL CYBER SECURITY GRANT PROGRAM (SLCGP)

**Agenda Wording**

The grant acceptance agenda is on the current agenda for January 29, 2024. An SBO is needed in order to provide 2024 budget authority for the grant.

**Summary (Background)**

SLCGP grant funding from Homeland Security/WA Military Department has been approved for the Implementation of Cisco Identity Services Engine (ISE). This project is the implementation of identity services, identity-based network access control and policy enforcement system, for the City of Spokane Network. This project will allow the network to automatically detect the connection of authorized and unauthorized devices.

Lease? NO

Grant related? YES

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? NO

Total Cost \$ 160,000

Current Year Cost \$ 160,000

Subsequent Year(s) Cost \$

**Narrative**

Dan Wordell will be the SME on this grant and is responsible for management and compliance with all grant requirements. This is a one-time grant that will be fully expended in 2024. There is no matching requirement on the grant.

**Amount****Budget Account**

Expense \$ 22,000

# 5300-97312-18850-54201-99999

Expense \$ 138,000

# 5300-97312-94180-56409-99999

Revenue \$ 160,000

# 5300-97312-99999-33397-99999

Select \$

#

Select \$

#

Select \$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

The project will implement a system to validate the connected device's security posture, including its patch and signatures level. Systems not meeting the defined security posture will be quarantined to a network zone that only has access to the update server. This project will provide security not currently available to the City of Spokane with our current systems.

**Approvals**

<b><u>Dept Head</u></b>	FINCH, ERIC
<b><u>Division Director</u></b>	FINCH, ERIC
<b><u>Accounting Manager</u></b>	BUSTOS, KIM
<b><u>Legal</u></b>	SCHOEDEL, ELIZABETH
<b><u>For the Mayor</u></b>	PICCOLO, MIKE

**Additional Approvals**

<b><u>MANAGEMENT &amp;</u></b>	STRATTON, JESSICA
<b><u>ACCOUNTING -</u></b>	MURRAY, MICHELLE

**Distribution List**

dwordell@spokanecity.org	Accounting - ywang@spokanecity.org
Contract Accounting - ddaniels@spokanecity.org	Legal - mharrington@spokanecity.org
Purchasing - cwahl@spokanecity.org	IT - itadmin@spokanecity.org
Tax & Licenses	

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	01/29/2024
<b>Submitting Department</b>	IT
<b>Contact Name</b>	Dan Wordell, 625-6456
<b>Contact Email &amp; Phone</b>	<a href="mailto:dwordell@spokanecity.org">dwordell@spokanecity.org</a>
<b>Council Sponsor(s)</b>	CM Bingle, M Cathcart
<b>Select Agenda Item Type</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion    Time Requested: 5 min
<b>Agenda Item Name</b>	SBO for State & Local Cyber Security Grant Program (SLCGP)
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>	<p>The grant acceptance agenda is on the current agenda for January 29, 2024. An SBO is needed in order to provide 2024 budget authority for the grant.</p> <p>*use the Fiscal Impact box below for relevant financial information</p> <p>SLCGP grant funding from Homeland Security/WA Military Department has been approved for the Implementation of Cisco Identity Services Engine (ISE). This project is the implementation of identity services, identity-based network access control and policy enforcement system, for the City of Spokane Network. This project will allow the network to automatically detect the connection of authorized and unauthorized devices.</p> <p>The project will implement a system to validate the connected device's security posture, including its patch and signatures level. Systems not meeting the defined security posture will be quarantined to a network zone that only has access to the update server.</p> <p>This project will provide security not currently available to the City of Spokane with our current systems.</p>
<b>Fiscal Impact</b>	
<b>Approved in current year budget?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Total Cost: <u>\$160,000</u> Current year cost: \$160,000 Subsequent year(s) cost:	
<b>Narrative:</b> <u>Dan Wordell will be the SME on this grant and is responsible for management and compliance with all grant requirements. This is a one-time grant that will be fully expended in 2024. There is no matching requirement on the grant.</u>	
<b>Funding Source</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A Specify funding source: Grant Is this funding source sustainable for future years, months, etc? N/A	
<b>Expense Occurrence</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A  Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
What impacts would the proposal have on historically excluded communities?	

Not applicable – IT Related, Data Security

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

Not applicable – IT Related, Data Security

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Not applicable – IT Related, Data Security

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

Not applicable – IT Related, Data Security

ORDINANCE NO \_\_\_\_\_

An ordinance amending Ordinance No. C36467, passed by the City Council November 27, 2023, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2024, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2024, and providing it shall take effect immediately upon passage," and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2024 budget Ordinance No. C36467, as above entitled, and which passed the City Council November 27, 2023, it is necessary to make changes in the appropriations of the Management Information Systems (IT) fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

WHEREAS, this ordinance has been on file in the City Clerk's Office for five days; - Now, Therefore,

The City of Spokane does ordain:

Section 1. That in the budget of the Management Information Systems (IT) fund, and the budget annexed thereto with reference to the Fund, the following changes be made:

- 1) Increase revenue by \$160,000.
  - A) Of the increased revenue, \$160,000 is provided solely for receipt of award from State and Local Cybersecurity Grant Program.
- 2) Increase appropriation by \$160,000.
  - A) Of the increased appropriation, \$22,000 is provided solely for contractual services.
  - B) Of the increased appropriation, \$138,000 is provided solely for capitalized computers and microprocessing equipment.

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to take receipt of the State and Local Cybersecurity Grant award and execute the award as intended, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

Passed by the City Council on \_\_\_\_\_

\_\_\_\_\_  
Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date

## Committee Agenda Sheet

### Finance & Administration Committee

<b>Committee Date</b>	2/26
<b>Submitting Department</b>	Accounting and Grants
<b>Contact Name</b>	Michelle Murray
<b>Contact Email &amp; Phone</b>	mmurray@spokane.org
<b>Council Sponsor(s)</b>	<u>CP Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Northeast Community Center ARPA Capital
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	On August 1, 2022 per Ordinance C36246 item A, City council allocated \$ 500,000 dollars to the Northeast Community Center purely for the renovation of the former Northeast Library Branch located at 405 N Cook, Spokane, WA. The renovations were properly procured for construction of a Youth Behavior Center and construction is complete. We are seeking your approval to officially contract with the Organization to fund \$500,000 towards construction of their facility.
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$ 500,000</u></p> <p style="padding-left: 40px;">Current year cost: \$500,000</p> <p style="padding-left: 40px;">Subsequent year(s) cost: \$ 0</p> <p><b>Narrative:</b> <u>This is a sub-recipient award for \$500,000 to The Northeast Community Center for renovation of their Northeast Library Branch to which they build a Youth Behavioral Health Facility.</u></p> <p><b>Funding Source</b>    <input checked="" type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Grant</p> <p>Is this funding source sustainable for future years, months, etc? N/A</p> <p><b>Expense Occurrence</b>    <input checked="" type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: None</p>	
<b>Operations Impacts</b> (If N/A, please give a brief description as to why)	
What impacts would the proposal have on historically excluded communities? N/A	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? N/A	

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? The city will monitor progress payments made to the contractor through the applications for payment from the sub-recipient.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This aligns with the Ordinance C36246 that was passed on August 1, 2022 allocating funds to provide funds for the renovation of the Northeast Library Branch.





**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd**

12/18/2023

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

**Submitting Dept**

WASTEWATER MANAGEMENT

**Project #**

**Contact Name/Phone**

FRED BROWN 625-6307

**Bid #**

IPWQ 6029-23

**Contact E-Mail**

FBROWN@SPOKANECITY.ORG

**Requisition #**

RE 20359

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

4320-CONSENT TO AWARD STAIRS AND RAILING CONTRACT TO BLACKWATER

**Agenda Wording**

Consent to award IPWQ 6029-23 Stairs and Railing Contract to Blackwater Industries for a total cost of \$142,773.72 plus applicable taxes.

**Summary (Background)**

IPWQ 6029-23 was issued to procure stairs and a railing for the warehouse facility. Blackwater Industries was selected as the most responsive and responsible lowest cost BID. The roofing for the warehouse facility leaks and in order to safely replace the roof, we need to install safety improvement measures with stairs and a railing.

Lease? NO Grant related? NO Public Works? YES

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ \$142,773.72

Current Year Cost \$ \$142,773.72

Subsequent Year(s) Cost \$

**Narrative**

Wastewater Management Capital Program - funding was scheduled for 2023 as the roofing for this facility leaks; leaks would continue or worsen. Safety improvements are needed by replacing ladder with stairs.

**Amount**

**Budget Account**

Expense \$ 142,773.72

# 4320.43290.35148.54801.10114

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

<b><u>Dept Head</u></b>	GENNETT, RAYLENE
<b><u>Division Director</u></b>	FEIST, MARLENE
<b><u>Accounting Manager</u></b>	ALBIN-MOORE, ANGELA
<b><u>Legal</u></b>	HARRINGTON,
<b><u>For the Mayor</u></b>	JONES, GARRETT

**Additional Approvals**

<b><u>PURCHASING</u></b>	NECHANICKY, JASON

**Distribution List**

Jack Gillette jack@blackwater-industries.com	hbarnhart@spokanecity.org
kkeck@spokanecity.org	mmurray@spokanecity.org
Tax & Licenses	rrinderle@spokanecity.org
fbrown@spokanecity.org	cpeterschmidt@spokanecity.org
rpwrfaccounting@spokanecity.org	

## Committee Agenda Sheet

### Finance & Administration Committee

<b>Committee Date</b>	January 22 <sup>nd</sup> , 2024
<b>Submitting Department</b>	Wastewater Management/RPWRP
<b>Contact Name</b>	Fred Brown
<b>Contact Email &amp; Phone</b>	<a href="mailto:fbrown@spokanecity.org">fbrown@spokanecity.org</a> 509.625.6307
<b>Council Sponsor(s)</b>	<u>CM Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Consent to award stairs and railing contract to Blackwater Industries
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>	<p>IPWQ 6029-23 was issued to procure stairs and a railing for the warehouse facility. Blackwater Industries was selected as the most responsive and responsible lowest cost BID.</p> <p>*use the Fiscal Impact box below for relevant financial information</p> <p>The roofing for the warehouse facility leaks and in order to safely replace the roof, we need to install safety improvement measures with stairs and a railing.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$142,773.77</u></p> <p>    Current year cost: \$142,773.77</p> <p>    Subsequent year(s) cost: N/A</p> <p><b>Narrative:</b> <u>Safety railing and stairs are needed prior to work beginning on approved roof replacement (ITB6010-23)</u></p> <p><b>Funding Source</b>    <input checked="" type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Program revenue</p> <p>Is this funding source sustainable for future years, months, etc? Current year cost</p> <p><b>Expense Occurrence</b>    <input checked="" type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
<p>What impacts would the proposal have on historically excluded communities?</p> <p>There will be no disproportionate impacts to historically excluded communities.</p>	
<p>How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?</p> <p>N/A: The proposed expenditure is for critical utility infrastructure and our NPDES permit.</p>	
<p>How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?</p> <p>N/A: The proposed expenditure is for critical utility infrastructure and our NPDES permit.</p>	

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?  
This proposal aligns with the City's Purchasing Policy.



**City of Spokane**

**PUBLIC WORKS AGREEMENT**

Title: **MAINTENANCE SHOP ROOF ACCESS  
STAIRS AND ROOF RAILING DESIGN,  
CONSTRUCTION DELIVERY AND INSTALLATION**

This Agreement is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **BLACKWATER INDUSTRIES, PLLC**, whose address is 338 Toledo Vader Road, Toledo, Washington 98591 as ("Contractor"), individually hereafter referenced as a "party", and together as the "parties".

WHEREAS, the purpose of this Contract is to provide Maintenance Shop Roof Access Stairs and Roof Railing Design, Construction Delivery and Installation at the Riverside Park Water Reclamation Facility; and

WHEREAS, the Contractor was selected through IPWQ 6029-23 issued by the City.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance of the Scope of Work contained herein, the City and Contractor mutually agree as follows:

**1. TERM OF CONTRACT.**

The term of this Contract begins on January 1, 2024, and ends on December 31, 2024, unless amended by written agreement or terminated earlier under the provisions.

**2. TIME OF BEGINNING AND COMPLETION.**

The Contractor shall begin the work outlined in the "Scope of Work" ("Work") on the beginning date, above. The City will acknowledge in writing when the Work is complete. Time limits established under this Contract shall not be extended because of delays for which the Contractor is responsible, but may be extended by the City, in writing, for the City's convenience or conditions beyond the Contractor's control.

**3. SCOPE OF WORK.**

The Contractor's General Scope of Work for this Contract is described in their Bid Response, which is attached as Exhibit B. In the event of a conflict or discrepancy in the Contract documents, this City Public Works Contract controls. The Contractor will do all work, furnish all labor, materials, tools, construction equipment, transportation, supplies, supervision, organization and other items of work and costs necessary for the proper execution and completion of the work described in the specifications entitled **Maintenance Shop Roof Access Stairs and Roof Railing Design, Construction Delivery and Installation at the**

**Riverside Park Water Reclamation Facility** and the associated Scope of Work and the specifications referenced therein.

The Work is subject to City review and approval. The Contractor shall confer with the City periodically, and prepare and present information and materials (e.g., detailed outline of completed Work) requested by the City to determine the adequacy of the Work or Contractor's progress.

#### **4. COMPENSATION / PAYMENT.**

Total compensation for Contractor's services under this Contract shall be a maximum amount not to exceed **ONE HUNDRED FORTY-TWO THOUSAND SEVEN HUNDRED SEVENTY-THREE AND 72/100 DOLLARS (\$142,773.77)**, plus applicable sales tax, unless modified by a written amendment to this Contract. This is the maximum amount to be paid under this Contract for the work described in Section 3 above and shall not be exceeded without the prior written authorization of the City in the form of an executed amendment to this Contract.

The Contractor will send its applications for payment to the Riverside Park Water Reclamation Facility, 4401 North Aubrey L. White Parkway, Spokane, Washington 99205-3939. All invoices should include the City Clerk File No. "OPR XXXX-XXXX" and an approved L & I Intent to Pay Prevailing Wage number. The final invoice should include an approved Affidavit of Wages Paid number. Payment will not be made without this documentation included on the invoice.

**Payment will be made via direct deposit/ACH** within thirty (30) days after receipt of the Company's application except as provided by state law. Five percent (5%) of the Contract price may be retained by the City, in accord with RCW 60.28 for a minimum of forty five (45) days after final acceptance, as a trust fund for the protection and payment of: the claims of any person arising under the Contract; and the State with respect to taxes imposed pursuant to Titles 50, 51 and 82 RCW which may be due from the Contractor.

#### **5. CONTRACT DOCUMENTS.**

The contract documents are this Contract, the Contractor's completed bid proposal form, contract provisions, contract plans, standard specifications, standard plans, addenda, various certifications and affidavits, supplemental agreements, change orders, and subsurface boring logs (if any). Federal and state requirements and the terms of this Contract, respectively, supersede other inconsistent provisions. These contract documents are on file in the Riverside Park Water Reclamation Facility, and are incorporated into this Contract by reference, as if they were set forth at length.

#### **6. STATEMENT OF INTENT TO PAY PREVAILING WAGES TO BE POSTED.**

The Contractor and each subcontractor required to pay the prevailing rate of wages shall post in a location readily visible at the job site: (1) a copy of a "Statement of Intent to Pay Prevailing Wages" approved by the industrial statistician of the Washington State Department of Labor and Industries (L & I); and (2) the address and telephone number of the industrial statistician of the Department of Labor and Industries where a complaint or inquiry concerning prevailing wages may be made.

#### **7. STATE PREVAILING WAGES.**

The Contractor and all subcontractors will submit a "Statement of Intent to Pay Prevailing Wages" certified by the industrial statistician of the Department of Labor and Industries, prior to any payments. The "Statement of Intent to Pay Prevailing Wages" shall include: (1) the

Contractor's registration number; and (2) the prevailing wages under RCW 39.12.020 and the number of workers in each classification. Each voucher claim submitted by the Contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the "Statement(s) of Intent to Pay Prevailing Wages" on file with the City. Prior to the payment of funds held under RCW 60.28, the Contractor and subcontractors must submit an "Affidavit of Wages Paid" certified by the industrial statistician.

#### **8. BONDS.**

The Contractor may not commence work until it obtains all insurance, permits and bonds required by the contract documents and applicable law. This includes the execution of a payment/performance bond on the form attached, equal to one hundred percent (100%) of the contract price, and written by a corporate surety company licensed to do business in Washington State.

#### **9. PUBLIC WORKS REQUIREMENTS.**

The Contractor and each subcontractor are required to fulfill the Department of Labor and Industries Public Works and Prevailing Wage Training Requirement under RCW 39.04.350. The contractor must verify responsibility criteria for each first-tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify the responsibility criteria listed in RCW 39.04.350(1) for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria. This verification requirement, as well as responsibility criteria, must be included in every public works contract and subcontract of every tier.

#### **10. TAXES, FEES AND LICENSES.**

- A. Contractor shall pay and maintain in current status, all necessary licenses, fees, assessments, permit charges, etc. necessary to conduct the work included under this Contract. It is the Contractor's sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.
- B. The cost of any permits, licenses, fees, etc. arising as a result of the projects included in this Contract shall be included in the project budgets.

#### **11. CITY OF SPOKANE BUSINESS LICENSE.**

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Contractor shall be responsible for contacting the State of Washington Business License Services at [www.dor.wa.gov](http://www.dor.wa.gov) or 360-705-6741 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

#### **12. SOCIAL EQUITY REQUIREMENTS / NON-DISCRIMINATION.**

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Contractor agrees to comply with, and to require that all subcontractors comply with, federal, state and local nondiscrimination laws,

including but not limited to: the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination in Employment Act, and the American's With Disabilities Act, to the extent those laws are applicable.

### **13. DEBARMENT AND SUSPENSION.**

The Contractor has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

### **14. INDEMNIFICATION.**

The Contractor agrees to defend, indemnify and hold the City harmless from any and all claims, demands, losses and liabilities to or by third parties arising from, resulting from or connected with Work performed or to be performed under this Contract by Contractor, its agents or employees to the fullest extent permitted by law. Contractor's duty to indemnify the City shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City, its agents or employees.

Contractor's duty to indemnify the City for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City or its agents or employees, and (b) Contractor or agents or employees, shall apply only to the extent of negligence of the Contractor or its agents or employees. Contractor's duty to defend, indemnify and hold the City harmless shall include, as to all claims, demands, losses and liability to which it applies, the City's personnel related costs, reasonable attorneys' fees, court costs and all other claim related expenses. The Contractor specifically assumes potential liability for actions brought by the Contractor's own employees against the City and, solely for the purpose of this indemnification and defense, the Contractor specifically waives any immunity under the state industrial insurance law, or Title 51 RCW. The Contractor recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnification provided for in this section shall survive any termination or expiration of this Contract.

### **15. INSURANCE.**

During the period of the Contract, the Contractor shall maintain in force at its own expense, each insurance noted below with companies or through sources approved by the State Insurance Commissioner pursuant to RCW 48:

A. **Worker's Compensation Insurance** in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;

B. **General Liability Insurance** on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Contractor's services to be provided under this Contract;

- i. Acceptable **supplementary Umbrella insurance** coverage combined with Company's General Liability insurance policy must be a minimum of \$1,500,000, in order to meet the insurance coverage limits required in this Contract; and



C. **Automobile Liability Insurance** with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles; and

D. **Property Insurance** if materials and supplies are furnished by the Contractor. The amount of the insurance coverage shall be the value of the materials and supplies of the completed value of improvement. Hazard or XCU (explosion, collapse, underground) insurance should be provided if any hazard exists.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Consultant or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, the Consultant shall furnish acceptable Certificates Of Insurance (COI) to the City at the time it returns this signed Agreement. The certificate shall specify the City of Spokane as "Additional Insured" specifically for Consultant's services under this Agreement, as well as all of the parties who are additional insureds, and include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

#### **16. SUBCONTRACTOR RESPONSIBILITY.**

- A. The Contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350. The responsibility criteria are listed in the request for bids document. The Contractor shall include the language of this section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. Upon request of the City, the Contractor shall promptly provide documentation to the City demonstrating that the subcontractor meets the subcontractor responsibility criteria below. The requirements of this section apply to all subcontractors regardless of tier.
- B. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:
1. Have a current certificate of registration in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;
  2. Have a current Washington Unified Business Identifier (UBI) number;
  3. If applicable, have:
    - a. Have Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW;
    - b. A Washington Employment Security Department number, as required in Title 50 RCW;
    - c. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;

- d. An electrical contractor license, if required by Chapter 19.28 RCW;
  - e. An elevator contractor license, if required by Chapter 70.87 RCW.
4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

#### **17. INDEPENDENT CONTRACTOR.**

The Contractor is an independent Contractor. This Contract does not intend the Contractor to act as a City employee. The City has neither direct nor immediate control over the Contractor nor the right to control the manner or means by which the Contractor works. Neither the Contractor nor any Contractor employee shall be an employee of the City. This Contract prohibits the Contractor to act as an agent or legal representative of the City. The Contractor is not granted express or implied rights or authority to assume or create any obligation or responsibility for or in the name of the City, or to bind the City. The City is not liable for or obligated to pay sick leave, vacation pay, or any other benefit of employment, nor to pay social security or other tax that may arise from employment. The Contractor shall pay all income and other taxes as due.

#### **18. ASSIGNMENT AND SUBCONTRACTING.**

The Contractor shall not assign or subcontract its obligations under this Contract without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by the Contractor shall incorporate by reference this Contract, except as otherwise provided. The Contractor shall ensure that all subcontractors comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release the Contractor from liability or any obligation within this Contract, whether before or after City consent, assignment or subcontract.

#### **19. TERMINATION.**

Either party may terminate this Contract, with or without cause, by ten (10) days written notice to the other party. In the event of such termination, the City shall pay the Contractor for all work previously authorized and performed prior to the termination date.

#### **20. STANDARD OF PERFORMANCE.**

The standard of performance applicable to Contractor's services will be the degree of skill and diligence normally employed by professional contractors in the region performing the same or similar Contracting services at the time the work under this Contract are performed.

#### **21. ANTI KICK-BACK.**

No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in the Contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in this Contract.

#### **22. CONSTRUAL.**

The Contractor acknowledges receipt of a copy of the Contract documents and agrees to comply with them. The silence or omission in the Contract documents concerning any detail required for the proper execution and completion of the work means that only the best general practice is to prevail and that only material and workmanship of the best quality are to be used. This Contract shall be construed neither in favor of nor against either party.

### **23. CONTRACTOR'S ACKNOWLEDGEMENT AND WARRANTY.**

The Contractor acknowledges that it has visited the site of the work, has examined it, and is qualified to perform the work required by this Contract. The Contractor guarantees and warranties all work, labor and materials under this Contract shall be in accord with the Contract documents. If any unsatisfactory condition or defect develops within that time, the Contractor will immediately place the work in a condition satisfactory to the City and repair all damage caused by the condition or defect. The Contractor will repair or restore to the City's satisfaction, in accordance with the contract documents and at its expense, all property damaged by his performance under this Contract. This warranty is in addition to any manufacturers' or other warranty in the Contract documents.

### **24. MISCELLANEOUS PROVISIONS.**

- A. **Amendments/Modifications:** The City may modify this Contract and order changes in the work whenever necessary or advisable. The Contractor will accept modifications when ordered in writing by the City, and the Contract time and compensation will be adjusted accordingly.
- B. The Contractor, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers.
- C. This Contract shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in a court of competent jurisdiction, located in Spokane County, Washington.
- D. **Captions:** The titles of sections or subsections are for convenience only and do not define or limit the contents.
- E. **Severability:** If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- F. **Waiver:** No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Contractor after the time the same shall have become due nor payment to the Contractor for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- G. **Entire Agreement:** This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Contractor. If conflict occurs between Contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Contract to afford the City the maximum benefits.
- H. **No personal liability:** No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made or in any connection with this Contract.
- I. Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act* [PRA]) all materials received or created by the City of Spokane in connection with this Agreement are **public records** and are available to the public for viewing via the City Clerk's Records (online) or a valid Public Records Request (PRR).

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Contract by having legally-binding representatives affix their signatures below.

**BLACKWATER INDUSTRIES, PLLC**

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature Date

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title  
Attest:

\_\_\_\_\_  
Title  
Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

**Attachments that are part of this Agreement:**

- Exhibit A – Debarment Certification
- Payment/Performance Bond
- Exhibit B - Contractor's Bid Response

**EXHIBIT A**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its actual knowledge and belief, that its officers and directors:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
  - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
  - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.

2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.

4. I understand that a false statement of this certification may be grounds for termination of the contract.

<hr/> <p>Name of Subrecipient / Contractor / Consultant (Type or Print)</p>	<hr/> <p>Program Title (Type or Print)</p>
<hr/> <p>Name of Certifying Official (Type or Print)</p>	<hr/> <p>Signature</p>
<hr/> <p>Title of Certifying Official (Type or Print)</p>	<hr/> <p>Date (Type or Print)</p>

**PAYMENT / PERFORMANCE BOND**

We, BLACKWATER INDUSTRIES, PLLC, as principal, and \_\_\_\_\_,  
as Surety, are held and firmly bound to the City of Spokane, Washington, in the sum of **ONE HUNDRED FORTY-TWO THOUSAND SEVEN HUNDRED SEVENTY-THREE AND 72/100 DOLLARS (\$142,773.77)**, for the payment of which, we bind ourselves and our legal representatives and successors, jointly and severally by this document.

The principal has entered into a contract with the City of Spokane, Washington, to do all work and furnish all materials for the Maintenance Shop Roof Access Stairs and Roof Railing Design, Construction Delivery and Installation at the Riverside Park Water Reclamation Facility. If the principal shall:

- A. promptly and faithfully perform the Contract and any contractual guaranty, and indemnify and hold harmless the City from all loss, damage, or claim which may result from any act or omission of the principal, its agents, employees, or subcontractors; and
- B. comply with all federal, state and local laws and regulations; and
- C. pay all laborers, mechanics, subcontractors, material suppliers and all person(s) who shall supply such person or subcontractors, and pay all taxes and contributions, increases and penalties as authorized by law;

then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation. Any judgment obtained against the City, which relates to or is covered by the contract or this bond, shall be conclusive against the principal and the Surety, as to the amount of damages, and liability, if reasonable notice of the suit has been given.

SIGNED AND SEALED on \_\_\_\_\_.

BLACKWATER INDUSTRIES, PLLC,  
AS PRINCIPAL

By: \_\_\_\_\_  
Title: \_\_\_\_\_

A valid POWER OF ATTORNEY  
for the Surety's agent must  
accompany this bond.

\_\_\_\_\_  
AS SURETY

By: \_\_\_\_\_  
Its Attorney in Fact

STATE OF WASHINGTON        )  
  ) ss.  
County of \_\_\_\_\_)

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
\_\_\_\_\_ signed this document; on oath stated that he/she was  
authorized to sign the document and acknowledged it as the agent or representative of the  
named surety company which is authorized to do business in the State of Washington, for  
the uses and purposes therein mentioned.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public

My appointment expires \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney

## EXHIBIT B





CITY OF SPOKANE  
Nelson Center  
Purchasing  
PHONE 509 625 6527

**IPWQ 6029-23 (Re-Bid) Maintenance Shop Roof Access Stairs and Roof Railing - Design, Construction, Delivery, and Installation  
- Install Public Works**

<b>VENDOR</b>	<b>Blackwater Industries</b>	<b>Aalbu Brothers</b>
Item	Bid Price	Bid Price
Stair System Complete, Total Lump Sum.	\$132,090.01	\$186,000.00
Rail System Complete, Total Lump Sum.	\$10,683.71	\$25,000.00
Subtotal	\$142,773.72	\$211,000.00
Tax 9%	\$12,849.63	\$18,990.00
<b>Extended Total</b>	<b>\$155,623.35</b>	<b>\$229,990.00</b>

**Bid Response Summary**

**Bid Number** IPWQ 6029-23 (Re-Bid)  
**Bid Title** Maintenance Shop Roof Access Stairs and Roof Railing - Design, Construction, Delivery, and Installation – Install Public Works  
**Due Date** Friday, December 8, 2023 9:00:00 AM [(UTC-08:00) Pacific Time (US & Canada)]  
**Bid Status** Open for Bidding  
**Company** 1130jackg@gmail.com  
**Submitted By** 1130jackg@gmail.com 1130jackg@gmail.com - Thursday, December 7, 2023 12:05:59 PM [(UTC-08:00) Pacific Time (US & Canada)]  
 1130jackg@gmail.com

**Comments**

**Question Responses**

Group	Reference Number	Question	Response
PRE-BID MEETING - OPTIONAL			
	1. OPTIONAL Pre Bid Site Visit	Optional pre-bid conference and walk through will be held on Tuesday, November 28, 2023, at 10:00AM. The location will be at the Riverside Park Water Reclamation Facility (RPWRF) Department Lobby, 4401 N Aubrey L. White Pkwy, Spokane, WA 99205	I acknowledge and I understand
SECTION I. QUOTE PREPARATION AND EVALUATION			
	1. QUOTE PREPARATION	Quotes shall be prepared electronically through the City's ProcureWare site.	I acknowledge and agree
	2. SUBMISSION OF QUOTES	Quotes shall be submitted electronically through the City's ProcureWare site by FRIDAY, DECEMBER 8, 2023, 9:00 AM.	I acknowledge and agree
	3. CONTRACTOR'S REPRESENTATIONS	The Contractor by making its Quote represents that it has read and understands the specifications; and has visited the site and familiarized itself with the local conditions under which the Work is to be performed.	I acknowledge and agree
	4. GENERAL CONDITIONS	Contractor acknowledges that they have read and understand the General Conditions Document in the "Documents" tab.	I acknowledge and I understand
	5. QUALIFICATION	Prior to the award of contract, the Contractor shall be required to submit evidence of sufficient facilities, equipment, experience and financial ability to ensure completion of the Work, unless waived by the City.	I acknowledge and agree
	5.1 QUALIFICATION	Supplemental Bidder Responsibility. Bidder must meet the mandatory bidder responsibility criteria called out in City of Spokane Supplemental Bidder Responsibility Criteria Form to be considered a responsible bidder.	I acknowledge and I understand
	5.1.1 QUALIFICATION	Supplemental Bidder Responsibility Criteria Bidders can Download "Supplemental Bidder Responsibility Criteria Form With Work Experience Form" From The Bids Documents Tab, Complete And Upload Here.	City of Spokane (2).pdf
	5.1.2 QUALIFICATION	Supplemental Bidder Responsibility Criteria After bid opening and prior to award, the apparent low bidder, or contacted bidders, shall complete, sign and submit this form with attached documentation within twenty four (24) hours of notification.	I acknowledge and I understand
	5.1.3 QUALIFICATION	Bidder acknowledges that they have reviewed Bidder Responsibility Criteria (Supplemental) that is located the Documents Tab, and acknowledges that bidders must meet criteria to be considered a responsible bidder.	I acknowledge and I understand
	6. AWARD OF CONTRACT	Award of contract, when made by the City, will be to the low responsive-responsible contractor. Unsuccessful firms will not automatically be notified of results.	I acknowledge and agree
	6.1 CONTRACT	The contract that is awarded from this IPWQ would be valid through June 1, 2024.	2024
	7. PAYMENT	Payment will be made via direct deposit/ACH after receipt of the Contractor's application except as provided by state law. If the City objects to all or any portion of the invoice, it shall notify the Contractor and reserves the right to only pay that portion of the invoice not in dispute. In that event, the parties shall immediately make every effort to settle the disputed amount.	I acknowledge and agree

8. INVOICING	Invoices must be submitted to the Riverside Park Water Reclamation Facility. •Invoices shall reference and list OPR #202X-XXXX and approved Intent to Pay Prevailing Wage Number. • Payment of invoices shall be contingent upon receipt of sufficient detail to permit identification of the services performed and compliance with contract conditions. Original invoices are required and shall not be approved for payment until all services per request have been satisfactorily performed. Invoices shall be emailed to HBarnhart@spokanecity.org or mailed to Riverside Park Water Reclamation Facility, Attn: Warehouse Manager-Barnhart, 4401 N Aubrey L. White Pkwy, Spokane, WA 99205.	I acknowledge and I understand
9. REJECTION OF QUOTES	The City reserves the right to reject any or all Quotes, to waive minor deviations from the specifications, to waive minor informalities in the Quote process whenever it is in the City's best interest, and to accept or reject all or part of this Request for Quotes, at the prices shown.	I acknowledge and agree
10. REGISTERED "and" LICENSED CONTRACTOR	The Contractor shall be a Washington State registered "and" licensed Contractor at time of Quote submittal.	I acknowledge and agree
11. PUBLIC WORK REQUIREMENTS	The scope of work ("Install") for this Project constitutes a public work under state law. Contractors are warned to take into consideration statutory legal requirements, particularly, the payment of State prevailing wages, securing of a payment/performance bond from a Surety, and sales tax implications in making their Bids. As of July 1, 2019, contractors must have fulfilled the Department of Labor and Industries' Public Works and Prevailing Wage Training Requirement before bidding and/or performing work on public works projects under RCW 39.04.350 and RCW 39.06.020.	I acknowledge and agree
12. CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES	Before award of a Public works contract, the bidder under consideration for award of a public works project must submit to the public agency a sworn statement that they have not willfully violated wage payment laws within the past three years in order to be considered a responsible bidder. (See RCW 39.04.350 as modified by SSB 5301, Laws of 2017, ch. 258.). This form is titled "Certification of Compliance with Wage Payment Statutes". This form must be submitted upon request by City.	I acknowledge and agree
13. BUSINESS REGISTRATION REQUIREMENT	Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid business registration. The Vendor shall be responsible for contacting the State of Washington Business License Services at <a href="http://bls.dor.wa.gov">http://bls.dor.wa.gov</a> or 1-800-451-7985 to obtain a business registration. If the Vendor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.	I acknowledge and agree
14. PROPRIETARY INFORMATION/PUBLIC DISCLOSURE	All materials submitted to the City in response to this competitive procurement shall become the property of the City.	I acknowledge and I understand
14. PROPRIETARY INFORMATION/PUBLIC DISCLOSURE	All materials received by the City are public records and are subject to being released pursuant to a valid public records request. Washington state law mandates that all documents used, received, or produced by a governmental entity are presumptively public records, and there are few exemptions. RCW Ch. 41.56.	I acknowledge and I understand
14. PROPRIETARY INFORMATION/PUBLIC DISCLOSURE	When responding to this competitive procurement, please consider that what you submit will be a public record. If you believe that some part of your response constitutes legally protected proprietary information, you MUST submit those portions of your response as a separate part of your response, and you MUST label it as "PROPRIETARY INFORMATION." If a valid public records request is then received by the City for this information, you will be given notice and a 10-day opportunity to go to court to obtain an injunction to prevent the City from releasing this part of your response. If no injunction is obtained, the City is legally required to release the records.	I acknowledge and I understand
14. PROPRIETARY INFORMATION/PUBLIC DISCLOSURE	The City will neither look for nor honor any claims of "proprietary information" that are not within the separate part of your response.	I acknowledge and I understand

MISCELLANEOUS DOCUMENTATION UPLOAD	Upload any additional documentation here. You can only upload one document so if you have more than one page - combine them into one page before uploading.	Addendum 1 city of Spokane.pdf
SECTION II. GENERAL REQUIREMENTS		
1. PERFORMANCE	The Contractor will do all work, furnish all labor, materials, tools, construction equipment, transportation, supplies, supervision, permits, safety equipment, organization and other items of work and cost necessary for the proper execution and completion of the work described as Maintenance Shop Roof Access Stairs and Roof Railing - Design, Construction, Delivery, and Installation.	I acknowledge and I understand
2. ATTACHMENT	Bidder acknowledges is has reviewed Attachment 1, Area Photo of Stairs and Railing, located in the Documents tab.	I acknowledge and I understand
ATTACHMENT	Bidder acknowledges is has reviewed Drawing Mod-025, located in the Documents tab	I acknowledge and I understand
ATTACHMENT	Bidder acknowledges is has reviewed Drawing Mod-030, located in the Documents tab	I acknowledge and I understand
ATTACHMENT	Bidder acknowledges is has reviewed Photo 2, located in the Documents tab	I acknowledge and I understand
ATTACHMENT	Bidder acknowledges is has reviewed Photo 3, located in the Documents tab	I acknowledge and I understand
ATTACHMENT	Bidder acknowledges is has reviewed Photo 4, located in the Documents tab	I acknowledge and I understand
3. COMPLETION TIME	All Work under the contract shall be started within ten (10) days after receipt of the Notice to Proceed and completed before June 1, 2024.	I acknowledge and agree
4. SCOPE OF WORK - Background	Access for City staff to the roof of the Maintenance Shop Building needs to be improved. An external stairway is the preferred option to allow safe an efficient access. To provide a safe working area for City staff, a safety railing will be installed along a currently unprotected portion of the Maintenance Shop roof.	I acknowledge and agree
5. SCOPE OF WORK- Background	The City of Spokane Riverside Park Water Reclamation Facility (RPWRF) is requesting bids to construct Roof Access Stairs to the Maintenance Shop Building at the RPWRF. The work includes, but is not limited to, design, construction, and installation of access stairs from the ground to the roof level of the Maintenance Shop Building. Also included is the design, construction, and installation of safety railing along a portion of the same roof.	I acknowledge and agree
6. SCOPE OF WORK- Background	There is another separate project, under a separate contract, which will replace the roof membrane on the Maintenance Shop Building. This roof replacement work will be scheduled to occur after the stairs and railing project. Therefore construction activities for this stair and railing project must be completed by June 1, 2024. Bid prices need to reflect the anticipated completion date.	I acknowledge and agree
7. SCOPE OF WORK- Requirement	All work shall comply with the City of Spokane's 2018 General Special provisions for Private Contracts – available here: <a href="http://static.spokanecity.org/documents/business/designstandards/2018-general-special-provisions-for-private-contracts.pdf">http://static.spokanecity.org/documents/business/designstandards/2018-general-special-provisions-for-private-contracts.pdf</a> .	I acknowledge and agree
7.1 SCOPE OF WORK- Requirement - Attachment	Bidder acknowledges is has reviewed 2018 General Special Provisions, located in the Documents tab.	I acknowledge and agree
8. SCOPE OF WORK- Requirement	The Maintenance Shop Roof Access Stairs and Roof Railing shall be a turn-key system complete with design, construction, delivery, installation, and cleanup included. All equipment, materials, and labor necessary shall be included in the bid price.	I acknowledge and agree
8.1. SCOPE OF WORK- Requirement	All components of the stairs and railing systems shall be submitted by a Professional Engineer, employed by the Contractor, for review by the City. Design and construction shall meet all applicable Federal, State, and Local safety requirements.	I acknowledge and agree
8.2 SCOPE OF WORK- Requirement - Attachment	Bidder acknowledges is has reviewed Unit Price Bid Form located in the Documents tab	I acknowledge and agree
9. SCOPE OF WORK- SPECIFICATIONS.	The Stairs and Railing Contractor shall take full responsibility for the design, construction, and installation of the stair and railing systems.	I acknowledge and agree

10. SCOPE OF WORK-SPECIFICATIONS.	The height from the ground to the roof deck is approximately 26 feet. The footprint area on the ground for the stair system is approximately nine (9) feet by fourteen feet; with the long dimension parallel to the building wall. The stairs shall be free standing, but may be attached to the building for lateral stability. The building face is a bricked facade.	I acknowledge and agree
11. SCOPE OF WORK-SPECIFICATIONS.	The safety railing shall be approximately 70 feet long and mounted on top of the building parapet wall which is curved. The radius of the wall curve is approximately 28 feet. The wall cap shall be removed for the installation of the railing, and either modified to accommodate the railing and reinstalled, or fully replaced with a new cap designed around the railing.	I acknowledge and agree
12. SCOPE OF WORK-SPECIFICATIONS.	Structures shall be constructed of all aluminum. All fasteners shall be stainless steel. Railings and hand banisters shall be round tube in shape. Bare aluminum surfaces shall have a brush finish.	I acknowledge and agree
13. SCOPE OF WORK-SPECIFICATIONS.	All dimensions and measurements provided are approximate. Contractor shall be responsible for field verifying actual dimensions and distances. No price adjustment shall be made based on inaccurate measurements.	I acknowledge and agree
14. LIQUIDATED DAMAGES	If the Work is not completed within the stated completion time, the Contractor agrees to pay to the City liquidated damages in the amount \$500 for each and every calendar day the work remains uncompleted. Which is a reasonable forecast of the damages likely to occur if Works is unfinished by the completion date.	I acknowledge and agree
15. INTENT OF SPECIFICATIONS	The apparent silence or omission in the specifications as to any detail of the Work to be done or materials to be furnished means that the region's best general practice shall prevail, and that material and workmanship of the best quality shall be used. The specifications shall be interpreted on this basis.	I acknowledge and agree
16. WASHINGTON STATE RETAIL SALES TAX	A. GENERAL CONSTRUCTION. Retail sales tax, when applicable, will be paid as a separate item, and shall not be included in the Bid price. Sales tax shall be added on the amount due the Contractor and the Contractor shall be responsible for making payment to the State. The City reserves the right to claim an exemption authorized by law.	I acknowledge and agree
16. WASHINGTON STATE RETAIL SALES TAX	B. PUBLIC STREET IMPROVEMENTS. If the technical requirements in the specifications indicate that all or a portion of the Work is a "public street improvement" as defined by state law, the Contractor shall include all contractor-paid taxes, including use taxes on materials in its Bid price. The City will NOT pay retail sales tax as a separate item.	I acknowledge and agree
17. PERMITS	Contractor shall be responsible for all permits, signage, equipment, materials and labor, demolition, dust control, reinstallation of all fixtures as needed, and clean up to complete this work in accordance with industry standards governing this type of work.	I acknowledge and agree
18. GUARANTY	The Contractor guarantees all work, labor and materials for one (1) year following final acceptance of the Work. If any unsatisfactory condition or defect develops within that time, the Contractor shall immediately place the Work in a satisfactory condition, and further repair all damage caused by the condition or defect at its sole expense. This guarantee shall not apply all Work, which has been abused or neglected by the City.	I acknowledge and agree
19. SUBCONTRACTORS	The Contractor shall not award any portion of the Work to any subcontractor without the City's prior approval. The Contractor shall be fully responsible to the City for the acts, errors and omissions of its subcontractors. No contractual relationship shall be created between any subcontractor and the City.	I acknowledge and agree
20. INSURANCE	During the term of the Contract, ,the Contractor shall maintain in force at its own expense, the below insurance coverage(s):	I acknowledge and agree
20. INSURANCE	a. Worker's Compensation Insurance in compliance with RCW 51.12.020 which requires subject employers to provide worker's compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000.00.	I acknowledge and agree

<p>20. INSURANCE</p>	<p>b. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,000,000.00 for bodily injury and property damage. It shall include premises and operations, independent contractors, products and completed operations, personal injury liability, and contractual liability coverage for the indemnity provided under the contract. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Contractor's services to be provided under the contract; i. Acceptable supplementary Umbrella insurance coverage, combined with the Contractor's General Liability Insurance policy must be a minimum of \$1,500,000.00 in order to meet the insurance coverages required under this Contract;</p>	<p>I acknowledge and agree</p>
<p>20. INSURANCE</p>	<p>c. Property Insurance if materials and supplies are furnished by the Contractor. The amount of the insurance coverage shall be the value of the materials and supplies or the completed value of the improvement. Hazard or XCU (Explosion, Collapse, Underground) Insurance should be provided if any hazard exists; and</p>	<p>I acknowledge and agree</p>
<p>20. INSURANCE</p>	<p>d. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000.0 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.</p>	<p>I acknowledge and agree</p>
<p>20. INSURANCE</p>	<p>There shall be no cancellation, material change, reduction of limits or intent not to renew insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the City. The Contractor shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns the signed Contract. The certificate shall specify the City of Spokane as "additional insured", and all of the parties who are additional insured; as well as applicable policy endorsements and the deduction or retention level. Insuring companies or entities are subject to City acceptance.</p>	<p>I acknowledge and agree</p>
<p>21. PERFORMANCE BOND "and" PAYMENT BOND</p>	<p>The Contractor shall furnish, at its sole expense, a performance and payment bond equal to one hundred percent (100%) of the contract price. The bond shall insure faithful and complete performance of the contract and payment of all obligations to laborers and material men arising from the Project. The bond shall be executed by a Surety company authorized to do business in Washington State, and shall remain in effect for one (1) year following final acceptance of the work. Unless approved by the City, the Surety's name shall appear on the United States Treasury Department's list of authorized Sureties - Circular 570. On contracts of \$150,000.00 or less, in lieu of a surety bond, at the request of the Contractor, the City may retain ten percent (10%) of the contract price for a minimum of forty five (45) days following final acceptance, or until receipt of all releases and settlement of liens, whichever is later, in accord with RCW 39.08010.</p>	<p>I acknowledge and agree</p>
<p>22. PREVAILING WAGES - LOCAL AND STATE ASSISTED CONSTRUCTION.</p>	<p>A. The State prevailing rate of wages to be paid to all workmen, laborers or mechanics employed in the performance of any part of this Contract shall be in accordance with the provisions of RCW 39.12 and the rules and regulations of the Washington State Department of Labor and Industries (L&amp;I).</p>	<p>I acknowledge and I agree</p>
<p>22. PREVAILING WAGES - LOCAL AND STATE ASSISTED CONSTRUCTION.</p>	<p>B. The State of Washington prevailing wage rates applicable for this public works project, which is located in Spokane County, may be found at the following website address of the Department of Labor and Industries: <a href="https://lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/">https://lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/</a> Based on the Quote submittal deadline for this Project, the applicable effective date for State prevailing wages for this Project is DECEMBER 8, 2023.</p>	<p>I acknowledge and I agree</p>
<p>22. PREVAILING WAGES - LOCAL AND STATE ASSISTED CONSTRUCTION.</p>	<p>C. If apprentices are to be used, they must be registered with the State Apprenticeship Council; otherwise, they are to be paid State prevailing journeyman wages.</p>	<p>I acknowledge and I agree</p>
Empty row for the bottom of the table		

23. RETAINAGE	Pursuant to chapter 60.28 RCW, the City will retain five percent (5%) (or ten percent (10%) at Contractor's request) from the monies earned by the Contractor. This Retainage shall be held as a trust fund for the protection and payment: (1) to the State of taxes and fees owed by the Contractor; and (2) of any person, mechanic, subcontractor or material man who performs labor or furnishes any supplies toward the Work. Release of Retainage will be made at a minimum of forty five (45) days following final acceptance of Work; provided the following conditions are met:	I acknowledge and I agree
23. RETAINAGE	Pursuant to chapter 60.28 RCW, the City will retain five percent (5%) (or ten percent (10%) at Contractor's request) from the monies earned by the Contractor. This Retainage shall be held as a trust fund for the protection and payment: (1) to the State of taxes and fees owed by the Contractor; and (2) of any person, mechanic, subcontractor or material man who performs labor or furnishes any supplies toward the Work. Release of Retainage will be made at a minimum of forty five (45) days following final acceptance of Work; provided the following conditions are met:	I acknowledge and I agree
23. RETAINAGE	a. The City has received from the Contractor and each subcontractor a copy of the "Statement of Intent to Pay Prevailing Wages" and an "Affidavit of Wages Paid", approved by the State Department of Labor and Industries (L&I). b. On Contracts greater than \$35,000, the City has received releases from the State Departments of Revenue (DOR), Labor & Industries and Employment Security. c. No claims, as provided by law, have been filed against the retainage. In the event a claim is filed, the Contractor shall be paid a portion of the Retainage, which is less than the amount sufficient to pay the claim and potential legal costs.	I acknowledge and I agree
24. SUBCONTRACTORS	Fill out the Subcontractor List in the Documents tab and upload it here.	Subcontractor List under _1M_7_.pdf
BID		
BIDDER'S DECLARATION	The Bidder submitting this bid certifies that it has examined the site, read and understands the specifications for the above project, and agrees to comply with all applicable federal, state and local laws and regulations. The bidder is advised that by submitting this bid proposal it has acknowledged all bid requirements and certifications contained herein.	I acknowledge and I agree
BID	Download and Complete Bid Price Form located in the Documents tab and upload here, failure to upload the completed list may result in a non-responsive determination to this request.	IPWQ 6029-23 Bid Price Form _5_.pdf
BID PRICE IS COMPLETE	Bidder acknowledges that the bid price indicated on the Bid Price Form includes ALL expenses with regard to this project. No other costs will be allowed over and above the bid price.	I acknowledge and I agree
CONTRACTOR RESPONSIBILITY	Washington State Contractor's Registration Number	Blackl*798C3
CONTRACTOR RESPONSIBILITY	U.B.I. Number	604 673 873
CONTRACTOR RESPONSIBILITY	Washington Employment Security Department Number	000-511475-00-4
CONTRACTOR RESPONSIBILITY	Washington Excise Tax Registration Number	604 673 873
CONTRACTOR RESPONSIBILITY	City of Spokane Business Registration Number	0-036-971-503
CONTRACTOR RESPONSIBILITY	As of July 1, 2019, Contractor has fulfilled training requirements or is exempt from L&I's Public Works Training Requirement under RCW 39.04.350 and RCW 39.06.020	Yes
ADDENDA	Bidder acknowledges receipt of _____ addenda and agrees that their requirements have been included in this bid proposal.	Yes
MISCELLANEOUS	The firm agrees that its Bid will NOT be withdrawn for a minimum of sixty (60) calendar days after the stated submittal date.	I acknowledge and I agree
MISCELLANEOUS	For contracts up to \$150,000.00 including tax, the Contractor may request a 10 percent (10%) retainage in lieu of bond.	Yes
MISCELLANEOUS	If this project is less than \$150,000 - does contract request 10% retainage in lieu of bond?	No

MISCELLANEOUS	The bidder submitting this response hereby certifies that, within the three-year period immediately preceding the bid solicitation date for this Project, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48 or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgement entered by a court of limited or general jurisdiction. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.	I acknowledge and I agree
MISCELLANEOUS	Individual's Name, Company Name, Address, Email Address & Phone Number for individual/company submitting this bid response.	Jack Gillette Blackwater Industries 338 Toledo Vader Rd. Toledo WA 98591 jack@blackwater-industries.com 307-622-6012
MISCELLANEOUS	Provide the name, phone number, and email address for the person in your Company that would potentially sign a contract through the DocuSign process used by the City.	Jack Gillette (307)-622-6012 jack@blackwaterindustries.com
MISCELLANEOUS	The bid shall be accompanied by a copy of bid bond/bid security payable to the order of the City of Spokane, in an amount of not less than five percent (5%) of the total contract amount. Bid bonds must be by a surety company authorized to do business as a surety in Washington State. If the bidder is awarded the contract and fails to enter into a construction contract and/or furnish payment/performance bond(s) and proof of insurance within the required time period, the bid security shall be forfeited to the City of Spokane. Please upload your bid bond here or bid "will be" considered non-responsive. (blank form available under the 'Documents' tab).In addition to the bid deposit types included in this section, a bidder may have on file with the City Clerk an annual bid bond approved by the City Attorney.	spokane bid bond.pdf
TERMS AND CONDITIONS		
#1	Bidder accepts has read and acknowledges compliance with Terms and Conditions located in the Documents area of this project. If answer is "I do not acknowledge and I do not agree", include requested exception in proposal submittal on separate page and title as "Exception to Terms and Conditions". The City will consider and determine if exception will be accepted.	I acknowledge and I agree
#2	Describe exceptions to Terms and Conditions if you marked "I do not acknowledge and I do not agree" above.	



**Addendum 1**  
**11/29/2023**

**IPWQ 6029-23 (Re-bid)**

**Maintenance Shop Roof Access Stairs and Roof Railing - Design, Construction, Delivery, and Installation  
- Install Public Works**

Optional pre-bid conference and walk through was held on Tuesday, November 28, 2023, at 10:00 AM, at the Riverside Park Water Reclamation Facility, 4401 N Aubrey L. White Pkwy, Spokane, WA 99205.

It was reiterated that all communication between the Bidder and the City shall be via the "Clarification Tab" within ProcureWare. Any other communication will be considered unofficial and non-binding on the City; Clarification Deadline is 12/01/23, by 9:00 AM

This addendum addresses questions that were asked, and provides a copy of sign-in sheet.

The following questions were asked:

Question 1: What is the thickness of the maintenance shop wall?

Response: It is approximately 8" of concrete with a brick façade on the outside.

Question 2: What days are available for working?

Response: Monday thru Friday. Weekend work is available but must be coordinated in advance.

Question 3: What are the available working hours each day?

Response: 7:00 AM to 5:00 PM

Copy of Sign-In Sheet:

IPWQ 6029-23 (Re-Bid) Maintenance Shop Roof Access Stairs and Roof Railing - Design, Construction, Delivery, and Installation - Install Public Works			
OPTIONAL pre-bid conference and walk through, Tuesday, November 28, 2023, at 10:00AM. Held at the Riverside Park Water Reclamation Facility (RPWRF), 4401 N Aubrey L. White Pkwy, Spokane, WA 99205. This request was distributed through the City of Spokane's MRSC Small Works Roster. Only Contractors who received Bid Invite were listed on the MRSC Small Works Roster for categories similar to the scope of work for this project. Only Contractors currently on the MRSC Small Works Roster were included in this solicitation.			
<b>Public Agency Name:</b>	City of Spokane		
<b>Roster Type:</b>	Small Works Roster		
<b>Date:</b>	11/16/2023		
<b>Time:</b>	10:20 am		
<b>Main-Category:</b>	Facility Construction, Repair, and Maintenance		
<b>Sub-Category:</b>	Metal Fabrication, Roofing Construction, Repair, and Maintenance, Welding		
Contractor must be listed on the attached listing, or performing as a subcontractor.			
Company Name	Individual's Printed Name	Signature	Email address
Blackwater Ind.	Jack Gilette		Jack@blackwater-industries.com

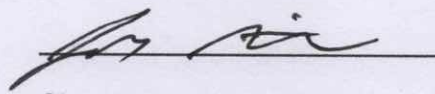
Rick Rinderle  
Procurement Specialist

PLEASE NOTE: A SIGNED COPY OF THIS ADDENDUM MUST BE SUBMITTED WITH YOUR BID, OR THE BID MAY BE CONSIDERED NON-RESPONSIVE.

The undersigned acknowledges receipt of this Addendum.

Blackwater Ind.

Company



Signature

Attachment to Supplemental Bidder Responsibility Criteria

Work Experience Form

Please complete one form per project and include the minimum number of projects (and forms) as requested. You may include any additional work experience you deem relevant in determining bidder responsibility. Please be sure to provide a thorough description of the work in order to demonstrate how your firm meets any required experience detailed in the specifications. You may attach additional documentation if needed.

**PROJECT DETAIL**

Bidder's Company Name <i>Blackwater Ind.</i>		Bidders Contact Name & Phone Number <i>Jack Gillette 307-622-6012</i>	
Project Name <i>Farm 4</i>		Project Contract Number <i>12212022</i>	
Project Owner <i>Port of Morrow</i>		Project Location <i>Boardman Wa.</i>	
Project Owner Contact Name & Title <i>Carmen Mendoza</i>		Owner's Telephone Number <i>541-481-7678</i>	
Notice to Proceed Date <i>12-28-22</i>	Final Completion Date <i>6-30-22</i>	Awarded Contract Value <i>542,724.00</i>	Final Contract Price <i>542,724.00</i>
Prime Contractor Name (If Not Bidder)		Contractor Contact Name & Phone Number (If Not Bidder)	
Brief Project Description <i>supply pipe spools to Port of Morrow</i>			
Brief Summary Of Technical Work Completed By Bidder, Including Any Relevant Details To Demonstrate Similar Experience And Any Required Experience Detailed In the Specifications <i>Project included, site visits, Detailing, shop drawings working with sub contractors on specialty coatings, complicated fabrication of pipe spools, approx 6700 weld inch.</i>			

Attachment to Supplemental Bidder Responsibility Criteria

## Work Experience Form

<p>Please complete one form per project and include the minimum number of projects (and forms) as requested. You may include any additional work experience you deem relevant in determining bidder responsibility. Please be sure to provide a thorough description of the work in order to demonstrate how your firm meets any required experience detailed in the specifications. You may attach additional documentation if needed.</p>			
<b>PROJECT DETAIL</b>			
Bidder's Company Name		Bidders Contact Name & Phone Number	
Blackwater Industries		Jack Gillette 307-622-6012	
Project Name		Project Contract Number	
Minto Island Platform		PO 00305A	
Project Owner		Project Location	
Synergy LLC		Salem, OR	
Project Owner Contact Name & Title		Owner's Telephone Number	
Kaylee Waldo		806-290-5350	
Notice to Proceed Date	Final Completion Date	Awarded Contract Value	Final Contract Price
12-12-2022	04-28-2023	\$15,589.19	\$15,589.19
Prime Contractor Name (If Not Bidder)		Contractor Contact Name & Phone Number (If Not Bidder)	
Summit Solutions		Todd Kangas 360-954-6142	
Brief Project Description			
Fabrication and delivery of cell tower generator stand			
Brief Summary Of Technical Work Completed By Bidder, Including Any Relevant Details To Demonstrate Similar Experience And Any Required Experience Detailed In the Specifications			
<p>Shop Fabrication of a 10'x10'x4' steel platform consisting of I beam, HSS, and angle. Attention to detail was critical due to field install by others in a remote location. Platform was fully fabricated and assembled in our shop prior to shipping. Platform was disassembled and palletized for shipping.</p>			

Attachment to Supplemental Bidder Responsibility Criteria

**Work Experience Form**

Please complete one form per project and include the minimum number of projects (and forms) as requested. You may include any additional work experience you deem relevant in determining bidder responsibility. Please be sure to provide a thorough description of the work in order to demonstrate how your firm meets any required experience detailed in the specifications. You may attach additional documentation if needed.

<b>PROJECT DETAIL</b>			
Bidder's Company Name  Blackwater Industries		Bidders Contact Name & Phone Number  Jack Gillette 307-622-6012	
Project Name  Apex Mechanical		Project Contract Number  2108 IDIQ FWS	
Project Owner  WDFW		Project Location  Washtucna, WA	
Project Owner Contact Name & Title  Ace Trump - OPS Manager		Owner's Telephone Number  509-646-9201	
Notice to Proceed Date  04-01-2021	Final Completion Date  07-30-2021	Awarded Contract Value  \$81,950.00	Final Contract Price  \$148,727.99
Prime Contractor Name (If Not Bidder)  Apex Mechanical		Contractor Contact Name & Phone Number (If Not Bidder)  John Muonio 360-852-1282	
Brief Project Description  Replace aluminum head tanks			
Brief Summary Of Technical Work Completed By Bidder, Including Any Relevant Details To Demonstrate Similar Experience And Any Required Experience Detailed In the Specifications  Shop fabrication of (4) 12'x12'x2' tanks. Approximately 23,000 pounds of aluminum required special detail, from shop and field fab, to install. The old tanks had to be removed and new ones installed with support legs and bracing. Cat walk had to be removed and new SS railing and FRP walkway installed. All work was performed on a shut down schedule. Hatchery stayed operational during the project.			

**Submit this page with your bid**

**IPWQ 6029-23, Maintenance Shop Roof Access Stairs and Roof Railing - Design, Construction, Delivery, and Installation – Install Public Works**

**Bid Form**

ITEM	BID PRICE
Stair System Complete, Total Lump Sum.	\$ 132,090.01
Rail System Complete, Total Lump Sum.	\$ 10,683.79
<b>Subtotal</b>	
Subtotal	\$ 142,773.80
Tax 9%	\$ 12,849.64
<b>Extended Total</b>	\$ 155,623.44



# City of Spokane, Washington

## Supplemental Bidder Responsibility Criteria

<p>After bid opening and prior to award, the apparent low bidder shall complete, sign and submit this form with attachments to the City (See instructions at the end of this form). The form shall be submitted within twenty four (24) hours after the notification, unless a different time and date is required by the specifications or otherwise mutually agreed upon.</p>	
<p><b>Project Name: Maintenance Shop Roof Access Stairs and Roof Railing - Design, Construction, Delivery, and Installation – Install Public Works</b></p>	
<p><b>Project # IPWQ 6029-23 (Re-Bid)</b></p>	
<p><b>Part A: General Company Information</b></p>	
<p>Company Name   Blackwater Industries PLLC</p>	
<p>Address               338 Toledo Vader Rd   Toledo WA 98591</p>	
<p>Contact Name and Title   Jack Gillette   Owner/CEO</p>	
<p>Contact Phone   307-622-6012</p>	<p>Contact E-mail   jack@blackwater-industries.com</p>
<p>Years in business as a Prime Contractor   3</p>	<p>Years in business as a sub-contractor   3</p>
<p>Years in business under present Name   3</p>	
<p>List any former company names under which the company, its owners, and/or its principals has operated in the past five (5) years   Red River LLC</p>	
<p>Explain reason for name change(s) in the past five (5) years   Sold ownership and opened Blackwater Industries</p>	
<p><b>Part B: Work Experience</b></p>	
<p>If the request for bids has project specific criteria, including work experience, list at least the requested number of construction projects completed within the required time frame on the attached Project Experience form which are similar in type, size and scope of work required for this project</p>	
<p><b>Part C: Performance Evaluation</b></p>	
<p>Under past or present names does the bidder have a history of receiving “deficient” or “inadequate” evaluations on two (2) or more contracts from the City or other municipalities or another governmental agency on a public works project within the last five (5) years?</p>	
<p><input type="checkbox"/> Yes   <input checked="" type="checkbox"/> No</p>	
<p>If “Yes” attach a separate, signed / dated statement listing the projects and an explanation.</p>	
<p><b>Part D: Record of Debarment / Disqualification</b></p>	
<p>Has the bidder (including the primary contractor, any firm with which any of the primary contractor’s owners, officers, or partners was associated) been debarred, disqualified, removed or has been otherwise prevented from bidding on, or completing any governmental agency or public works projects, including debarment by the federal, state or other municipal government during the last five (5) years?</p>	
<p><input type="checkbox"/> Yes   <input checked="" type="checkbox"/> No</p>	
<p>If “Yes”, attach a separate signed / dated statement listing any debarments, disqualifications, removal, etc. from any governmental public works project and the basis for the action.</p>	

<b>Part E: Safety</b>
In the last five (5) years, has the bidder received willful or repeat violations of safety or health regulations by the OSHA or other agencies responsible for safety oversight?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," attach a separate signed /dated statement describing each willful or repeat violation, including information about the dates and nature of the violations, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed and a decision has been issued, state the case number and the date of the decision.
<b>Part F: Environmental</b>
In the last five (5) years, has the bidder received serious citations from government environmental enforcement agencies on projects for which the bidder was the contractor?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," attach a separate signed / dated statement describing each serious citation, including information about the dates of the citations, the nature of the violation, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed and a decision has been issued, state the case number and the date of the decision.
<b>Part G. Utilization Requirements</b>
In the last five (5) years, has it been determined by a government agency that the bidder did not comply with disadvantaged business enterprises, apprenticeship or other similar utilization requirements on public works projects?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a separate signed / dated statement listing the violations or failures to meet utilization requirements along with a detailed explanation of the extenuating circumstances surrounding the violation and/or failure.
<b>Part H: Discrimination</b>
Has the bidder or any of its owners, officers or partners been found guilty of violating or failing to comply with discrimination laws in contracting, employment or provision of public services?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a separate signed / dated statement identifying the type of violation, who was involved, the name of the public agency, year of the investigation, the resolution in court or administrative process, and the grounds for the findings.
<b>Part I. Prevailing Wage</b>
In the last five (5) years, has the bidder received prevailing wage violations as determined by the applicable state or federal government agency monitoring prevailing and/or Davis Bacon wage compliance?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," attach a separate signed/dated statement listing the prevailing wage violations, along with an explanation of each violation and how it was resolved. The City shall evaluate these explanations and the resolution of each violation to determine whether the violations demonstrate a pattern of failure to pay prevailing wages to workers unless there are extenuating circumstances acceptable to the City.

<b>Part J: Public Bidding Crime (Criminal Convictions)</b>
Has the bidder been convicted of a crime involving bidding on a public works contract within the last five (5) years?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a separate signed / dated statement listing the dates of conviction(s), the offense(s) convicted of, the punishment, and a brief statement of the facts underlying the conviction(s)
<b>Part K. Claims Against Retainage and Bonds</b>
Does the bidder have a record of multiple claims filed against the retainage or payment bonds for public works projects during the previous three (3) years?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a separate signed / dated statement listing the claims filed against the retainage and/or payment bond for any completed public works projects and include for each project a written explanation of the circumstances surrounding the claim and the ultimate resolution of the claim. The City shall evaluate the statement to determine if it demonstrates a lack of effective management by the bidder of making timely and appropriate payments, unless there are extenuating circumstances acceptable to the City in its sole discretion.
<b>Part L. Termination for Cause</b>
Has the bidder had any public works contract terminated for cause by any government agency during the previous five (5) years?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a separate signed / dated statement listing each contract terminated, the government agency terminating the contract and the circumstances involving the termination for cause. The City will determine if there are extenuating circumstances acceptable to the City in its sole discretion.
<b>Part M: Litigation</b>
Has the bidder been involved in lawsuits (or arbitrations for those instances where arbitration is completed in lieu of a lawsuit) with judgments entered against the bidder for failure to meet terms on contracts in the previous five (5) years?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a list of lawsuits and/or arbitrations with judgments / arbitration awards entered against the bidder along with a written explanation of the circumstances surrounding each lawsuit and/or arbitration. The City will evaluate the explanations to determine whether the lawsuits and/or arbitrations demonstrate a pattern of failing to meeting terms of conditions of contracts, unless there are extenuating circumstances acceptable to the City in its sole discretion.
<b>Part N: Delinquent State Taxes</b>
Does the bidder owe delinquent taxes to the Washington State Department of Revenue without a payment plan approved by the Department before the date of contract award?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a separate signed / dated statement describing the circumstances and stating that the bidder is not on the Washington State Department of Revenue's "Delinquent Taxpayer List".



<b>Part O: Subcontractor Responsibility</b>	
Does the bidder's standard subcontract form include the subcontractor language required by RCW 39.06.020? Does the bidder have an established procedure which it uses to validate the responsibility of each of its subcontractor? Does the subcontract form require that each of the bidder's subcontractors have and document a similar procedure for sub-tier subcontractors?	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
If "Yes" or "No", provide a copy of its standard subcontract form and a copy of the procedures used to validate the responsibility of subcontractors.	
<b>Signature</b>	
The undersigned certifies and affirms that the bidder will comply with and notify its principles and subcontractors of the provisions of the Spokane Fair Elections Code, Chapter 01.07, SMC which is viewable at <a href="http://spokanecity.org">spokanecity.org</a> .	
The undersigned certifies that the information and data contained herein is correct and complete. Failure to disclose information or submitting false or misleading information may result in rejection of my bid, revocation of award, contract termination, or may impact my firm's ability to bid on future projects by the City of Spokane.	
<i>Jack Gillette</i>	11-30-2023
Signature of Authorized Representative	Date
Jack Gillette	Owner
Printed Name of Authorized Representative	Title

## Instructions for the Supplemental Bidder Responsibility Form

After bid opening and prior to award, the apparent low bidder shall complete, sign and submit this form with attached documentation to the City of Spokane Purchasing Section by one of the methods listed below within twenty four (24) hours of notification.

The City's evaluation may include further investigations to establish the responsibility, qualifications, financial resources and experience of a bidder to complete the work of this contract. The City may contact previous owners or others to validate the information provided by the bidder. The City will assess the information provided and other information gathered in determining whether a bidder is responsible. List all information you feel is relevant to the City making an informed decision. The City reserves the right to request additional information from the bidder.

For criteria with check boxes, the bidder will check either "Yes" or "No." For each "Yes" answer on the form, the Bidder shall provide a signed and dated statement providing the project information requested and explaining the extenuating circumstances.

### **Form Submittal:**

Submit this form to Rick [RRinderle@spokanecity.org](mailto:RRinderle@spokanecity.org)

with the Email Subject line: IPWQ 6029-23 Supplemental Bidder Form

Questions: Please call (509) 625-6527

Attachment to Supplemental Bidder Responsibility Criteria

Work Experience Form

<p>Please complete one form per project and include the minimum number of projects (and forms) as requested. You may include any additional work experience you deem relevant in determining bidder responsibility. Please be sure to provide a thorough description of the work in order to demonstrate how your firm meets any required experience detailed in the specifications. You may attach additional documentation if needed.</p>			
<b>PROJECT DETAIL</b>			
Bidder's Company Name		Bidders Contact Name & Phone Number	
Blackwater Industries		Jack Gillette 307-622-6012	
Project Name		Project Contract Number	
Farm 4		12212022	
Project Owner		Project Location	
WDFW Port of Morrow		Boardman, WA	
Project Owner Contact Name & Title		Owner's Telephone Number	
Carmen Mendoza		541-481-7678	
Notice to Proceed Date	Final Completion Date	Awarded Contract Value	Final Contract Price
12-28-2022	6-30-2022	\$542,724.00	\$542,724.00
Prime Contractor Name (If Not Bidder)		Contractor Contact Name & Phone Number (If Not Bidder)	
Brief Project Description			
Supply pipe spools to Port of Morrow			
Brief Summary Of Technical Work Completed By Bidder, Including Any Relevant Details To Demonstrate Similar Experience And Any Required Experience Detailed In the Specifications			
Project included; site visits, detailing, shop drawings, working with sub contractors for speciality coatings, complicated fabrication of pipe spools, and approximately 6,700 weld inches.			

**SUBCONTRACTOR LIST**

**PROJECT NAME:** IPWQ 6029-23 (Re-Bid)

**IMPORTANT: REFER TO SECTION 5.2.1 OF THE SUPPLEMENTAL CONDITIONS FOR INSTRUCTIONS ON COMPLETING THE SUBCONTRACTOR LIST** *(use additional pages if necessary):*

**CONTRACTOR/SUPPLIER** Superior West Engineering

TYPE OF WORK/BID ITEM Project drawings/engineering

AMOUNT 30,000.00

CONTRACTOR'S REGISTRATION NO. 604211150

**CONTRACTOR/SUPPLIER** Coast Aluminum

TYPE OF WORK/BID ITEM Material Supplier

AMOUNT 42,000.00

CONTRACTOR'S REGISTRATION NO. 602613162

**CONTRACTOR/SUPPLIER** \_\_\_\_\_

TYPE OF WORK/BID ITEM \_\_\_\_\_

AMOUNT \_\_\_\_\_

CONTRACTOR'S REGISTRATION NO. \_\_\_\_\_

**CONTRACTOR/SUPPLIER** \_\_\_\_\_

TYPE OF WORK/BID ITEM \_\_\_\_\_

AMOUNT \_\_\_\_\_

CONTRACTOR'S REGISTRATION NO. \_\_\_\_\_

\_\_\_\_\_ NO SUBCONTRACTORS WILL BE USED ON THIS PROJECT



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

The Ohio Casualty Insurance Company
POWER OF ATTORNEY

Principal: Blackwater Industries PLLC
Agency Name: Montana First Insurance
Obligee: City of Spokane
Bid Bond Amount: ( 5% of Bid Amount ) Five Percent of Bid Amount
Bond Number: BID-0021446

KNOW ALL PERSONS BY THESE PRESENTS: that The Ohio Casualty Insurance Company, a corporation duly organized under the laws of the State of New Hampshire (herein collectively called the "Company"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint Dillon Knaff in the city and state of Battle Ground, WA, each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Company in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Company and the corporate seal of the Company has been affixed thereto this 28th day of March, 2021.



The Ohio Casualty Insurance Company
By: David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

STATE OF PENNSYLVANIA
COUNTY OF MONTGOMERY ss

On this 28th day of March, 2021, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of The Ohio Casualty Insurance Company and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-law and Authorizations of The Ohio Casualty Insurance Company, which is now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.
Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature or electronic signatures of any assistant secretary of the Company or facsimile or mechanically reproduced or electronic seal of the Company, wherever appearing upon a certified copy of any power of attorney or bond issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, of The Ohio Casualty Insurance Company do hereby certify that this power of attorney executed by said Company is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Company this 5th day of December, 2023.



By: Renee C. Llewellyn, Assistant Secretary

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

**BID BOND**

We, Blackwater Industries, PLLC as Principal,  
and The Ohio Casualty Insurance Company as Surety,  
are held and firmly bound unto the CITY OF SPOKANE, a Washington State municipal  
corporation, in the penal sum of FIVE PERCENT (5%) OF THE TOTAL AMOUNT BID, for the  
payment of which we jointly and severally bind ourselves, and our legal representatives and  
successors.

THE CONDITIONS OF THE OBLIGATION are that if the City of Spokane shall make  
timely award to the Principal for the Maintenance Shop Roof Access Stairs and Roof Railing -  
Design, Construction, Delivery, and Installation - Install Public Works, according to the terms  
of the bid made by the Principal; and the Principal shall, within the specified time, enter into a  
contract with the City of Spokane and furnish bond(s) acceptable to the City, if required, then  
this obligation shall be null and void; otherwise it shall remain in full force and effect; but in no  
event will the surety's liability exceed this bond's face amount.

SIGNED AND SEALED on 12/05/2023

AS PRINCIPAL

Blackwater Industries, PLLC

By: *Jack Gillette*  
Title: Owner

A valid POWER OF  
ATTORNEY must  
accompany this bond.

The Ohio Casualty Insurance Company  
AS SURETY

By: *[Signature]*  
Dillon Knaff Attorney in Fact



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd**

1/18/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

**Submitting Dept**

INTEGRATED CAPITAL

**Project #**

2017178

**Contact Name/Phone**

MARK PAPICH 625-6310

**Bid #**

**Contact E-Mail**

MPAPICH@SPOKANECITY.ORG

**Requisition #**

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

4250 – DEPT OF ECOLOGY GRANT WASHINGTON BASIN STORMWATER

**Agenda Wording**

Grant agreement number WQC-2023-Spokane-00096 with the Washington State Department of Ecology for the Washington Basin Stormwater project - \$262,500.00 Revenue.

**Summary (Background)**

The Department of Ecology has awarded the City of Spokane a grant to improve water quality in the Spokane River. The City will have a 25% match on the grant. The revenue and expenses are budgeted and consistent with the 6-year Capital Program.

Lease? NO

Grant related? YES

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 262,500.00

Current Year Cost \$ 262,500.00

Subsequent Year(s) Cost \$

**Narrative**

There is a 25% match required for this grant.

**Amount**

**Budget Account**

Revenue \$ 262,500.00

# 4250 98817 99999 33431 10119

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

<b><u>Dept Head</u></b>	DAVIS, MARCIA	<b><u>ACCOUNTING -</u></b>	MURRAY, MICHELLE
<b><u>Division Director</u></b>	FEIST, MARLENE		
<b><u>Accounting Manager</u></b>	ALBIN-MOORE, ANGELA		
<b><u>Legal</u></b>	SCHOEDEL, ELIZABETH		
<b><u>For the Mayor</u></b>	PICCOLO, MIKE		

**Additional Approvals**

**Distribution List**

	eraea@spokanecity.org
jrhall@spokanecity.org	icmaccounting@spokanecity.org
mpapich@spokanecity.org	mdavis@spokanecity.org
kkeck@spokanecity.org	



## Committee Agenda Sheet

### Public Safety & Community Health Committee

<b>Committee Date</b>	1/29/2024
<b>Submitting Department</b>	Integrated Capital Management
<b>Contact Name</b>	Mark Papich
<b>Contact Email &amp; Phone</b>	mpapich@spokanecity.org
<b>Council Sponsor(s)</b>	<u>Council President Betsy Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Department of Ecology SFAP and Capacity Grant Agreements
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>The Department of Ecology annually awards funding for grants and loans based on competitive process and legislature approval. In October of 2021 and October of 2022, the City applied for SFAP grant funds through the Washington State Department of Ecology. The City of Spokane has been awarded grant funds for five projects. In addition, the City has been awarded a Capacity Grant through the Department of Ecology. This grant funding can be applied to any activities associated with managing our Phase II Municipal Stormwater Permit.</p> <p>Below are the pertinent details of the funding agreements:</p> <ul style="list-style-type: none"> <li>• Francis/Assembly/Nine Mile Stormwater Facility               <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$127,500</li> <li>▪ City Match=15% (\$22,500)</li> <li>▪ Project Phase: Design</li> </ul> </li> <li>• Five Mile Regional Infiltration Facility Rehab               <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$150,000</li> <li>▪ City Match=25% (\$50,000)</li> <li>▪ Project Phase: Design</li> </ul> </li> <li>• CSO Basin 34 (I-90) Stormwater Mitigation/Separation               <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$5,015,000</li> <li>▪ City Match=15% (\$885,000)</li> <li>▪ Project Phase: Construction</li> </ul> </li> <li>• Washington Basin Stormwater Study               <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$262,500</li> <li>▪ City Match=25% (\$87,500)</li> <li>▪ Project Phase: Planning</li> </ul> </li> <li>• Drywell Rehab in Well-head Protection Zones               <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$262,500</li> <li>▪ City Match=25% (\$87,500)</li> <li>▪ Project Phase: Planning</li> </ul> </li> <li>• Capacity Grant               <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$130,000</li> <li>▪ City Match=0%</li> <li>▪ Project Phase: Any permit management activity</li> </ul> </li> </ul>
<b>Fiscal Impact</b>	

**Approved in current year budget?**     Yes     No     N/A

Total Cost: \$1,914,500

Current year cost: \$1,914,500

Subsequent year(s) cost:

**Narrative:** These grant dollars provide a substantial amount of funding toward important public works projects in the City's 6-year CIP. Without these dollars, the City would be unable to implement these projects within the proposed timeline. These projects enhance our ability to protect the water quality of the Spokane River and continue to provide a significant asset to our community.

**Funding Source**             One-time     Recurring     N/A

Specify funding source: Select Funding Source\*

Is this funding source sustainable for future years, months, etc? [Click or tap here to enter text.](#)

**Expense Occurrence**     One-time     Recurring     N/A

Other budget impacts: (revenue generating, match requirements, etc.)

**Operations Impacts** (If N/A, please give a brief description as to why)

**What impacts would the proposal have on historically excluded communities?**

Public Works services and projects are designed to serve all residents and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.

**How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?**

N/a - This is a public works project and should not impact racial, gender identity, national origin, income level, disability, sexual orientation, or other existing disparity factors.

**How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?**

Public Works follows the City's established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

**Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?**

This project is consistent with the City's adopted policies and programs.



## Agreement WQC-2023-Spokane-00096

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF SPOKANE

This is a binding Agreement entered into by and between the State of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY" and the City of Spokane, hereinafter referred to as the "RECIPIENT" to carry out with the provided funds, the activities described herein.

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### GENERAL INFORMATION

Project Title:	Washington Basin Stormwater Separation Study
Total Cost:	\$350,000.00
Total Eligible Cost:	\$350,000.00
Ecology Share:	\$262,500.00
Recipient Share:	\$87,500.00
The Effective Date of this Agreement is:	7/1/2022
The Expiration Date of this Agreement is no later than:	6/30/2026
Project Type:	Stormwater Facility

#### Project Short Description: (500-character limit, includes spaces)

This project will ultimately improve water quality in the Spokane River through the development of a stormwater retrofit plan for the Washington Basin in the city of Spokane. The plan will include evaluation of the basin for potential treatment sites with geotechnical investigations and development of preliminary designs and cost estimates for stormwater treatment facilities.

#### Project Long Description: (4,000-character limit, includes spaces)

Washington Basin is a 435-acre basin in the north central area of Spokane that is approximately 50 percent commercial use. Stormwater runoff from this basin currently runs untreated through a piped network with catch basins and discharges through a 42-inch pipe on Washington Street to the Spokane River. The Spokane River flows through the heart of downtown Spokane and supports salmonid spawning grounds, recreation, and fishing. The Spokane River is a Category 5 303(d) listed impaired waterbody for pH, PCBs, metals, and dissolved oxygen. There are also two Total

Maximum Daily Load (TMDL) plans, one each for dissolved metals and dissolved oxygen, which are impacted by pollutants known to be transported into surface waters by untreated stormwater.

Currently, the RECIPIENT is designing stormwater facilities to treat surface runoff from approximately 78 acres in the northwestern portion of the Washington basin through another agreement with ECOLOGY. For this project, the RECIPIENT will develop a retrofit plan to treat the remaining approximately 357 acres that do not yet have treatment. As part of plan development, the RECIPIENT will create a framework for the site selection process and review basin data accordingly to produce a list of potential sites. The RECIPIENT will then conduct field evaluations to narrow down the list of potential sites and identify the top sites to move forward for the conceptual design of stormwater treatment facilities. For these top sites, the RECIPIENT will conduct geotechnical investigations and develop preliminary designs that include cost estimates and permit strategies for the retrofits.

Overall Goal: (1,000-character limit, includes spaces)

This project will help protect and restore water quality in Washington state by reducing stormwater impacts from existing infrastructure and development.

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**RECIPIENT INFORMATION**

Organization Name: City of Spokane

Mailing Address: 808 W Spokane Falls Blvd  
Spokane, WA 99201

Physical Address: 808 W Spokane Falls Blvd  
Spokane, WA 99201

Organization Email: mpapich@spokanecity.org

**Contacts**

<b>Project Manager</b>	Colin Naake Associate Engineer  808 W Spokane Falls Blvd Spokane, WA 99201 Email: cnaake@spokanecity.org Phone: (509) 625-6941
<b>Authorized Signatory</b>	Lisa Brown Mayor  808 W Spokane Falls Blvd Spokane, WA 99201 Email: mayor@spokanecity.org Phone: (509) 625-6310
<b>Billing Contact</b>	LaVonne Martelle Accountant I  44 W Riverside Spokane, WA 99201-3343 Email: lmartelle@spokanecity.org Phone: (509) 625-7000

## ECOLOGY INFORMATION

Mailing Address: Department of Ecology  
Water Quality  
PO BOX 47600  
Olympia, WA 98504-7600

Physical Address: Department of Ecology  
300 Desmond Drive SE  
Lacey, WA 98503

### Contacts

<b>Project Manager</b>	Shilo Sprouse  4601 N Monroe Spokane, WA 99205-1295 Email: shsp461@ecy.wa.gov Phone: (509) 862-8584
<b>Financial Manager</b>	Joe Kinerk  P.O. Box 47600 Olympia, WA 98504 Email: joek461@ecy.wa.gov Phone: (360) 742-2875
<b>Technical Advisor</b>	Doug Howie  P.O. Box 47600 Olympia, WA 98504 Email: doho461@ecy.wa.gov Phone: (360) 870-0983

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

RECIPIENT agrees to read, understand, and accept all information contained within this entire Agreement. Furthermore, RECIPIENT acknowledges that they have reviewed the terms and conditions of this Agreement, Scope of Work, attachments, all incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement.

**Washington State Department of Ecology**

**City of Spokane**

\_\_\_\_\_  
Vincent McGowan  
Water Quality  
Program Manager

Date

\_\_\_\_\_  
Lisa Brown  
Mayor

Date

\_\_\_\_\_  
Additional City/County Signatories    Date  
Email Address:

## SCOPE OF WORK

Task Number: 1

Task Cost: \$0.00

Task Title: Grant and Loan Administration

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; an EAGL (Ecology Administration of Grants and Loans) and Recipient Close Out Report. In the event that the RECIPIENT elects to use a contractor to complete project elements, the RECIPIENT shall retain responsibility for the oversight and management of this funding agreement.

B. The RECIPIENT shall keep documentation that demonstrates the project is in compliance with applicable procurement, contracting, and interlocal agreement requirements; permitting requirements, including application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items. This documentation shall be made available to ECOLOGY upon request.

C. The RECIPIENT shall maintain effective communication with ECOLOGY and maintain up-to-date staff contact information in the EAGL system. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant and loan administrative requirements.

Task Expected Outcome:

\* Timely and complete submittal of requests for reimbursement, quarterly progress reports, and Recipient Close Out Report.

\* Properly maintained project documentation.

### Grant and Loan Administration Deliverables

Number	Description	Due Date
1.1	Progress Reports that include descriptions of work accomplished, project challenges, and changes in the project schedule. Submitted at least quarterly.	
1.2	Recipient Close Out Report (EAGL Form).	



## SCOPE OF WORK

Task Number: 2

Task Cost: \$0

Task Title: Cultural and Environmental Review, and Permitting

### Task Description:

The RECIPIENT must ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

- A. The RECIPIENT will submit the documents listed below to initiate ECOLOGY's cultural resources review. Property acquisition and above and below ground activities proposed at any project site must be reviewed by ECOLOGY for potential affects to cultural resources.

The RECIPIENT must receive written notice from ECOLOGY prior to proceeding with work. Examples of work may include (but are not limited to) geotechnical work, acquisition, site prep work, and BMP installations. Work done prior to written notice to proceed shall not be eligible for reimbursement.

To initiate cultural resources review:

1. The RECIPIENT will submit the Cultural Resources Review Form to ECOLOGY, using the ECOLOGY template. Any supporting materials must conform to the Department of Archeology and Historic Preservation's (DAHP) Washington State Standards for Cultural Resource Reporting. The Cultural Resources Review Form template may be found on the ECOLOGY website.
  2. The RECIPIENT will submit an Inadvertent Discovery Plan (IDP) to ECOLOGY, using the ECOLOGY template. The RECIPIENT will ensure that all contractors and subcontractors have a copy of the completed IDP prior to and while working on-site. The IDP template may be found on the ECOLOGY website.
- B. The RECIPIENT will submit the State Environmental Policy Act (SEPA) checklist for ECOLOGY project manager review and notify the ECOLOGY project manager when the official comment period begins. The RECIPIENT will also upload the final SEPA determination.
- C. The RECIPIENT is responsible for application of, receipt of, and compliance with all required local, state, tribal, and federal permits, licenses, easements, or property rights necessary for the project.

### Task Goal Statement:

The RECIPIENT will complete all cultural and environmental reviews and permitting tasks in a timely manner.

### Task Expected Outcome:

The project will meet the requirements set forth by the cultural resource protection requirements, State Environmental Policy Act, and all other applicable federal, state, and local laws, and regulations.

### **Cultural and Environmental Review, and Permitting Deliverables**

Number	Description	Due Date
2.1	ECOLOGY Cultural Resources Review Form. Email the form and any supplemental cultural resources documentation directly to the ECOLOGY Project Manager. DO NOT upload the cultural resources form or documentation to EAGL.	
2.2	ECOLOGY Inadvertent Discovery Plan (IDP). Email the form directly to the ECOLOGY Project Manager for review. Upload to EAGL once review is complete.	

2.3	SEPA Checklist. Upload the checklist, or other documentation for projects considered exempt from SEPA review, to EAGL and notify ECOLOGY when official comment period begins.	
2.4	Final SEPA Determination. Upload to EAGL and notify ECOLOGY.	

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## SCOPE OF WORK

Task Number: 3

Task Cost: \$175,000

Task Title: Site Identification and Selection

### Task Description:

The RECIPIENT must ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

- A. The RECIPIENT will develop a framework for the site selection process. The RECIPIENT will document the site selection process in a memo that includes the screening methods, field evaluations, and criteria that will be used to select the sites. The RECIPIENT will submit the memo to ECOLOGY for review and comment, to ensure site selection proceeds according to those expectations.
- B. The RECIPIENT will review basin data and identify data gaps. The RECIPIENT will gather and examine land use, land characteristics, stormwater, and water resources data. The RECIPIENT will include presence of existing stormwater facilities, property ownership, drainage area, upstream land use, soils/geology, groundwater, and topography. The RECIPIENT will use this information and the screening process review basin data.
- C. The RECIPIENT will conduct field evaluations of potential sites identified during the screening process.
- D. The RECIPIENT will apply the information gathered in the screening process and field evaluations to the criteria in the site selection process to identify top sites. The RECIPIENT will produce a list of the top projects that will move forward for conceptual design.
- E. The RECIPIENT will prepare a final report summarizing the basin data, site selection process, outcomes, and map of chosen sites.

### Task Goal Statement:

The RECIPIENT will identify and screen potential project sites for stormwater retrofit.

### Task Expected Outcome:

The RECIPIENT will choose project sites and develop a final report summarizing the data, process, and outcomes.

### **Construction Management Deliverables**

<b>Number</b>	<b>Description</b>	<b>Due Date</b>
3.1	Contract documents, if applicable. The contract must include ECOLOGY's standard contract clauses and/or specification insert. Upload to EAGL and notify ECOLOGY.	
3.2	Memo of Framework for Site Selection Process. Upload to EAGL and notify ECOLOGY.	
3.3	Responses to ECOLOGY memo comments. Upload to EAGL and notify ECOLOGY.	
3.4	Draft Final Report. Upload to EAGL and notify ECOLOGY.	
3.5	Responses to ECOLOGY Final Report comments. Upload to EAGL and notify ECOLOGY.	
3.6	Final Report. Upload to EAGL and notify ECOLOGY.	

## SCOPE OF WORK

Task Number: 4

Task Cost: \$175,000

Task Title: Preliminary Design Work

Task Description:

The RECIPIENT must ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

- A. Conduct site-specific geotechnical investigation to determine the feasibility of stormwater infiltration.
- B. The RECIPIENT will develop conceptual designs, cost estimates, and permit strategies for the retrofit facilities at the chosen project sites. Projects must be designed in accordance with the Stormwater Management Manual for Eastern Washington, or equivalent manual. Refer to the ECOLOGY website for specific guidance. Projects must be reviewed and accepted in writing by ECOLOGY to be eligible for reimbursement.
- C. The RECIPIENT will upload the preliminary design submittals to EAGL for ECOLOGY review and acceptance. Reduce design figures to 11x17 inches in size and ensure they are legible. Allow 45 calendar days for ECOLOGY to review each submittal.

The RECIPIENT agrees to respond to ECOLOGY comments.

Task Goal Statement:

The RECIPIENT will complete all design tasks and respond to ECOLOGY comments in a timely manner.

Task Expected Outcome:

The project will meet the requirements set forth by ECOLOGY water quality facility design standards and all other applicable federal, state, and local laws, and regulations.

### Construction Deliverables

Number	Description	Due Date
4.1	List of projects to move forward to preliminary design. Upload to EAGL and notify ECOLOGY.	
4.2	Preliminary Design(s). Upload to EAGL and notify ECOLOGY.	
4.3	Responses to ECOLOGY Preliminary Design comments. Upload to EAGL and notify ECOLOGY.	
4.4	ECOLOGY Preliminary Design Acceptance Letter. Upload to EAGL and notify ECOLOGY.	

## SCOPE OF WORK

Task Number: 5

Task Cost: \$0

Task Title: Project Close Out

Task Description:

The RECIPIENT must ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

- A. The RECIPIENT will submit a GIS compatible project area as a shapefile, geodatabase file, or ECOLOGY-accepted equivalent. The project area should include polygon features for stormwater facilities and contributing areas, if able.
- B. The RECIPIENT will submit the Recipient Close Out Report (RCOR) in EAGL in accordance with Task 1.
- C. The RECIPIENT will submit an Outcomes Summary using the ECOLOGY template.

Task Goal Statement:

The RECIPIENT will complete all close out submittals in a timely manner.

Task Expected Outcome:

Timely and complete submittal of GIS, Recipient Closeout Report, and Outcomes Summary.

### Project Closeout Deliverables

Number	Description	Due Date
5.1	Project area shapefile, geodatabase file, or ECOLOGY-accepted equivalent. Upload to EAGL and notify ECOLOGY.	
5.2	Outcomes Summary. Upload to EAGL and notify ECOLOGY.	

**BUDGET** (EAGL WILL GENERATE THIS SECTION BASED ON PROJECT TYPE/PARAMETERS, ETC. IT MIGHT BE HELPFUL FOR THE RECIPIENT TO USE THE BUDGET TABLE TO PLAN OUT THEIR BUDGET).

**Funding Distribution**

Funding Title: SFAP  
 Funding Type: Grant  
 Funding Effective Date: 7/1/2022  
 Funding Expiration Date: 6/30/2026  
 Funding Source: State – Stormwater Financial Assistance Program

Recipient Match %: 25%  
 InKind Interlocal Allowed: No  
 InKind Other Allowed: No  
 Is this Funding Distribution used to match a federal grant? No

Indirect Rate: 30%

<b>Stormwater Financial Assistance Program</b>	<b>Task Total</b>	<b>Recipient Amount</b>	<b>ECY Amount</b>
1. Grant and Loan Administration	0	0	0
2. Cultural and Environmental Review, and Permitting	0	0	0
3. Site Identification and Selection	175000	43750	131250
4. Preliminary Design Work	175000	43750	131250
5. Project Close Out	0	0	0
<b>Total</b>	<b>\$350,000.00</b>	<b>\$87,500.00</b>	<b>\$262,500.00</b>

<b>Funding Distribution Name</b>	<b>Recipient Match</b>	<b>Recipient Share</b>	<b>Ecology Share</b>	<b>Total</b>
<b>SFAP</b>	25%	\$87,500.00	\$262,500.00	\$350,000.00
<b>Total</b>		<b>\$87,500.00</b>	<b>\$262,500.00</b>	<b>\$350,000.00</b>

Application Budget Worksheet (not for EAGL, but do not delete from this draft document)

**Funding Offer:**

SFAP Grant Offer	SRF Standard Loan Offer	SRF Forgivable Principal Loan Offer	[Other WQC Funding] Offer	Total Funding Offer
\$262,500	\$87,500*	\$0	\$0	<b>\$350,000</b>

**Does the funding offer amount shown in the following forms all match?**

Offer Letter uploaded in EAGL: Yes EAGL Offer Form: Yes Published Offer List: Yes
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**Was the funding offer less than the amount requested because of ineligible items? Please describe.**

No. *NOTE: Recipient has uploaded a decline of loan funding offer in EAGL
--

**Application Budget (copy tasks and amounts from EAGL)**

Task	Budget in App	Notes
1. Grant and Loan Administration	\$0	<b>Application SOW does not follow ECY standard template</b>
2. Planning	\$350,000	
		Application SOW does not include Project Close Out task
<b>Total</b>	<b>\$350,000</b>	

**Agreement Budget**

Task	Revised Budget	Notes
1. Grant and Loan Administration		
2. Cultural, Environmental Review, and Permitting		
3. Site Identification and Selection		
4. Preliminary Design Work		
5. Project Close Out		
<b>Total</b>		

## AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

## SPECIAL TERMS AND CONDITIONS (Updated June 2023)

### SECTION 1: DEFINITIONS

Unless otherwise provided, the following terms will have the respective meanings for all purposes of this agreement:

**“Administration Charge”** means a charge established in accordance with Chapter 90.50A RCW and Chapter 173-98 WAC, to be used to pay Ecology’s cost to administer the State Revolving Fund by placing a percentage of the interest earned in an Administrative Charge Account.

**“Administrative Requirements”** means the effective edition of ECOLOGY’s Administrative Requirements for Recipients of Ecology Grants and Loans at the signing of this agreement.

**“Annual Debt Service”** for any calendar year means for any applicable bonds or loans including the loan, all interest plus all principal due on such bonds or loans in such year.

**“Average Annual Debt Service”** means, at the time of calculation, the sum of the Annual Debt Service for the remaining years of the loan to the last scheduled maturity of the loan divided by the number of those years.

**“Accrued Interest”** means the interest incurred as loan funds are disbursed.

**“Acquisition”** means the purchase or receipt of a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

**“Build American Buy American (BABA)”** means a portion of the Infrastructure Investment and Jobs Act and establishes a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022.

**“Bipartisan Infrastructure Law (BIL)”** means funding to improve drinking water, wastewater and stormwater infrastructure.

**“Centennial Clean Water Program”** means the state program funded from various state sources.

**“Contract Documents”** means the contract between the RECIPIENT and the construction contractor for construction of the project.

**“Construction Materials”** means an article, material, or supply (other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; aggregate binding agents or additives; or non-permanent products) that is or consists primarily of, non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), (including optic glass), lumber, and drywall.

**“Cost Effective Analysis”** means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water quality problem as described in Chapter 173-98-730 WAC.

**“Davis Bacon Prevailing Wage Act”** means the federal law mandating on-site workers on public works projects be paid certain wages, benefits, and overtime (also known as “prevailing wage” on all government-funded construction, alteration, and repair projects.



**“Defeasement” or “Defeasance”** means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

**“Effective Date”** means the earliest date on which eligible costs may be incurred.

**“Effective Interest Rate”** means the total interest rate established by Ecology that includes the Administrative Charge.

**“Estimated Loan Amount”** means the initial amount of funds loaned to the RECIPIENT.

**“Estimated Loan Repayment Schedule”** means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount and the estimated schedule for completion of the project.

**“Equivalency”** means the amount of State Revolving Fund (SRF) funding each funding cycle equivalent to the EPA grant to Ecology.

**“Equivalency Project”** means State Revolving Fund (SRF) funded project(s) designated by ECOLOGY to receive federal funding and meet additional federal requirements.

**“Expiration Date”** means the latest date on which eligible costs may be incurred.

**“Final Accrued Interest”** means the interest accrued beginning with the first disbursement of funds to the RECIPIENT through such time as the loan is officially closed out and a final loan repayment schedule is issued.

**“Final Loan Amount”** means all principal of and accrued interest on the loan from the Project Start Date through the Project Completion Date.

**“Final Loan Repayment Schedule”** means the schedule of loan repayments over the term of the loan based on the Final Loan Amount and the initiation of operation or completion date, whichever comes first.

**“Forgivable Principal”** means the portion of a loan that is not required to be paid back by the borrower.

**“General Obligation Debt”** means an obligation of the RECIPIENT secured by annual ad valorem taxes levied by the RECIPIENT and by the full faith, credit, and resources of the RECIPIENT.

**“General Obligation Payable from Special Assessments Debt”** means an obligation of the RECIPIENT secured by a valid general obligation of the Recipient payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.

**“Gross Revenue”** means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to Defeasement or refund Utility obligations or (B) in an obligation redemption fund or account other than the Loan Fund until commingled with other earnings and revenues of the Utility or (C) held in a special account for the purpose of paying a rebate to the United States Government under the Internal Revenue Code.

**“Guidelines”** means the ECOLOGY's Funding Guidelines that correlate to the State Fiscal Year in which the project is funded.

**“Initiation of Operation Date”** means the actual date the facility financed with proceeds of the loan begins to operate for its intended purpose. (For loans only)

**“Iron and Steel Products”** means products made primarily of iron or steel including but may not be limited to: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

**“Loan”** means the Washington State Water Pollution Control Revolving Fund Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this loan agreement.

**“Loan Amount”** means either an Estimated Loan Amount or a Final Loan Amount, as applicable.

**“Loan Fund”** means the special fund created by the RECIPIENT for the repayment of the principal of and interest on the loan.

**“Loan Security”** means the mechanism by which the RECIPIENT pledges to repay the loan.

**“Loan Term”** means the repayment period of the loan.

**“Maintenance and Operation Expense”** means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties, but will not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

**“Manufactured Products”** means, items and construction materials composed in whole or in part of non-ferrous metals such as aluminum plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**“Produced in the United States”** means for iron and steel products, that all manufacturing processes, from the initial melting state through the application of coatings, occurred in the United States.

**“Net Revenue”** means the Gross Revenue less the Maintenance and Operation Expense.

**“Original Engineer’s Estimate”** means the engineer’s estimate of construction costs included with bid documents.

**“Prevailing Wage”** means hourly wage, usual benefits, and overtime paid in the largest city in each county, to the majority of workers, laborers, and mechanics performing the same work. The rate is established separately for each county.

**“Principal and Interest Account”** means, for a loan that constitutes Revenue-Secured Debt, the account created in the loan fund to be first used to repay the principal of and interest on the loan.

**“Project”** means the project described in this agreement.

**“Project Completion Date”** means the date specified in the agreement on which the Scope of Work will be fully completed and is the last day eligible costs can be incurred. This term is only used in loan agreements.

**“Project Schedule”** means that schedule for the project specified in the agreement.

**“Revenue-Secured Debt”** means an obligation of the RECIPIENT secured by a pledge of the revenue of a utility and one not a general obligation of the RECIPIENT.

**“Reserve Account”** means, for a loan that constitutes a Revenue Secured Debt and if specifically identified as a term and condition of the funding agreement, the account of that name created in the loan fund to secure the payment of the principal of and interest on the loan.

**“Risk-Based Determination”** means an approach to sub-recipient monitoring and oversight based on risk factors associated to a RECIPIENT or project.

**“Scope of Work”** means the tasks and activities constituting the project.

**“Section 319”** means the section of the Clean Water Act that provides funding to address nonpoint sources of water pollution.

**“Senior Lien Obligations”** means all revenue bonds and other obligations of the RECIPIENT outstanding on the date of execution of this loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or

issued after the date of execution of this loan agreement having a claim or lien on the Gross Revenue of the Utility prior and superior to the claim or lien of the loan, subject only to Maintenance and Operation Expense.

**“State Water Pollution Control Revolving Fund (Revolving Fund)”** means the water pollution control revolving fund established by Chapter 90.50A.020 RCW.

**“Termination Date”** means the effective date of ECOLOGY’s termination of the agreement.

**“Termination Payment Date”** means the date on which the RECIPIENT is required to repay to ECOLOGY any outstanding balance of the loan and all accrued interest.

**“Total Eligible Project Cost”** means the sum of all costs associated with a water quality project that have been determined to be eligible for ECOLOGY grant or loan funding, including any required recipient match.

**“Total Project Cost”** means the sum of all costs associated with a water quality project, including costs that are not eligible for ECOLOGY grant or loan funding.

**“Unique Entity Identity Identifier (UEI)”** means a 12-character alphanumeric ID assigned by SAM.gov. to an entity doing business with or receiving funds from the federal government. This number replaces the DUNS number.

**“ULID”** means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility.

**“ULID Assessments”** means all assessments levied and collected in any ULID. Such assessments are pledged to be paid into the Loan Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments will include principal installments and any interest or penalties which may be due.

**“Utility”** means the sewer system, stormwater system, or the combined water and sewer system of the RECIPIENT, the Net Revenue of which is pledged to pay and secure the loan.

## **SECTION 2: CONDITIONS APPLY TO ALL RECIPIENTS OF WATER QUALITY COMBINED FINANCIAL ASSISTANCE FUNDING.**

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference and are available on ECOLOGY’s Water Quality Program website.

A. Accounting Standards: The RECIPIENT shall maintain accurate records and accounts for the project (PROJECT Records) in accordance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB), including standards related to the reporting of infrastructure assets or in accordance with the standards in Chapter 43.09.200 RCW “Local Government Accounting – Uniform System of Accounting.”

B. Architectural and Engineering Services: The RECIPIENT certifies by signing this agreement that the requirements of Chapter 39.80 RCW, “Contracts for Architectural and Engineering Services,” have been, or shall be, met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final architectural/engineering services contract and submit a copy of the contract to ECOLOGY.

C. Acquisition: The following provisions shall be in force only if the project described in this agreement is an acquisition project:

a. Evidence of Land Value and Title. The RECIPIENT shall submit documentation of the cost of the property rights and the type of ownership interest that has been acquired.

b. Legal Description of Real Property Rights Acquired. The legal description of the real property rights purchased with funding assistance provided through this agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the agreement before final payment.

c. Conveyance of Rights to the State of Washington. Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT shall execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired, and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT shall use language provided by ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

#### Documentation Options:

1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. RECIPIENTS shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes. The RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the deed of right.

2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.

3. Easements and Leases. The RECIPIENT may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; therefore, the RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the easement or lease.

#### d. Real Property Acquisition and Relocation Assistance.

1. Federal Acquisition Policies. See Section 4 of this agreement for requirements specific to Section 319 and SRF funded projects.

2. State Acquisition Policies. When state funds are part of this agreement, the RECIPIENT agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.

3. Housing and Relocation. In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the RECIPIENT agrees to provide any housing and relocation assistance required.

#### e. Hazardous Substances.

1. Certification. The RECIPIENT shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:

i. No hazardous substances were found on the site, or

ii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site is deemed "clean."

2. Responsibility. Nothing in this provision alters the RECIPIENT's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.

3. Hold Harmless. The RECIPIENT will defend, protect and hold harmless ECOLOGY and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the RECIPIENT is acquiring.

#### f. Restriction On Conversion Of Real Property And/Or Facilities To Other Uses

The RECIPIENT shall not at any time convert any real property (including any interest therein) or facility acquired, developed, maintained, renovated, and/or restored pursuant to this agreement to uses other than those purposes for which funds were approved without prior approval of ECOLOGY. For acquisition projects that are term limited, such as one involving a lease or a term-limited restoration, renovation or development project or easement, this restriction on conversion shall apply only for the length of the term, unless otherwise provided in written documents or required by applicable state or federal law. In such case, the restriction applies to such projects for the length of the term specified by the lease, easement, deed, or landowner agreement.

D. Best Management Practices (BMP) Implementation: If the RECIPIENT installs BMPs that are not approved by ECOLOGY prior to installation, the RECIPIENT assumes the risk that part or all of the reimbursement for that activity may be delayed or ineligible. For more details regarding BMP Implementation, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY's Water Quality Program funding website.

E. Electronic Fund Transfers: Payment will be issued through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process or electronic fund transfers, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).

F. Equipment Purchase: Equipment purchases over \$5,000 and not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase. All equipment purchases over \$5,000 and not included in a contract for work being completed on the funded project, must also be reported on the Equipment Purchase Report in EAGL.

G. Funding Recognition: The RECIPIENT must inform the public about any ECOLOGY or EPA funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Contact your Ecology Project Team to determine the appropriate recognition for your project.

H. Growth Management Planning: The RECIPIENT certifies by signing this agreement that it is in compliance with the requirements of Chapter 36.70A RCW, "Growth Management Planning by Selected Counties and Cities." If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify ECOLOGY in writing of this change within 30 days.

I. Interlocal: The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements necessary for the project are, or shall be, consistent with the terms of this agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the project to ECOLOGY upon request.

J. Lobbying and Litigation: Costs incurred for the purposes of lobbying or litigation are not eligible for funding under this agreement.

K. Post Project Assessment Survey: The RECIPIENT agrees to participate in a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project approximately three years after project completion. A representative from ECOLOGY's Water Quality Program may contact the RECIPIENT to request this data. ECOLOGY may also conduct site interviews and inspections, and may otherwise evaluate the project, as part of this assessment.

L. Project Status Evaluation: ECOLOGY may evaluate the status at any time. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

M. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service (“NRCS”) Field Office Technical Guide for Washington State and specific requirements outlined in the Water Quality Funding Guidelines. Technical assistance, proposed practices, or project designs that do not meet these standards may be eligible if approved in writing by ECOLOGY.

### **SECTION 3: CONDITIONS APPLY TO SECTION 319 AND CENTENNIAL CLEAN WATER FUNDED PROJECTS BEING USED TO MATCH SECTION 319 FUNDS.**

The RECIPIENT must submit the following documents to ECOLOGY before this agreement is signed by ECOLOGY:

1. Federal Funding Accountability and Transparency Act (FFATA) Form is available on the Water Quality Program website and must be completed and submitted to Ecology. (This form is used for Section 319 (federal) funds only)

2. “Section 319 Initial Data Reporting” form must be completed in EAGL.

A. Data Reporting: The RECIPIENT must complete the “Section 319 Initial Data Reporting” form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project for EPA.

B. Funding Recognition and Outreach: In addition to Section 2.F. of these Special Terms and Conditions, the RECIPIENT shall provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA logo and follow usage requirements available at <http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. To obtain the appropriate EPA logo or seal graphic file, the RECIPIENT may send a request to their Ecology Financial Manager.

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable. (Applies to both the Section 319 funded projects and the Centennial match projects)

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement: (Applies to Section 319 funded projects only)

“This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute endorsement or recommendation for use.”

C. Load Reduction Reporting: The RECIPIENT shall complete the “Section 319 Annual Load Reduction Reporting” form in EAGL by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has completed the form. This form is used to gather information on best management practices (BMPs) installed and associated pollutant load reductions that were funded as a part of this project.

D. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA’s assistance agreement. In the event a time extension is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date. (For Section 319 funded projects only)

### **SECTION 4: CONDITIONS APPLY TO ALL FEDERAL FUNDING AGREEMENTS, INCLUDING SECTION 319, State Revolving Fund (SRF) Equivalency Projects, and SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANT (OSG)**

A. Acquisitions: RECIPIENTS shall comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended by the Surface

Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.

B. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at:

<https://facweb.census.gov/>.

C. Archaeological Resources and Historic Properties (Section 106): This requires completion of the Ecology Cultural Resources Review Form, coordination with Ecology Cultural Resources staff, and receipt of the Ecology Final Determination prior to any property acquisition and above and below ground disturbing activities.

D. Architectural and Engineering Services Procurement: The RECIPIENT must procure architectural and engineering services in accordance with the federal requirements in Chapter 11 of Title 40, U.S.C. (see <https://uscode.house.gov/view.xhtml?path=/prelim@title40/subtitle1/chapter11&edition=prelim>).

E Build America, Buy America (BABA – Pub. L. No. 117-58, 70901-52) (Federally funded SRF Equivalency projects only): The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding agrees to comply with all federal requirements applicable to the assistance received (including those imposed by the Infrastructure Investment and Jobs Act ("IIJA"/BIL), Public Law No. 117-58) which the RECIPIENT understands includes, but is not limited to, the following requirements: that all the iron and steel, manufactured products, and construction materials used in the Project are to be produced in the United States ("Build America, Buy America Requirements") unless (i) the RECIPIENT has requested and obtained a waiver from the cognizant Agency pertaining to the Project or the Project is otherwise covered by a general applicability waiver; or (ii) all of the contributing Agencies have otherwise advised the RECIPIENT in writing that the Build America, Buy America Requirements are not applicable to the project.

RECIPIENT shall comply with all record keeping and reporting requirements under all applicable legal authorities, including any reports required by the funding authority (such as EPA and/or a state), such as performance indicators of program deliverables, information on costs and project progress. The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding, understands that (i) each contract and subcontract related to the project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the applicable legal requirements and this Agreement may result in a default hereunder that results in a repayment of the assistance agreement in advance of termination and/or repayment of assistance, and/or other remedial actions.

EPA has granted an adjustment period waiver of the requirements of Section 70914(a) of the BIL, pursuant to Section 70914(b)(1) (public interest waiver), for eligible projects financed by SRF projects that have initiated project design planning prior to May 14, 2022, the statutory effective date of the BABA requirements. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. Sections 70917(a) and (b) of BIL provide a savings provision for existing statutory requirements that meet or exceed BABA requirements. The statutory American Iron and Steel (AIS) requirements of Clean Water Act (CWA) Section 608 and Safe Drinking Water Act (SDWA) Section 1452(a)(4) has previously applied to SRF projects and will continue to do so as part of BABA requirements.

Where manufactured products used in the project are required to be produced in the United States, manufactured product shall mean manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation. The manufactured products included cover the majority of potential water infrastructure products, including complex products made up of

a variety of material types and components. For water infrastructure projects, commonly manufactured products would include, but not be limited to, pumps, motors, blowers, aerators, generators, instrumentation and control systems, gauges, meters, measurement equipment, treatment equipment, dewatering equipment, actuators, and many other mechanical and electrical items.

F. Disadvantaged Business Enterprise (DBE): General Compliance, 40 CFR, Part 33. The RECIPIENT agrees to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises (MBE/WBE) 40CFR, Part 33 in procurement under this agreement.

Six Good Faith Efforts, 40 CFR, Part 33, Subpart C. The RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under this agreement. Records documenting compliance with the following six good faith efforts shall be retained:

- 1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- 2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- 3) Consider, in the contracting process, whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State, and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- 4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- 5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request.

Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

This does not preclude the RECIPIENT from enacting broader nondiscrimination protections.

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including but not limited to, Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).



In the event of the RECIPIENT's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this agreement may be rescinded, canceled, or terminated in whole or in part and the RECIPIENT may be declared ineligible for further funding from ECOLOGY. The RECIPIENT shall, however, be given a reasonable time in which to cure this noncompliance.

The RECIPIENT shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

"The Contractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor will carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in termination of this Contract or other legally available remedies."

Bidder List, 40 CFR, Section 33.501(b) and (c). The RECIPIENT agrees to create and maintain a bidders list. The bidders list shall include the following information for all firms that bid or quote on prime contracts, or bid or quote subcontracts, including both MBE/WBEs and non-MBE/WBEs.

1. Entity's name with point of contact
2. Entity's mailing address, telephone number, and e-mail address
3. The procurement on which the entity bid or quoted, and when
4. Entity's status as an MBE/WBE or non-MBE/WBE

G. Electronic and information Technology (EIT) Accessibility: RECIPIENTS shall ensure that loan funds provided under this agreement for costs in the development or purchase of EIT systems or products provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology as per Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7. Systems or products funded under this agreement must be designed to meet the diverse needs of users without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

H. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.

I. Hotel-Motel Fire Safety Act: The RECIPIENT shall ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (15 USC 2225a, PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act. Pursuant to 15 USC 2225a.

J. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request. Wage determinations and instructions for their use can be found at <https://sam.gov/>.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request. Where conflicts arise between the State prevailing wage rates and Davis-Bacon Act prevailing wage requirements the more stringent requirement shall govern. Washington State prevailing wage rates can be found at <https://www.lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>

K. Trafficking in Persons: The RECIPIENT and RECIPIENT employees that are private entities shall not engage in forms of trafficking in persons. This includes, but is not limited to, the procurement of a commercial sex act or forced labor. The RECIPIENT shall notify ECOLOGY immediately of any information received from any source alleging a violation under this provision.

L. Unique Entity Identifier (UEI): The RECIPIENT agrees to register with and make their registration public in the System for Award Management (SAM.gov). The RECIPIENT will be assigned a UEI and agree to include their UEI Number under their organization’s information in EAGL. The UEI number must be entered into EAGL before a funding agreement is signed.

## **SECTION 5: CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.**

The RECIPIENT must submit the following documents/forms to ECOLOGY before this agreement is signed by ECOLOGY:

1. Financial Capability Assessment Documentation (upon request)
2. Opinion of RECIPIENT’s Legal Council – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
3. Authorizing Ordinance or Resolution – Must be uploaded to the General Uploads form in EAGL.
4. Federal Funding Accountability and Transparency Act (FFATA) Form (Required for all federally funded SRF Equivalency projects – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
5. CWSRF Federal Reporting Information form – Must be completed in EAGL.
6. Fiscal Sustainability Plan (Asset Management) Certification Form (Only required if the project includes construction of a wastewater or stormwater facility construction) – Must be completed in EAGL.
7. Cost and Effectiveness Analysis Certification Form (Required for all projects receiving SRF Loan funding) – Must be completed in EAGL.
8. State Environmental Review Process (SERP) Documentation (Required for treatment works projects only) – Must be uploaded to the Environmental and Cultural Review form in EAGL.

A. Alteration and Eligibility of Project: During the term of this agreement, the RECIPIENT (1) shall not materially alter the design or structural character of the project without the prior written approval of ECOLOGY and (2) shall take no action which would adversely affect the eligibility of the project as defined by applicable funding program rules and state statutes, or which would cause a violation of any covenant, condition, or provision herein.

B. American Iron and Steel (Buy American – P.L 113-76, Consolidated Appropriations Act 2014, Section 436): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a “treatment works” as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings,

hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

C. Authority of RECIPIENT: This agreement is authorized by the Constitution and laws of the state of Washington, including the RECIPIENT's authority, and by the RECIPIENT pursuant to the authorizing ordinance or resolution. The RECIPIENT shall submit a copy of the authorizing ordinance or resolution to the ECOLOGY Financial Manager before this agreement shall be signed by ECOLOGY.

D. Equivalency Projects: ECOLOGY designated equivalency project and alternative designated equivalency project RECIPIENTS agree to accept federal funds and the federal requirements that accompany the funds. This includes all the requirements in Section 4 and this Section.

E. Fiscal Sustainability Plan Certification: The RECIPIENT shall submit a completed Fiscal Sustainability Plan Certification before this agreement is signed by ECOLOGY. The Fiscal Sustainability Plan Certification is available from the ECOLOGY Financial Manager or on the Water Quality Program website.

F. Funding Recognition and Outreach: The RECIPIENT agrees to comply with the EPA SRF Signage Guidance to enhance public awareness of EPA assistance agreements nationwide. Signage guidance can be found at: <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Water-Quality-grants-and-loans/Facility-project-resources>.

G. Insurance: The RECIPIENT shall at all times carry fire and extended insurance coverage, public liability, and property damage, and such other forms of insurance with responsible insurers and policies payable to the RECIPIENT on such of the buildings, equipment, works, plants, facilities, and properties of the Utility as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, or it shall self-insure or participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

H. Litigation Authority: No litigation is now pending, or to the RECIPIENT's knowledge, threatened, seeking to restrain, or enjoin:

- (i) the execution of this agreement; or
- (ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or
- (iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or
- (iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence, or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

I. Loan Interest Rate and Terms: This loan agreement shall remain in effect until the date of final repayment of the loan, unless terminated earlier according to the provisions herein.

When the Project Completion Date has occurred, ECOLOGY and the RECIPIENT shall execute an amendment to this loan agreement which details the final loan amount (Final Loan Amount), and ECOLOGY shall prepare a final loan repayment schedule. The Final Loan Amount shall be the combined total of actual disbursements made on the loan and all accrued

interest to the computation date.

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a 365-day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments, semiannually, over the term of this loan "Loan Term" as outlined in this agreement.

## J. Loan Repayment:

### Sources of Loan Repayment

1. Nature of RECIPIENT's Obligation. The obligation of the RECIPIENT to repay the loan from the sources identified below and to perform and observe all other agreements and obligations on its part, contained herein, shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all the covenants, agreements, and attachments contained herein.
2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.
3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.
4. For Revenue-Secured: Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.
6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

If the RECIPIENT defeases or advance refunds the loan, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay both of the following:

- (i) The Loan Amount with interest
- (ii) Any other obligations of the RECIPIENT to ECOLOGY under this agreement, unless in its sole discretion ECOLOGY finds that repayment from those additional sources would not be in the public interest.

Failure to repay the Loan Amount plus interest within the time specified in ECOLOGY's notice to make such repayment shall incur Late Charges and shall be treated as a Loan Default.

7. Refinancing or Early Repayment of the Project. So long as ECOLOGY shall hold this loan, the RECIPIENT shall give ECOLOGY thirty days written notice if the RECIPIENT intends to refinance or make early repayment of the loan.

### Method and Conditions on Repayments

1. Semiannual Payments. Notwithstanding any other provision of this agreement, the first semiannual payment of principal and interest on this loan shall be due and payable no later than one year after the

project completion date or initiation of operation date, whichever comes first.

Thereafter, equal payments shall be due every six months.

If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington State agencies, the payment shall be due on the next business day for Washington State agencies.

Payments shall be mailed to:  
Department of Ecology  
Cashiering Unit  
P.O. Box 47611  
Olympia WA 98504-7611

In lieu of mailing payments, electronic fund transfers can be arranged by working with ECOLOGY's Financial Manager.

No change to the amount of the semiannual principal and interest payments shall be made without a mutually signed amendment to this agreement. The RECIPIENT shall continue to make semiannual payments based on this agreement until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended agreement.

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.

3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.

4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

#### K. Loan Security

Due Regard: For loans secured with a Revenue Obligation: The RECIPIENT shall exercise due regard for Maintenance and Operation Expense and the debt service requirements of the Senior Lien Obligations and any other outstanding obligations pledging the Gross Revenue of the Utility, and it has not obligated itself to set aside and pay into the loan Fund a greater amount of the Gross Revenue of the Utility than, in its judgment, shall be available over and above such Maintenance and Operation Expense and those debt service requirements.

Where collecting adequate gross utility revenue requires connecting additional users, the RECIPIENT shall require the sewer system connections necessary to meet debt obligations and expected operation and maintenance expenses.

Levy and Collection of Taxes (if used to secure the repayment of the loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of its electors on all of the taxable property within the boundaries of the RECIPIENT in an amount sufficient, together with other money legally available and to be used therefore, to pay when due the principal of and interest on the loan, and the full faith, credit and resources of the RECIPIENT are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

Not an Excess Indebtedness: For loans secured with a general obligation pledge or a general obligation pledge on special assessments: The RECIPIENT agrees that this agreement and the loan to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the Loan Fund and used to pay the principal of and interest on the loan.

L. Maintenance and Operation of a Funded Utility: The RECIPIENT shall, at all times, maintain and keep the funded Utility in good repair, working order, and condition.

M. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an "Opinion of Legal Counsel to the RECIPIENT" to ECOLOGY before this agreement will be signed. ECOLOGY will provide the form.

N. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves "public work" and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request.

O. Progress Reports: RECIPIENTS funded with State Revolving Fund Loan or Forgivable Principal shall include the following verification statement in the "General Comments" text box of each progress report.

"We verified that we are in compliance with all the requirements as outlined in our funding agreement(s) with the Department of Ecology. This includes but is not limited to:

- The Davis-Bacon Act, 29 CFR , prevailing wage requirements, certified weekly payroll, etc.
- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33
- The American Iron and Steel Act (Buy American)
- The Build America Buy America Act (BABA) (equivalency projects only)"

P. Representations and Warranties: The RECIPIENT represents and warrants to ECOLOGY as follows:

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT, which has not been disclosed in writing to ECOLOGY.

Existence; Authority. It is a duly formed and legally existing municipal corporation or political subdivision of the

state of Washington or a federally recognized Indian Tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this agreement and to undertake the project identified herein.

Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this loan agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the project or to repay the principal of or interest on the loan, have occurred since the date of this loan agreement. Any changes in the RECIPIENT's financial condition shall be disclosed in writing to ECOLOGY by the RECIPIENT in its request for payment.

Q. Sale or Disposition of Funded Utility: The RECIPIENT shall not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities, or other part of the funded Utility or any real or personal property comprising a part of the funded Utility unless:

1. The facilities or property transferred are not material to the operation of the funded Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the funded Utility or are no longer necessary, material, or useful to the operation of the funded Utility; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the funded Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the funded Utility from the portion of the funded Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the ECOLOGY. The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.

R. Sewer-Use Ordinance or Resolution for Funded Wastewater Facility Projects: If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution. Such ordinance or resolution shall be submitted to ECOLOGY upon request.

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater into separated sewer systems.
- 3) Require that new sewers and connections be properly designed and constructed.

S. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient ECOLOGY or RECIPIENT funds.
2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.

4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

Procedures for Termination. If this loan agreement is terminated prior to project completion, ECOLOGY shall provide to the RECIPIENT a written notice of termination at least five working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the ECOLOGY shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the loan and all accrued interest (the "Termination Payment Date").

#### Termination and Default Remedies

No Further Payments. On and after the Termination Date, or in the event of a default event, ECOLOGY may, at its sole discretion, withdraw the loan and make no further payments under this agreement.

Repayment Demand. In response to an ECOLOGY initiated termination event, or in response to a loan default event, ECOLOGY may at its sole discretion demand that the RECIPIENT repay the outstanding balance of the Loan Amount and all accrued interest.

Interest after Repayment Demand. From the time that ECOLOGY demands repayment of funds, amounts owed by the RECIPIENT to ECOLOGY shall accrue additional interest at the rate of one percent per month, or fraction thereof.

Accelerate Repayments. In the event of a default, ECOLOGY may, in its sole discretion, declare the principal of and interest on the loan immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien Obligation upon the Net Revenue. That is, the loan is not subject to acceleration so long as any Senior Lien Obligations are outstanding. Repayments not made immediately upon such acceleration will incur Late Charges.

Late Charges. All amounts due to ECOLOGY and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur late charges.

Intercept State Funds. In the event of a default event and in accordance with Chapter 90.50A.060 RCW, "Defaults," any state funds otherwise due to the RECIPIENT may, at ECOLOGY's sole discretion, be withheld and applied to the repayment of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due, or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this agreement.

Fees and Expenses. In any action to enforce the provisions of this agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) shall be awarded to the prevailing party as that term is defined in Chapter 4.84.330 RCW.

Damages. Notwithstanding ECOLOGY's exercise of any or all the termination or default remedies provided in this agreement, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and/or the state of Washington because of any breach of this agreement by the RECIPIENT. ECOLOGY may withhold



payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

T. User-Charge System for Funded Utilities: The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and shall adopt a system of user-charges to assure that each user of the funded utility shall pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the project. The user-charge system will include provisions for a connection charge.

In addition, the RECIPIENT shall regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the funded utility, to establish reserves to pay for replacement, and to repay the loan.

## **GENERAL FEDERAL CONDITIONS**

**If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.**

### **A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:**

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

**B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:**

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$30,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required Unique Entity Identifier in [www.sam.gov](http://www.sam.gov) <<http://www.sam.gov>> within 30 days of agreement signature. The FFATA information will be available to the public at [www.usaspending.gov](http://www.usaspending.gov) <<http://www.usaspending.gov>>.

For more details on FFATA requirements, see [www.fsr.gov](http://www.fsr.gov) <<http://www.fsr.gov>>.

**C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:**

- As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
  1. Procure or obtain;
  2. Extend or renew a contract to procure or obtain; or
  3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf) <<https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management \(SAM\)](https://sam.gov/SAM/) <<https://sam.gov/SAM/>> exclusion list.

## ECOLOGY GENERAL TERMS AND CONDITIONS

### 1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://apps.ecology.wa.gov/publications/SummaryPages/2301002.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

### 2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

### 3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

### 4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:

- Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.

\* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.

- For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).

b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
- Make the IDP readily available to anyone working at the project site.

- Discuss the IDP with staff, volunteers, and contractors working at the project site.
- Implement the IDP when Cultural Resources or human remains are found at the project site.

c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

- Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.

d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.

e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

## 5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

## 6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

## 7. COMPENSATION

a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.

b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.

c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.

d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.

e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.

f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.

g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).

h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.

i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

## 8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

## 9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

## 10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

## 11. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

## 12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at:

<http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

## 13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

## 14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

## 15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

## 16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

## 17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

## 18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

## 19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

## 20. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

## 21. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
  - 1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
  - 2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.



## 22. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

## 23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

## 24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

## 25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

## 26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

## 27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.

b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing, <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

## 28. TERMINATION

### a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. 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.

Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

### b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. 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.

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

**c) By Mutual Agreement**

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

**d) In Event of Termination**

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

**29. THIRD PARTY BENEFICIARY**

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

**30. WAIVER**

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

**End of Terms and Conditions**



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd**

1/18/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

**Submitting Dept**

WATER & HYDROELECTRIC SERVICES

**Project #**

**Contact Name/Phone**

LOREN SEARL 509-625-7821

**Bid #**

6038-24

**Contact E-Mail**

LSEARL@SPOKANECITY.ORG

**Requisition #**

TBD

**Agenda Item Type**

Purchase w/o Contract

**Council Sponsor(s)**

JBINGLE

**Agenda Item Name**

4100 - WATER DEPT. PURCHASE OF MISC WATERWORKS PRODUCTS

**Agenda Wording**

Approve purchase of miscellaneous waterworks products from Ferguson waterworks \$165,671.84+TX; Core & Main \$77,801.77+TX; Consolidated Supply \$1,466.50+TX; HD Fowler \$29,199.00+TX

**Summary (Background)**

On December 27th 2023, Invitation for Bids #6038-24 for Miscellaneous Waterworks Product was issued. Four (4) responses were received. Award of this business is being recommended in accordance with the low responsive, responsible bidder in each category.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 298,811.63

Current Year Cost \$ 298,811.63

Subsequent Year(s) Cost \$ 0

**Narrative**

This item has gone out to bid #6038-24, to restock 2024 waterworks inventory.

**Amount**

**Budget Account**

Expense \$ 298,811.63

# 4100 42440 94340 56595 99999

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

<b><u>Dept Head</u></b>	SEARL, LOREN
<b><u>Division Director</u></b>	FEIST, MARLENE
<b><u>Accounting Manager</u></b>	ALBIN-MOORE, ANGELA
<b><u>Legal</u></b>	HARRINGTON,
<b><u>For the Mayor</u></b>	PICCOLO, MIKE

**Additional Approvals**

<b><u>PURCHASING</u></b>	PRINCE, THEA

**Distribution List**

tprince@spokanecity.org	tlester@spokanecity.org
lsearl@spokanecity.org	treiss@spokanecity.org
rrpenaluna@spokanecity.org	nrussell@spokanecity.org

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Submitting Department</b>	Water Department
<b>Contact Name</b>	Loren Searl
<b>Contact Email &amp; Phone</b>	<a href="mailto:lsearl@spokanecity.org">lsearl@spokanecity.org</a> 625-7821
<b>Council Sponsor(s)</b>	Jonathan Bingle
<b>Committee Date</b>	January 29 <sup>th</sup> 2024
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	4100 - Water Dept. Purchase of Misc Waterworks Products
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p><b><u>Background/History:</u></b> On December 27<sup>th</sup>, 2023, Invitation for Bids #6038-24 for Miscellaneous Waterworks Products was issued to 90 contacts via the City’s electronic bidding portal in support of the 2023 service season. Bids are due on January 15, 2024 itemizing costs across 11 item categories. Award of this business will be recommended in accordance with the low responsive, responsible bidder in each category.</p> <p><b><u>Executive Summary:</u></b> Award of items competed on Bid #6038-24 Miscellaneous Waterworks Products will be recommended to the low responsive, responsible bidder in each of the following categories:</p> <ul style="list-style-type: none"> <li>o Repair Clamps</li> <li>o Restrained Glands</li> <li>o Tapping Sleeves</li> <li>o Ductile Iron Fittings</li> <li>o Copper Pipe</li> <li>o HDPE Pipe</li> <li>o Ductile Iron Pipe</li> <li>o Gaskets</li> <li>o All Thread</li> <li>o Hydrant Parts</li> <li>o Flanged DI Spigots</li> </ul>
<b>Proposed Council Action</b>	Approve Miscellaneous Waterworks Orders
<p><b>Fiscal Impact</b>  Total Cost: <u>\$274,139.11 plus tax – Total \$298,811.63</u>  Approved in current year budget?    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Funding Source    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring  Specify funding source: Water Budget 4100 42440 94340 56595 99999</p> <p>Expense Occurrence    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring</p> <p>Other budget impacts: (revenue generating, match requirements, etc.) None</p>	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
What impacts would the proposal have on historically excluded communities?	

Public Works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. These items supports the operations of Public Works.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

N/A – This work is designed to manage costs and continue service delivery in support of all citizens and taxpayers. It will not impact racial, gender identity, national origin, income level, disability, sexual orientation or other existing disparity factors.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Public Works follows the City's established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This work is consistent with annual budget strategies to limit costs and approved projects in the 6-year CIP.

ITB #6038-24 BID TABUATION

Reference Number	Description	Type	UOM	Quantity
<b>Awarded Vendor</b>				
Product - Repair Clamps				
City #C2312-06	Bell Joint Leak 6"	Base	Each	10
City #C2312-08	Bell Joint Leak 8"	Base	Each	5
City #C2411-06	Full Circle 6" (Range 6.84-7.24)	Base	Each	30
City #C2413-06	Full Circle, Tapped 1" 6" (Range 6.84-7.24)	Base	Each	5
<b>Awarded Vendor</b>				
Product - Restrained Glands				
City #GL1000-04	MJ Restraint Kit 4"	Base	Each	150
City #GL1000-06	MJ Restraint Kit 6"	Base	Each	180
City #GL1000-08	MJ Restraint Kit 8"	Base	Each	50
City #GL1000-10	MJ Restraint Kit 10"	Base	Each	10
City #GL1000-12	MJ Restraint Kit 12"	Base	Each	50
City #GL1000S	MJ Restraint Split Gland Kit - 6"	Base	Each	10
<b>Awarded Vendor</b>				
Product - Tapping Sleeves				
City #S2304-06x04	Fabricated Steel, Flange Outlet 6" x 4" (Range 6.90-7.20)	Base	Each	6
City #S2304-08x06	Fabricated Steel, Flange Outlet 8" x 6" (Range 8.98-9.37)	Base	Each	3
<b>Awarded Vendor</b>				
Product - Ductile Iron Fittings				
City #B2344-04	Bend, MJ 45° 4"	Base	Each	6
City #B2344-06	Bend, MJ 45° 6"	Base	Each	11
City #B2344-08	Bend, MJ 45° 8"	Base	Each	10
City #B2344-12	Bend, MJ 45° 12"	Base	Each	6
City #B2349-04	Bend, MJ 90° 4"	Base	Each	17
City #B2379-04	Bend, MJ x Flange 90° 4"	Base	Each	7
City #C3372-04	Adapter, MJ x FL 4"	Base	Each	10
City #C3372-08	Adapter, MJ x FL 8"	Base	Each	9
City #C1344-04	Cap Tapped 2", MJ 4"	Base	Each	4
City #C1344-06	Cap Tapped 2", MJ 6"	Base	Each	10
City #P2344-24	Plug, MJ Tap 2" x 24"	Base	Each	2
City #R1361-04x03	Reducer, MJ x FL 4" x 3"	Base	Each	10



City #S2341-04	Long Sleeve, MJ 4"	Base Each	5
City #S2341-06	Long Sleeve, MJ 6"	Base Each	42
City #S2341-12	Long Sleeve, MJ 12"	Base Each	10
City #S2341-16	Long Sleeve, MJ 16"	Base Each	1
City #T1340-06x06x04	Tee, MJ 6" x 6" x 4"	Base Each	3
City #T1340-06x06x06	Tee, MJ 6" x 6" x 6"	Base Each	10
City #T1340-08x08x04	Tee, MJ 8" x 8" x 4"	Base Each	1
City #T1340-08x08x06	Tee, MJ 8" x 8" x 6"	Base Each	2
City #T1340-12x12x06	Tee, MJ 12" x 12" x 6"	Base Each	3
City #T1340-12x12x08	Tee, MJ 12" x 12" x 8"	Base Each	2

**Awarded Vendor**

Product - Pipe: Copper

City #P1100-03/4	3/4" - 60' Rolls	Base Foot	5,400.00
City #P1100-1	1" - 60' Rolls	Base Foot	12,000.00
City #P1100-1	1" - 100' Rolls	Base Foot	400

**Awarded Vendor**

Product - Pipe: HDPE

City #P1000-1	1" - 100' rolls	Base Foot	800
City #P1000-2	2" - 100' Rolls	Base Foot	1,500.00
City #P1000-2-S	2" - 20' Sticks	Base Foot	300

**Awarded Vendor**

Product - Pipe: Ductile Iron - Tyton Joint

City #P1300-04	4"	Base Foot	720
City #P1300-06	6"	Base Foot	360
City #P1300-08	8"	Base Foot	360
City #P1300-10	10"	Base Foot	180

**Awarded Vendor**

Product - Gaskets

City #G1000-04	Tyton Joint Restraint, 4"	Base Each	25
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**Awarded Vendor**

Product - All Thread

City #R3311-01/2	All Thread Rod 1/2"	Base Foot	20
City #R3311-03/4	All Thread Rod 3/4"	Base Foot	100

**Awarded Vendor**

Product - Hydrant Parts

City #HY-STORZ-NS	Storz Fitting, STORZ x NH, 5" x 4-1/2"	Base Each	50
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**Awarded Vendor**

Product - Pipe: Flanged Ductile Iron DI FLxSP

City #C3370-4x72	4"x72"	Base Each	1
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City #C3370-6x72	6"x72"	Base Each	1
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**Total of low bids**

**Total by Vendor**

**Total with Tax**

Awarded Bid	Ferguson Waterworks	Core & Main	Consolidated Supply Co.	H D FOWLER CO
<b>Ferguson Waterworks</b>				
21 DAYS ARO	21 DAYS ARO	30 DAYS ARO	30 DAYS ARO	20 DAYS ARO
\$1,702.20	\$1,702.20	\$2,520.70	\$2,764.60	\$2,764.60
\$1,197.80	\$1,197.80	\$1,741.50	\$1,910.00	\$1,910.05
\$5,649.30	\$5,649.30	\$7,135.80	\$8,000.40	\$7,630.50
\$1,150.10	\$1,150.10	\$1,478.65	\$1,621.65	\$1,553.20
<b>\$9,699.40</b>	<b>\$9,699.40</b>	<b>\$12,876.65</b>	<b>\$14,296.65</b>	<b>\$13,858.35</b>
<b>H D FOWLER CO</b>				
15 DAYS ARO	21 DAYS ARO	30 DAYS ARO	30 DAYS ARO	15 DAYS ARO
\$6,360.00	\$6,409.50	\$6,366.00	\$6,364.50	\$6,360.00
\$9,621.00	\$9,696.60	\$9,630.00	\$9,630.00	\$9,621.00
\$3,570.00	\$3,596.50	\$3,688.50	\$3,571.50	\$3,570.00
\$1,020.00	\$1,027.70	\$1,077.30	\$1,020.50	\$1,020.00
\$6,740.00	\$6,790.50	\$6,963.50	\$6,741.50	\$6,740.00
\$805.00	\$811.50	\$850.70	\$805.90	\$805.00
<b>\$28,116.00</b>	<b>\$28,332.30</b>	<b>\$28,576.00</b>	<b>\$28,133.90</b>	<b>\$28,116.00</b>
<b>Ferguson Waterworks</b>				
10 DAYS ARO	10 DAYS ARO	30 DAYS ARO	30 DAYS ARO	20 DAYS ARO
\$2,586.72	\$2,586.72	\$4,856.58	\$4,024.02	\$4,562.52
\$1,537.92	\$1,537.92	\$2,818.68	\$2,188.35	\$2,659.08
<b>\$4,124.64</b>	<b>\$4,124.64</b>	<b>\$7,675.26</b>	<b>\$6,212.37</b>	<b>\$7,221.60</b>
<b>Core &amp; Main</b>				
30 DAYS ARO	7 DAYS ARO	30 DAYS ARO	30 DAYS ARO	20 DAYS ARO
\$348.36	\$376.38	\$348.36	\$351.30	\$355.08
\$1,016.07	\$1,097.80	\$1,016.07	\$1,024.65	\$1,035.76
\$1,345.90	\$1,454.20	\$1,345.90	\$1,357.30	\$1,372.10
\$1,741.68	\$1,881.78	\$1,741.68	\$1,756.44	\$1,775.52
\$1,171.47	\$1,279.59	\$1,171.47	\$1,194.42	\$1,207.34
\$557.90	\$602.77	\$557.90	\$562.66	\$568.75
\$665.00	\$718.50	\$665.00	\$670.70	\$677.90
\$1,235.07	\$1,334.34	\$1,235.07	\$1,245.51	\$1,259.01
\$217.48	\$234.96	\$217.48	\$219.32	\$221.68
\$744.30	\$804.10	\$744.30	\$750.50	\$758.70
\$1,388.08	\$2,179.46	\$1,388.08	\$2,034.30	\$1,991.48
\$965.90	\$1,043.60	\$965.90	\$1,240.20	\$1,519.60

\$308.80	\$333.60	\$308.80	\$311.40	\$314.80
\$4,284.00	\$4,694.34	\$4,284.00	\$4,381.44	\$4,288.20
\$2,675.90	\$2,891.20	\$2,675.90	\$2,698.60	\$2,727.90
\$511.43	\$552.57	\$511.43	\$515.76	\$504.90
\$456.00	\$492.69	\$456.00	\$459.87	\$464.88
\$1,636.20	\$1,767.70	\$1,636.20	\$1,650.00	\$1,667.90
\$176.82	\$191.04	\$176.82	\$178.31	\$180.25
\$405.34	\$437.94	\$405.34	\$408.78	\$413.22
\$992.79	\$1,072.65	\$992.79	\$1,001.19	\$1,012.08
\$761.08	\$822.30	\$761.08	\$767.52	\$775.86
<b>\$23,605.57</b>	<b>\$26,263.51</b>	<b>\$23,605.57</b>	<b>\$24,780.17</b>	<b>\$25,092.91</b>

**Ferguson Waterworks**

7 DAYS ARO	7 DAYS ARO	90 DAYS ARO	45 DAYS ARO	40 DAYS ARO
\$33,264.00	\$33,264.00	\$36,396.00	\$37,800.00	\$37,746.00
\$99,960.00	\$99,960.00	\$107,400.00	\$111,480.00	\$111,360.00
\$3,332.00	\$3,332.00	\$3,580.00	\$3,716.00	\$3,712.00
<b>\$136,556.00</b>	<b>\$136,556.00</b>	<b>\$147,376.00</b>	<b>\$152,996.00</b>	<b>\$152,818.00</b>

**Ferguson Waterworks**

10 DAYS ARO	10 DAYS ARO	30 DAYS ARO	30 DAYS ARO	15 DAYS ARO
\$536.00	\$536.00	\$440.00	\$512.00	\$416.00
\$2,430.00	\$2,430.00	\$2,820.00	\$3,345.00	\$4,290.00
\$486.00	\$486.00	\$579.00	\$669.00	\$930.00
<b>\$3,452.00</b>	<b>\$3,452.00</b>	<b>\$3,839.00</b>	<b>\$4,526.00</b>	<b>\$5,636.00</b>

**Core & Main**

30 DAYS ARO		30 DAYS ARO	30 DAYS ARO	20 DAYS ARO
\$25,819.20		\$25,819.20	\$26,575.20	\$26,560.80
\$8,827.20		\$8,827.20	\$9,086.40	\$9,111.60
\$11,869.20		\$11,869.20	\$12,222.00	\$12,186.00
\$7,680.60		\$7,680.60	\$7,903.80	\$7,896.60
<b>\$54,196.20</b>	<b>\$0.00</b>	<b>\$54,196.20</b>	<b>\$55,787.40</b>	<b>\$55,755.00</b>

**Consolidated Supply Co.**

30 DAYS ARO		30 DAYS ARO	30 DAYS ARO	20 DAYS ARO
\$1,466.50		\$1,766.50	\$1,466.50	\$1,852.50
<b>\$1,466.50</b>	<b>\$0.00</b>	<b>\$1,766.50</b>	<b>\$1,466.50</b>	<b>\$1,852.50</b>

**Ferguson Waterworks**

7 DAYS ARO	7 DAYS ARO	30 DAYS ARO	60 DAYS ARO	20 DAYS ARO
\$21.80	\$21.80	\$29.00		\$34.00
\$268.00	\$268.00	\$275.00		\$300.00

	<b>\$289.80</b>	<b>\$289.80</b>	<b>\$304.00</b>	<b>\$0.00</b>	<b>\$334.00</b>
<b>Ferguson Waterworks</b>					
10 DAYS ARO		10 DAYS ARO	30 DAYS ARO	30 DAYS ARO	20 DAYS ARO
	\$11,550.00	\$11,550.00			\$12,970.50
	<b>\$11,550.00</b>	<b>\$11,550.00</b>	<b>\$0.00</b>	<b>\$12,970.50</b>	<b>\$12,850.00</b>
<b>H D FOWLER CO</b>					
	\$489.48		\$649.21	\$590.93	\$489.48
	\$593.52		\$787.20	\$716.41	\$593.52
	<b>\$1,083.00</b>	<b>\$0.00</b>	<b>\$1,436.41</b>	<b>\$1,307.34</b>	<b>\$1,083.00</b>
	<b>\$274,139.11</b>				
		<b>\$165,671.84</b>	<b>\$77,801.77</b>	<b>\$1,466.50</b>	<b>\$29,199.00</b>
	<b>\$298,811.63</b>				

ITB #6038-24 BID TABUATION

Reference Number	Description	Type	UOM	Quantity	Ferguson Waterworks	Core & Main	Consolidated Supply Co.	H D FOWLER CO
Product - Repair Clamps					21 DAYS ARO	30 DAYS ARO	30 DAYS ARO	20 DAYS ARO
City #C2312-06	Bell Joint Leak 6"	Base	Each	10	\$1,702.20	\$2,520.70	\$2,764.60	\$2,764.60
City #C2312-08	Bell Joint Leak 8"	Base	Each	5	\$1,197.80	\$1,741.50	\$1,910.00	\$1,910.05
City #C2411-06	Full Circle 6" (Range 6.84-7.24)	Base	Each	30	\$5,649.30	\$7,135.80	\$8,000.40	\$7,630.50
City #C2413-06	Full Circle, Tapped 1" 6" (Range 6.84-7.24)	Base	Each	5	\$1,150.10	\$1,478.65	\$1,621.65	\$1,553.20
					<b>\$9,699.40</b>	<b>\$12,876.65</b>	<b>\$14,296.65</b>	<b>\$13,858.35</b>
Product - Restrained Glands					21 DAYS ARO	30 DAYS ARO	30 DAYS ARO	15 DAYS ARO
City #GL1000-04	MJ Restraint Kit 4"	Base	Each	150	\$6,409.50	\$6,366.00	\$6,364.50	\$6,360.00
City #GL1000-06	MJ Restraint Kit 6"	Base	Each	180	\$9,696.60	\$9,630.00	\$9,630.00	\$9,621.00
City #GL1000-08	MJ Restraint Kit 8"	Base	Each	50	\$3,596.50	\$3,688.50	\$3,571.50	\$3,570.00
City #GL1000-10	MJ Restraint Kit 10"	Base	Each	10	\$1,027.70	\$1,077.30	\$1,020.50	\$1,020.00
City #GL1000-12	MJ Restraint Kit 12"	Base	Each	50	\$6,790.50	\$6,963.50	\$6,741.50	\$6,740.00
City #GL1000S	MJ Restraint Split Gland Kit - 6"	Base	Each	10	\$811.50	\$850.70	\$805.90	\$805.00
					<b>\$28,332.30</b>	<b>\$28,576.00</b>	<b>\$28,133.90</b>	<b>\$28,116.00</b>
Product - Tapping Sleeves					10 DAYS ARO	30 DAYS ARO	30 DAYS ARO	20 DAYS ARO
City #S2304-06x04	Fabricated Steel, Flange Outlet 6" x 4" (Range 6.90-7.20)	Base	Each	6	\$2,586.72	\$4,856.58	\$4,024.02	\$4,562.52
City #S2304-08x06	Fabricated Steel, Flange Outlet 8" x 6" (Range 8.98-9.37)	Base	Each	3	\$1,537.92	\$2,818.68	\$2,188.35	\$2,659.08
					<b>\$4,124.64</b>	<b>\$7,675.26</b>	<b>\$6,212.37</b>	<b>\$7,221.60</b>
Product - Ductile Iron Fittings					7 DAYS ARO	30 DAYS ARO	30 DAYS ARO	20 DAYS ARO
City #B2344-04	Bend, MJ 45° 4"	Base	Each	6	\$376.38	\$348.36	\$351.30	\$355.08
City #B2344-06	Bend, MJ 45° 6"	Base	Each	11	\$1,097.80	\$1,016.07	\$1,024.65	\$1,035.76
City #B2344-08	Bend, MJ 45° 8"	Base	Each	10	\$1,454.20	\$1,345.90	\$1,357.30	\$1,372.10
City #B2344-12	Bend, MJ 45° 12"	Base	Each	6	\$1,881.78	\$1,741.68	\$1,756.44	\$1,775.52
City #B2349-04	Bend, MJ 90° 4"	Base	Each	17	\$1,279.59	\$1,171.47	\$1,194.42	\$1,207.34
City #B2379-04	Bend, MJ x Flange 90° 4"	Base	Each	7	\$602.77	\$557.90	\$562.66	\$568.75

City #C3372-04	Adapter, MJ x FL 4"	Base Each	10	\$718.50	\$665.00	\$670.70	\$677.90
City #C3372-08	Adapter, MJ x FL 8"	Base Each	9	\$1,334.34	\$1,235.07	\$1,245.51	\$1,259.01
City #C1344-04	Cap Tapped 2", MJ 4"	Base Each	4	\$234.96	\$217.48	\$219.32	\$221.68
City #C1344-06	Cap Tapped 2", MJ 6"	Base Each	10	\$804.10	\$744.30	\$750.50	\$758.70
City #P2344-24	Plug, MJ Tap 2" x 24"	Base Each	2	\$2,179.46	\$1,388.08	\$2,034.30	\$1,991.48
City #R1361-04x03	Reducer, MJ x FL 4" x 3"	Base Each	10	\$1,043.60	\$965.90	\$1,240.20	\$1,519.60
City #S2341-04	Long Sleeve, MJ 4"	Base Each	5	\$333.60	\$308.80	\$311.40	\$314.80
City #S2341-06	Long Sleeve, MJ 6"	Base Each	42	\$4,694.34	\$4,284.00	\$4,381.44	\$4,288.20
City #S2341-12	Long Sleeve, MJ 12"	Base Each	10	\$2,891.20	\$2,675.90	\$2,698.60	\$2,727.90
City #S2341-16	Long Sleeve, MJ 16"	Base Each	1	\$552.57	\$511.43	\$515.76	\$504.90
City #T1340-06x06x04	Tee, MJ 6" x 6" x 4"	Base Each	3	\$492.69	\$456.00	\$459.87	\$464.88
City #T1340-06x06x06	Tee, MJ 6" x 6" x 6"	Base Each	10	\$1,767.70	\$1,636.20	\$1,650.00	\$1,667.90
City #T1340-08x08x04	Tee, MJ 8" x 8" x 4"	Base Each	1	\$191.04	\$176.82	\$178.31	\$180.25
City #T1340-08x08x06	Tee, MJ 8" x 8" x 6"	Base Each	2	\$437.94	\$405.34	\$408.78	\$413.22
City #T1340-12x12x06	Tee, MJ 12" x 12" x 6"	Base Each	3	\$1,072.65	\$992.79	\$1,001.19	\$1,012.08
City #T1340-12x12x08	Tee, MJ 12" x 12" x 8"	Base Each	2	\$822.30	\$761.08	\$767.52	\$775.86
				<b>\$26,263.51</b>	<b>\$23,605.57</b>	<b>\$24,780.17</b>	<b>\$25,092.91</b>

Product - Pipe: Copper

				7 DAYS ARO	90 DAYS ARO	45 DAYS ARO	40 DAYS ARO
City #P1100-03/4	3/4" - 60' Rolls	Base Foot	5,400.00	\$33,264.00	\$36,396.00	\$37,800.00	\$37,746.00
City #P1100-1	1" - 60' Rolls	Base Foot	12,000.00	\$99,960.00	\$107,400.00	\$111,480.00	\$111,360.00
City #P1100-1	1" - 100' Rolls	Base Foot	400	\$3,332.00	\$3,580.00	\$3,716.00	\$3,712.00
				<b>\$136,556.00</b>	<b>\$147,376.00</b>	<b>\$152,996.00</b>	<b>\$152,818.00</b>

Product - Pipe: HDPE

				10 DAYS ARO	30 DAYS ARO	30 DAYS ARO	15 DAYS ARO
City #P1000-1	1" - 100' rolls	Base Foot	800	\$536.00	\$440.00	\$512.00	\$416.00
City #P1000-2	2" - 100' Rolls	Base Foot	1,500.00	\$2,430.00	\$2,820.00	\$3,345.00	\$4,290.00
City #P1000-2-S	2" - 20' Sticks	Base Foot	300	\$486.00	\$579.00	\$669.00	\$930.00
				<b>\$3,452.00</b>	<b>\$3,839.00</b>	<b>\$4,526.00</b>	<b>\$5,636.00</b>

Product - Pipe: Ductile Iron - Tyton Joint

				30 DAYS ARO	30 DAYS ARO	20 DAYS ARO
City #P1300-04	4"	Base Foot	720	\$25,819.20	\$26,575.20	\$26,560.80

City #P1300-06	6"	Base Foot	360		\$8,827.20	\$9,086.40	\$9,111.60
City #P1300-08	8"	Base Foot	360		\$11,869.20	\$12,222.00	\$12,186.00
City #P1300-10	10"	Base Foot	180		\$7,680.60	\$7,903.80	\$7,896.60
					<b>\$0.00</b>	<b>\$54,196.20</b>	<b>\$55,787.40</b>
Product - Gaskets					30 DAYS ARO	30 DAYS ARO	20 DAYS ARO
City #G1000-04	Tyton Joint Restraint, 4"	Base Each	25		\$1,766.50	\$1,466.50	\$1,852.50
					<b>\$0.00</b>	<b>\$1,766.50</b>	<b>\$1,466.50</b>
Product - All Thread				7 DAYS ARO	30 DAYS ARO	60 DAYS ARO	20 DAYS ARO
City #R3311-01/2	All Thread Rod 1/2"	Base Foot	20	\$21.80	\$29.00		\$34.00
City #R3311-03/4	All Thread Rod 3/4"	Base Foot	100	\$268.00	\$275.00		\$300.00
					<b>\$289.80</b>	<b>\$304.00</b>	<b>\$0.00</b>
							<b>\$334.00</b>
Product - Hydrant Parts				10 DAYS ARO	30 DAYS ARO	30 DAYS ARO	20 DAYS ARO
City #HY-STORZ-NS	Storz Fitting, STORZ x NH, 5" x 4-1/2"	Base Each	50	\$11,550.00		\$12,970.50	\$12,850.00
					<b>\$11,550.00</b>	<b>\$0.00</b>	<b>\$12,970.50</b>
							<b>\$12,850.00</b>
Product - Pipe: Flanged Ductile Iron DI FLxSP							
City #C3370-4x72	4"x72"	Base Each	1		\$649.21	\$590.93	\$489.48
City #C3370-6x72	6"x72"	Base Each	1		\$787.20	\$716.41	\$593.52
					<b>\$0.00</b>	<b>\$1,436.41</b>	<b>\$1,307.34</b>
							<b>\$1,083.00</b>
Product - Pipe, Ductile Iron 8" - Sewer Department							
	1 8" Ductile Iron Pipe - 18' lengths	Base Foot	828		\$27,299.16	\$28,110.60	\$28,027.80
					<b>\$0.00</b>	<b>\$27,299.16</b>	<b>\$28,110.60</b>
							<b>\$28,027.80</b>
Total Extended					\$220,267.65	\$308,950.75	\$330,587.43
					<b>\$165,671.84</b>	<b>\$105,100.93</b>	<b>\$1,466.50</b>
							<b>\$29,199.00</b>





**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd**

1/10/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

**Submitting Dept**

WASTEWATER MANAGEMENT

**Project #**

**Contact Name/Phone**

FRED BROWN 625-6307

**Bid #**

ITB6005-23

**Contact E-Mail**

FBROWN@SPOKANECITY.ORG

**Requisition #**

RE20356

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

4320-CONVEYOR BELT (SERPENTIX) REPLACEMENT PROJECT - MCCLINTOCK &

**Agenda Wording**

Consent to award Serpentix Conveyor Project Contract with McClintock & Turk. Total cost before tax is \$1,429,604.00. Contract period is 1/8/24 to 12/31/24.

**Summary (Background)**

PW ITB 6005-23 was issued to procure the Serpentix Conveyor Replacement Project. McClintock & Turk was selected as the winning contractor. This is a planned replacement of critical plant equipment for the biosolids conveyor system

Lease? NO

Grant related? NO

Public Works? YES

**Fiscal Impact**

Approved in Current Year Budget?

Total Cost \$ \$1,429,604.00

Current Year Cost \$ \$950,000.00

Subsequent Year(s) Cost \$ 0

**Narrative**

This is a CIP planned expense that was out to BID at the end of 2023. This is a planned replacement of critical plant equipment.

**Amount**

**Budget Account**

Expense \$ \$1,429,604.00

# 4320.43290.35148.54803.10103

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

<b><u>Dept Head</u></b>	GENNETT, RAYLENE
<b><u>Division Director</u></b>	FEIST, MARLENE
<b><u>Accounting Manager</u></b>	ALBIN-MOORE, ANGELA
<b><u>Legal</u></b>	HARRINGTON,
<b><u>For the Mayor</u></b>	JONES, GARRETT

**Additional Approvals**

<b><u>PURCHASING</u></b>	PRINCE, THEA

**Distribution List**

Ken Patterson; ken@mcturk.net	hbarnhart@spokanecity.org
kkeck@spokanecity.org	mmurray@spokanecity.org
Tax & Licenses	rpwrfaccounting@spokanecity.org
rrinderle@spokanecity.org	

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	January 29, 2024
<b>Submitting Department</b>	Wastewater Management/RPWRP
<b>Contact Name</b>	Fred Brown
<b>Contact Email &amp; Phone</b>	<a href="mailto:fbrown@spokanecity.org">fbrown@spokanecity.org</a>
<b>Council Sponsor(s)</b>	<u>CM Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Consent to award Serpentix Conveyor Project Contract with McClintock & Turk
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>	PW ITB 6005-23 was issued to procure the Serpentix Conveyor Replacement Project. McClintock & Turk was selected as the winning contractor. This is a planned replacement of critical plant equipment for the biosolids conveyor system.
*use the Fiscal Impact box below for relevant financial information	
<b>Fiscal Impact</b>	
<b>Approved in current year budget?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Total Cost: <u>\$1,429,604.00</u> Current year cost: \$479,604.00 Subsequent year(s) cost: \$950,000.00 2023 (RE20356)	
<b>Narrative:</b> <u>This is a planned expense and is in the CIP from 2023</u>	
<b>Funding Source</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A Specify funding source: Program revenue Is this funding source sustainable for future years, months, etc? One time expense	
<b>Expense Occurrence</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A  Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
What impacts would the proposal have on historically excluded communities? There will be no disproportionate impacts to historically excluded communities.	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? N/A: The proposed expenditure is for critical utility infrastructure and our NPDES permit.	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? N/A: The proposed expenditure is for critical utility infrastructure and our NPDES permit.	

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?  
This proposal aligns with the City's Purchasing Policy.



CITY OF SPOKANE  
Nelson Center  
Purchasing  
PHONE 509 625 6527

**PW ITB 6005-23 Purchase and Delivery of the Specified Conveyor (No Substitutions), Removal and Disposal of Existing Conveyor, and Install of Conveyor. Removal and Install Fall Under Public Works.**

McClintock & Turk

<b>Item</b>	<b>Price</b>
<b>New Conveyor</b>	\$797,868.00
<b>Removal and Disposal of Existing Conveyor</b>	\$159,368.00
<b>Install of New Conveyor</b>	\$472,368.00
Subtotal	\$1,429,604.00
Tax 9%	\$128,664.36
<b>Extended Total</b>	<b>\$1,558,268.36</b>

**Bid Response Summary**

**Bid Number** PW ITB 6005-23  
**Bid Title** Purchase and Delivery of the Specified Conveyor (No Substitutions), Removal and Disposal of Existing Conveyor, and Install of Conveyor. Removal and Install Fall Under Public Works.  
**Due Date** Monday, January 8, 2024 1:00:00 PM [(UTC-08:00) Pacific Time (US & Canada)]  
**Bid Status** Closed to Bidding  
**Company** McClintock & Turk, Inc.  
**Submitted By** Cam Ireland - Monday, January 8, 2024 10:43:09 AM [(UTC-08:00) Pacific Time (US & Canada)]  
 cam@mcturk.net (509) 535-7641  
**Comments**

**Question Responses**

Group	Reference Number	Question	Response
OPTIONAL Pre Bid Site Visit			
	1	Optional pre-bid conference and walk through will be held on TUESDAY, November 7, 2023, at 10:00 AM. The location will be the Lobby Area of the Riverside Park Water Reclamation Facility, 4401 N Aubrey L. White Pkwy, Spokane, WA 99205.	I acknowledge and agree
BACKGROUND AND PURPOSE			
	1	Bidder Acknowledges: The City of Spokane Riverside Park Water Reclamation Facility (COS RPWRF), operates a 24-hour/365 day per year and works under aggressive deadlines and schedules that require suppliers to provide high service levels.	I acknowledge and agree
	2	The COS RPWRF is seeking a CONTRACTOR to: Provide and Deliver the Specified Conveyor, Remove and Dispose of Existing Conveyor, and Install New Conveyor. Removal and Install falls under Public Works, therefore Contractor shall/must be a Washington State registered "and" licensed Contractor, and have fulfilled the Department of Labor and Industries' Public Works and Prevailing Wage Training Requirement at the time of bid submittal to be considered a responsive bidder.	I acknowledge and agree
GENERAL INFORMATION			
	CONTRACTOR'S REPRESENTATIONS	The Contractor by making its Bid represents that it has read and understands the specifications, and familiarized the Work is to be performed.	I acknowledge and agree
	QUALIFICATION	Bidder acknowledges that they have reviewed Bidder Responsibility Criteria (Mandatory) that is located the Documents Tab, and acknowledges that bidders must meet criteria to be considered a responsible bidder.	I acknowledge and agree
	QUALIFICATION	Prior to the awards of Contracts, the Contractor shall be required to submit evidence of sufficient facilities, equipment, experience and financial ability to ensure completion of the Work, unless waived by the City.	I acknowledge and agree

QUALIFICATION	Supplemental Bidder Responsibility. Bidder must meet the mandatory bidder responsibility criteria called out in City of Spokane Supplemental Bidder Responsibility Criteria Form to be considered a responsible bidder.	I acknowledge and agree
QUALIFICATION	Supplemental Bidder Responsibility Criteria Bidders can Download "Supplemental Bidder Responsibility Criteria Form With Work Experience Form" From The Bids Documents Tab, Complete And Upload Here	PW ITB 6005-23 Supplemental Bidder Responsibility (signed).pdf
QUALIFICATION	Supplemental Bidder Responsibility Criteria After bid opening and prior to award, the apparent low bidder, or contacted bidders, shall complete, sign and submit this form with attached documentation within twenty four (24) hours of notification.	I acknowledge and agree
QUALIFICATION	Bidder acknowledges that they have reviewed Bidder Responsibility Criteria (Supplemental) that is located the Documents Tab, and acknowledges that bidders must meet criteria to be considered a responsible bidder.	I acknowledge and agree
AWARD OF CONTRACT	Award of contract, when made by the City, will be to the low responsive-responsible bidder based on cost. Unsuccessful Contractors will not automatically be notified of results.	I acknowledge and agree
CONTRACT	The contract that is awarded from this ITB would be valid through December 31, 2024	I acknowledge and agree
CONTRACT RENEWALS	Contract renewals or extensions may be initiated by the City of Spokane, subject to mutual agreement	I acknowledge and agree
EXECUTION OF CONTRACT	Within ten (10) days of contract award the Contractor shall sign and return to the City an executed copy of the contract unless otherwise mutually agreed by the City and Contractor.	I acknowledge and agree
GUARANTEE	The Contractor guarantees all work, labor and materials for one (1) year following final acceptance. If any unsatisfactory condition or defect develops within that time, the Contractor shall immediately place the work in a satisfactory condition, and further repair all damage caused by the condition or defect at its sole expense. This guarantee shall not apply to work which has been abused or neglected by the City.	I acknowledge and agree
PAYMENT	Payment will be made via direct deposit/ACH after receipt of the Contractor's application except as provided by state law. If the City objects to all or any portion of the invoice, it shall notify the Contractor and reserves the right to only pay that portion of the invoice not in dispute. In that event, the parties shall immediately make every effort to settle the disputed amount.	I acknowledge and agree
PAYMENT - Progress Payments Shall Include WA State Tax	Progress Payments would be made Net 30 after receipt of invoice. Progress Payments shall include Tax. Progress Payments shall be computed as a percentage of the cost of the Convey. Progress Payments will not include: Delivery Cost; Removal and Disposal Cost of existing conveyor; or Install of conveyor.	I acknowledge and agree
1	1ST PAYMENT 10% of the Conveyor Cost after awarded Contractor provides support it has placed order with Serpentix. Upon Receipt of Invoice Net 30.	I acknowledge and agree

2	2ND PAYMENT 10% of the Conveyor Cost after awarded Contractor provides support from Serpentix that Conveyor is One-Third-Of-The-Way Through Production. Upon Receipt of Invoice Net 30.	I acknowledge and agree
3	3RD PAYMENT 10% of the Conveyor Cost after awarded Contractor provides support from Serpentix that Conveyor is Two-Thirds-Of-The-Way Through Production. Upon Receipt of Invoice Net 30.	I acknowledge and agree
4	4TH PAYMENT 10% of the Conveyor Cost after awarded Contractor provides support from Serpentix that Conveyor has shipped. Upon Receipt of Invoice Net 30.	I acknowledge and agree
5	If you took exception to any of the above, explain in detail.	None
INVOICING	Invoices must be submitted to the Riverside Park Water Reclamation Facility. •Invoices shall reference and list OPR #2023-XXXX and approved Intent to Pay Prevailing Wage Number. • Payment of invoices shall be contingent upon receipt of sufficient detail to permit identification of the services performed and compliance with contract conditions. Original invoices are required and shall not be approved for payment until all services per request have been satisfactorily performed. Invoices shall be emailed to HBarnhart@spokanecity.org or mailed to Riverside Park Water Reclamation Facility, Attn: Wastewater Manager-Barnhart, 4401 N Aubrey L. White Pkwy, Spokane, WA 99205.	I acknowledge and agree
REJECTION OF BIDS	The City reserves the right to reject any or all Bids, to waive minor deviations from the specifications, to waive minor informalities in the Bid process whenever it is in the City's best interest, and to accept or reject all or part of this Invitation to Bids, at the prices shown.	I acknowledge and agree
CONTRACTOR REGISTRATION	The Contractor shall be a Washington State registered "and" licensed Contractor at time of Bid submittal.	I acknowledge and agree
COMPLETION TIME	The bidder agrees to start the work under this contract within ten (10) days of the Notice to Proceed and to substantially complete the specified work by DECEMBER 31, 2024.	I acknowledge and I agree
LIQUIDATED DAMAGES	In the event the bidder is awarded the contract and fails to complete the work within the time limit or any agreed upon time extensions, liquidated damages shall be paid to the City of Spokane in the amount of \$600 per calendar day until the work is satisfactorily completed.	I acknowledge and agree
EXCEPTIONS	If you took exception to any of the above, explain in detail.	None
MISCELLANEOUS DOCUMENTATION UPLOAD	Upload any additional documentation here. You can only upload one document so if you have more than one page - combine them into one page before uploading.	Signed Addendums (1-4).pdf
PUBLIC WORKS REQUIREMENTS		
1.	The work, Removal of Existing Conveyor System and the Installation of New Conveyor System, under this contract constitutes a public work under state law.	I acknowledge and agree
2.	Payment/performance bonds will be required.	I acknowledge and agree



<p>PERFORMANCE BOND AND PAYMENT BOND</p>	<p>The Contractor shall furnish, at its sole expense, a performance "and" a payment bond, each equal to one hundred percent (100%) of the contract price. The bond shall insure faithful and complete performance of the contract and payment of all obligations to laborers and material men arising from the Project. The bond shall be executed by a Surety company authorized to do business in Washington State, and shall remain in effect for one (1) year following final acceptance of the work. Unless approved by the City, the Surety's name shall appear on the United States Treasury Department's list of authorized Sureties - Circular 570. On contracts of \$150,000.00 or less, in lieu of a surety bond, at the request of the Contractor, the City may retain ten percent (10%) of the contract price for a minimum of forty five (45) days following final acceptance, or until receipt of all releases and settlement of liens, whichever is later, in accord with RCW 39.08010.</p>	<p>I acknowledge and agree</p>
<p>3.</p>	<p>Statutory retainage will be required</p>	<p>I acknowledge and I understand</p>
<p>RETAINAGE</p>	<p>Pursuant to chapter 60.28 RCW, the City will retain five percent (5%) (or ten percent (10%) at Contractor's request) from the monies earned by the Contractor. This Retainage shall be held as a trust fund for the protection and payment: (1) to the State of taxes and fees owed by the Contractor; and (2) of any person, mechanic, subcontractor or material man who performs labor or furnishes any supplies toward the Work. Release of Retainage will be made at a minimum of forty five (45) days following final acceptance of Work; provided the following conditions are met:</p>	<p>I acknowledge and I agree</p>
<p>RETAINAGE</p>	<p>a. The City has received from the Contractor and each subcontractor a copy of the "Statement of Intent to Pay Prevailing Wages" and an "Affidavit of Wages Paid", approved by the State Department of Labor and Industries (L&amp;I). b. On Contracts greater than \$35,000, the City has received releases from the State Departments of Revenue (DOR), Labor &amp; Industries and Employment Security. c. No claims, as provided by law, have been filed against the retainage In the event a claim is filed, the Contractor shall be paid a portion of the Retainage, which is less than the amount sufficient to pay the claim and potential legal costs.</p>	<p>I acknowledge and I agree</p>
<p>4.</p>	<p>The State prevailing rate of wages to be paid to all workmen, laborers or mechanics employed in the performance of any part of this Contract shall be in accordance with the provisions of Chapter 39.12 of the Revised Code of Washington (RCW) and the rules and regulations of the Washington State Department of Labor and Industries (L &amp; I).</p>	<p>I acknowledge and I understand</p>

5.	<p>The State of Washington prevailing wage rates applicable for this public works project, which is located in Spokane County, may be found at the following website address of the Department of Labor and Industries:  <a href="https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx">https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx</a>.                  Based on the bid submittal deadline for this project, the applicable effective date for prevailing wages for this project is Monday, NOVEMBER 20, 2023.</p>	I acknowledge and I understand
6.	<p>If apprentices are to be used, they must be registered with the State Apprenticeship Council; otherwise, they are to be paid State prevailing journeyman wages.</p>	I acknowledge and I understand
7.	<p>The Contractor and any subcontractors will submit a <input type="checkbox"/> Statement of Intent to Pay Prevailing Wages <input type="checkbox"/> certified by the industrial statistician of the Department of Labor and Industries, prior to any work or payments. The <input type="checkbox"/> Statement of Intent to Pay Prevailing Wages <input type="checkbox"/> shall include: (1) the Contractor's registration number; and (2) the prevailing wages under RCW 39.12.020 and the number of workers in each classification. Prior to payment of funds held under RCW 39.12.040, the Contractor and subcontractors must submit an <input type="checkbox"/> Affidavit of Wages Paid <input type="checkbox"/> certified by the industrial statistician annually for all work completed within the previous twelve-month period of the unit priced contract (RCW 35.22.620).</p>	I acknowledge and I understand
8.	<p>The Contractor is responsible for payment of fees for the approval of "Statements of Intent to Pay Prevailing Wages" and "Affidavits of Wages Paid" and shall make all applications directly to L&amp;I.</p>	I acknowledge and I understand
9.	<p>As of July 1, 2019 contractors must have fulfilled the Department of Labor and Industries' Public Works and Prevailing Wage Training Requirement before bidding on public works projects under RCW 39.04.350 and RCW 39.06.020</p>	I acknowledge and I understand
<p><b>TECHNICAL REQUIREMENTS</b></p>		
PERFORMANCE	<p><b>PERFORMANCE:</b> The Contractor will do all work, furnishing of all labor, materials, tools, construction equipment, transportation, supplies, supervision, permits, organization, and other items of work and costs necessary for the proper performance and completion of the described as the Purchase and Delivery of the Specified Conveyor (No-Substitutions), Removal and Disposal of Existing Conveyor, and Install of Conveyor. Removal and Install Fall Under Public Works.</p>	I acknowledge and I agree
SCOPE OF WORK -	<p>Awarded Contractor shall be responsible for providing the Specified Conveyor, Transportation, Delivery and Unloading; Removal and Disposal of Existing Conveyor; and the Installation of the new Conveyor.</p>	I acknowledge and agree
1	<p>Bidder acknowledges is has reviewed Spokane, WA (H-99-0773)(Parts Quote #5319 RevE) -Model-H Conveyor Full Replacement RevE [10.12.2023] located in the Documents tab.</p>	I acknowledge and agree
2	<p>Bidder acknowledges is has reviewed PW ITB#6005-23 H99-0773-D located in the Documents tab.</p>	I acknowledge and agree

3	Bidder acknowledges is has reviewed PW ITB#6005-23 P99-0773-D located in the Documents tab.	I acknowledge and agree
SCOPE OF WORK- Addendum 3	Bidder acknowledges Addendum 3, that specifies Contractor Working Hours as: Contractor working hours are 5:00 p.m. to 3:00 a.m. Monday through Friday and any time on Saturday and Sunday. And that Contractor will have the Contractor will have thirty-one (31) calendar days to complete all work (to include start up and commissioning).	I acknowledge and agree
GENERAL REQUIREMENTS		
INTENT OF SPECIFICATIONS	The apparent silence or omission in the specifications as to any detail of the Work to be done or materials to be furnished means that the region's best general practice shall prevail, and that material and workmanship of the best quality shall be used. The specifications shall be interpreted on this basis.	I acknowledge and agree
WASHINGTON STATE RETAIL SALES TAX	A. GENERAL CONSTRUCTION. Retail sales tax, when applicable, will be paid as a separate item, and shall not be included in the Bid price. Sales tax shall be added on the amount due the Contractor and the Contractor shall be responsible for making payment to the State. The City reserves the right to claim an exemption authorized by law.	I acknowledge and agree
WASHINGTON STATE RETAIL SALES TAX	B. PUBLIC STREET IMPROVEMENTS. If the technical requirements in the specifications indicate that all or a portion of the Work is a "public street improvement" as defined by state law, the Contractor shall include all contractor-paid taxes, including use taxes on materials in its Bid price. The City will NOT pay retail sales tax as a separate item.	I acknowledge and agree
PERMITS	The Contractor shall be responsible for obtaining at its expense all related and necessary permits required by regulatory agencies.	I acknowledge and agree
SUBCONTRACTORS	The Contractor shall not award any portion of the Work to any subcontractor without the City's prior approval. The Contractor shall be fully responsible to the City for the acts, errors and omissions of its subcontractors. No contractual relationship shall be created between any subcontractor and the City.	I acknowledge and agree
INSURANCE	During the term of the Contract, ,the Contractor shall maintain in force at its own expense, the below insurance coverage(s):	I acknowledge and agree
INSURANCE	a. Worker's Compensation Insurance in compliance with RCW 51.12.020 which requires subject employers to provide worker's compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000.00.	I acknowledge and agree

<p>INSURANCE</p>	<p>b. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,000,000.00 for bodily injury and property damage. It shall include premises and operations, independent contractors, products and completed operations, personal injury liability, and contractual liability coverage for the indemnity provided under the contract. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Contractor's services to be provided under the contract; i. Acceptable supplementary Umbrella insurance coverage, combined with the Contractor's General Liability Insurance policy must be a minimum of \$1,500,000.00 in order to meet the insurance coverages required under this Contract;</p>	<p>I acknowledge and agree</p>
<p>INSURANCE</p>	<p>c. Property Insurance if materials and supplies are furnished by the Contractor. The amount of the insurance coverage shall be the value of the materials and supplies or the completed value of the improvement. Hazard or XCU (Explosion, Collapse, Underground) Insurance should be provided if any hazard exists; and</p>	<p>I acknowledge and agree</p>
<p>INSURANCE</p>	<p>d. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000.0 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.</p>	<p>I acknowledge and agree</p>
<p>INSURANCE</p>	<p>There shall be no cancellation, material change, reduction of limits or intent not to renew insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the City. The Contractor shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns the signed Contract. The certificate shall specify the City of Spokane as "additional insured", and all of the parties who are additional insured; as well as applicable policy endorsements and the deduction or retention level. Insuring companies or entities are subject to City acceptance.</p>	<p>I acknowledge and agree</p>
<p>BID</p>		
<p>BIDDER'S DECLARATION</p>	<p>The Bidder submitting this bid certifies that it has examined the site, read and understands Bid #PW ITB 6005-23 posted in the Documents Tab, and the specifications for the above project, and agrees to comply with all applicable federal, state and local laws and regulations. The bidder is advised that by submitting this bid proposal it has acknowledged all bid requirements and certifications contained herein.</p>	<p>I acknowledge and I agree</p>
Empty row for signature		

Bid Pricing - Conveyor	Bid Pricing - Conveyor 1. Conveyor as per specifications of bid PW ITB 6005-23. Price shall be an all-inclusive single, firm-fixed price, that includes but not limited to all associated cost pertaining to conveyor, transportation, delivery and unloading. Delivery will be FOB Destination to Riverside Park Water Reclamation Facility, Biosolids Dewatering Room. Contractor bears all risks of loss, injury or destruction of items ordered herein which occur prior to delivery; such loss, injury or destruction shall not release Contractor from any obligation hereunder. Bidder acknowledges that the bid price indicated on the Pricing Page includes ALL expenses with regard Removal and Disposal of Existing Conveyor pertaining to this bid. No other costs will be allowed over and above the bid price	I acknowledge and agree
Bid Pricing - Removal and Disposal of Existing Conveyor. Removal falls under Public Works Prevailing Wages.	Price shall be an all-inclusive, single, firm-fixed price, that takes into account all associated cost pertaining the removal and disposal of existing conveyor. Bidder acknowledges that the bid price indicated on the Pricing Page includes ALL expenses with regard Removal and Disposal of Existing Conveyor pertaining to this bid. No other costs will be allowed over and above the bid price.	I acknowledge and agree
Bid Pricing – Install of Conveyor - Public Works Prevailing Wages	Price shall be an all-inclusive, single, firm-fixed price, that takes into account all associated cost pertaining to the installation of new conveyor, to ensure conveyor is fully operational as intended. Bidder acknowledges that the bid price indicated on the Pricing Page includes ALL expenses with regards to installation of new Conveyor pertaining to this bid, and that price takes into account any and all associated costs of inspections that Serpentix requires to be completed. Reference “Spokane, WA (H-99-0773)(Parts Quote #5319 RevE) -Model-H Conveyor Full Replacement RevE [10.12.2023]”. No other costs will be allowed over and above the bid price.	I acknowledge and agree
BID PRICE IS COMPLETE	Bidder acknowledges that the bid price indicated on the Pricing Page includes ALL expenses with regard to this project. No other costs will be allowed over and above the bid price.	I acknowledge and I agree
CONTRACTOR RESPONSIBILITY	Washington State Contractor's Registration Number	MCCLIT*370NO
CONTRACTOR RESPONSIBILITY	U.B.I. Number	328-040-432
CONTRACTOR RESPONSIBILITY	Washington Employment Security Department Number	221002003
CONTRACTOR RESPONSIBILITY	Washington Excise Tax Registration Number	328040432
CONTRACTOR RESPONSIBILITY	City of Spokane Business Registration Number	T12009987BUS
ADDENDA	Bidder acknowledges receipt of ____ addenda and agrees that their requirements have been included in this bid proposal.	4
MISCELLANEOUS	The firm agrees that its Bid will NOT be withdrawn for a minimum of sixty (60) calendar days after the stated bid due date.	I acknowledge and I agree

<p>MISCELLANEOUS</p>	<p>The bidder submitting this response hereby certifies that, within the three-year period immediately preceding the bid solicitation date for this Project, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48 or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgement entered by a court of limited or general jurisdiction. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.</p>	<p>I acknowledge and I agree</p>
<p>MISCELLANEOUS</p>	<p>Individual's Name, Company Name, Address, Email Address &amp; Phone Number for individual/company submitting this bid response.</p>	<p>Don Williams McClintock &amp; Turk, Inc. 516 N. Sycamore Spokane, WA 99202 don@mcturk.net (509) 535-7641</p>
<p>1</p>	<p>Please provide the name, phone number, and email address for the person in your Company that will potentially sign a contract through the DocuSign process used by the City.</p>	<p>Ken Patterson (509) 535-7641 ken@mcturk.net</p>
<p>2</p>	<p>Bid Proposal: Please complete Pages 8-10 of the PW ITB #6005-23, Purchase and Delivery of Spec'd Conveyor (No-Substitutions), Removal and Disposal of Existing Conveyor, and Install of Conveyor. Removal and Install Fall Under Public Works. Please save these three pages as one page as you will only be allowed to upload one page here, failure to upload the completed list may result in a non-responsive determination to this request.</p>	<p>City Bid Proposal (Pages 8-10) from .PW ITB 6005-23.pdf</p>
<p>3</p>	<p>The bid shall be accompanied by a bid bond bound to the City of Spokane, in an amount of not less than five percent (5%) of the total bid amount. Bid bonds must be by a surety company authorized to do business as a surety in Washington State. If the bidder is awarded the contract and fails to enter into a construction contract and/or furnish payment/performance bond(s) and proof of insurance within the required time period, the bid security shall be forfeited to the City of Spokane. Please upload your bid bond here or bid "will be" considered non-responsive. (blank form available under the 'Documents' tab).</p>	<p>Bid Bond (signed).pdf</p>
<p>4</p>	<p>If subcontractors will be used, please download the 'Subcontractor List' document from the 'Documents' tab, complete, and upload the completed document here. If subcontractors will be used, failure to upload the completed list may result in a non-responsive determination to this request.</p>	<p>PW ITB 6005-23 SUBCONTRACTOR LIST.pdf</p>
<p>4.1</p>	<p>If subcontractors will be used, should bidder not have uploaded Subcontractor List, Bidder must submit subcontractor list, within one (1) hour after the published bid submittal time. Submit via email to: RRinderle@spokanecity.org, PurchasingProcurement@spokanecity.org Subject of email: PW ITB 5957-23 Subcontractor List.</p>	<p>I acknowledge and agree</p>

TERMS & CONDITIONS	
#1	<p>Bidder accepts has read and acknowledges compliance with Terms and Conditions located in the Documents area of this project. If answer is "I do not acknowledge and I do not agree", include requested exception in proposal submittal on separate page and title as "Exception to Terms and Conditions". The City will consider and determine if exception will be accepted.</p> <p>I acknowledge and I agree</p>
#2	<p>Describe exceptions to Terms &amp; Conditions if you marked "I do not acknowledge and I do not agree" above.</p>

Addendum 1  
11/20/2023

PW ITB 6005-23

Purchase and Delivery of the Specified Conveyor (No Substitutions), Removal and Disposal of Existing Conveyor, and Install of Conveyor. Removal and Install Fall Under Public Works.

Addendum 1 makes the following change:

**Bid Due Date Changed** From: 11/20/2023, 1:00PM. **To: 11/27/2023, 1:00PM**

Rick Rinderle  
Procurement Specialist

PLEASE NOTE: A SIGNED COPY OF THIS ADDENDUM MUST BE SUBMITTED WITH YOUR BID, OR THE BID MAY BE CONSIDERED NON-RESPONSIVE.

The undersigned acknowledges receipt of this Addendum.

Mc Clintock & Tuck

Company

Kim Rinderle

Signature



Addendum 2  
11/21/2023

PW ITB 6005-23

Purchase and Delivery of the Specified Conveyor (No Substitutions), Removal and Disposal of Existing Conveyor, and Install of Conveyor. Removal and Install Fall Under Public Works.

Addendum 1 makes the following changes:

- 1) Bid Due Date Changed From: 11/27/2023, 1:00PM. To: 12/18/2023, 1:00PM
- 2) Clarification Deadline Changed From: 11/14/2023, 9:00AM. To: 12/11/2023, 9:00AM
- 3) Scope Of Work 3. Scope of Work Changed To:

From:

~~RPWRF dewatering operations are Monday – Friday, 3:00am to 5:00pm. The Contractor will not be allowed access to the room during this time due to safety concerns. Access is authorized (to include Saturday and Sunday) when dewatering operations are shut down. The Contractor will be allowed access to the room Long lead times are expected on equipment orders. Demolition of existing equipment shall not begin until all equipment is onsite at the plant. Once demolition commences, the Contractor will have twenty one (21) calendar days to complete all work (to include start up and commissioning).~~

To:

RPWRF dewatering operations are Monday – Friday, 3:00am to 5:00pm. The Contractor will have unlimited access to the room seven days a week, 24 hours a day. Long lead times are expected on equipment orders. Demolition of existing equipment shall not begin until all equipment is onsite at the plant. Once demolition commences, the Contractor will have fifty-one (51) calendar days to complete all work (to include start up and commissioning).


Rick Rinderle  
Procurement Specialist

PLEASE NOTE: A SIGNED COPY OF THIS ADDENDUM MUST BE SUBMITTED WITH YOUR BID, OR THE BID MAY BE CONSIDERED NON-RESPONSIVE.

The undersigned acknowledges receipt of this Addendum.

McClintock/Turk

Company



Signature

Addendum 3  
11/21/2023

PW ITB 6005-23

Purchase and Delivery of the Specified Conveyor (No Substitutions), Removal and Disposal of Existing Conveyor, and Install of Conveyor. Removal and Install Fall Under Public Works.

Addendum makes the following change:

3) Scope Of Work 3. Scope of Work Changed To:

From:

~~RPWRF dewatering operations are Monday – Friday, 3:00am to 5:00pm. The Contractor will have unlimited access to the room seven days a week, 24 hours a day. Long lead times are expected on equipment orders. Demolition of existing equipment shall not begin until all equipment is onsite at the plant. Once demolition commences, the Contractor will have fifty-one (51) calendar days to complete all work (to include start up and commissioning).~~

To:

RPWRF dewatering operations are Monday – Friday, 3:00am to 5:00pm. Contractor working hours are 5:00 p.m. to 3:00 a.m. Monday through Friday and any time on Saturday and Sunday.

Long lead times are expected on equipment orders. Demolition of existing equipment shall not begin until all equipment is onsite at the plant. Once demolition commences, the Contractor will have thirty-one (31) calendar days to complete all work (to include start up and commissioning).

Rick Rinderle  
Procurement Specialist

PLEASE NOTE: A SIGNED COPY OF THIS ADDENDUM MUST BE SUBMITTED WITH YOUR BID, OR THE BID MAY BE CONSIDERED NON-RESPONSIVE.

The undersigned acknowledges receipt of this Addendum.

McCLINTOCK & TURK

Company



Signature

**Addendum 4**  
**12/7/2023**

**PW ITB 6005-23**

**Purchase and Delivery of the Specified Conveyor (No Substitutions), Removal and Disposal of Existing Conveyor, and Install of Conveyor. Removal and Install Fall Under Public Works.**

Addendum 4 makes the following changes:

- 1) **Bid Due Date Changed** From: 12/18/2023, 1:00PM. **To: 1/8/2024, 1:00PM**
- 2) **Clarification Deadline Changed** From: 12/11/2023, 9:00AM. **To: 12/22/2023, 9:00AM**


Rick Rinderle  
Procurement Specialist

PLEASE NOTE: A SIGNED COPY OF THIS ADDENDUM MUST BE SUBMITTED WITH YOUR BID, OR THE BID MAY BE CONSIDERED NON-RESPONSIVE.

The undersigned acknowledges receipt of this Addendum.

McCLINTOCK & TURK

Company



Signature

THESE NEXT THREE PAGES MUST BE COMPLETED AND UPLOADED INTO THE CITY OF SPOKANE'S ELECTRONIC BIDDING SYSTEM AND INFORMATION MUST BE SUBMITTED ONLINE PER INSTRUCTIONS TO BIDDERS PARAGRAPH #16.

**BID PROPOSAL**

To: Honorable Mayor  
Members of the City Council  
City of Spokane, Washington

**PROJECT: PW ITB 6005-23 Purchase and Delivery of the Specified Conveyor (No-Substitutions), Removal and Disposal of Existing Conveyor, and Install of Conveyor. Removal and Install Fall Under Public Works.**

**BIDDER'S DECLARATION.**

The undersigned bidder certifies that it has examined the site, read and understands the specifications for the above project, and agrees to comply with all applicable federal, state and local laws and regulations. The bidder is advised that by signature of this bid proposal it has acknowledged all bid requirements and signed all certificates contained herein.

**BID OFFER.**

The price(s) listed in this bid proposal is tendered as an offer to furnish all labor, materials, equipment and supervision required to complete the proposed project in strict accordance with the contract documents. The bidder proposes to do the project at the following price:

Compensation would be paid at the applicable lump sum rate set forth on Pricing Page based on support.

Bid Pricing – New Conveyor \$ 797,868.00  
(do not include Washington State Sales Tax)

Bid Pricing - \$ 159,368.00  
Removal and Disposal of Existing Conveyor (do not include Washington State Sales Tax)

Bid Pricing - \$ 472,368.00  
Install of New Conveyor (do not include Washington State Sales Tax)

The Bidder agrees that its Bid will NOT be withdrawn for a minimum of sixty (60) calendar days after the stated bid due date.

**ADDENDA.**

The undersigned acknowledges receipt of addenda number(s) 4 and agrees that their requirements have been included in this bid proposal.

**CONTRACT COMPLETION TIME.**

The bidder agrees to start the work under this contract within ten (10) days of the Notice to Proceed and to substantially complete the specified work by December 31, 2024.

**LIQUIDATED DAMAGES.**

In the event the bidder is awarded the contract and fails to complete the work within the time limit or any agreed upon time extensions, liquidated damages shall be paid to the City of Spokane in the amount of six hundred (\$600.0) per working day until the work is satisfactorily completed.

**BIDDER RESPONSIBILITY.**

Washington State Contractor's Registration No. MC-CL-IT\*370NO  
(must be in effect at time of bid submittal)

U.B.I. Number 328-040-432

Washington Employment Security Department Number 221002003

Washington Excise Tax Registration Number 328040432

City of Spokane Business License Number T12009987BUS

(The successful bidder and all subcontractors shall be licensed or have applied for a license to do business in the City of Spokane prior to proceeding with the proposed project.)

**BID SECURITY.**

A bid security in the amount of FIVE PERCENT (5%) of the total project bid as indicated above, is attached to this bid proposal. If the bidder is awarded the contract and fails to enter into a construction contract and/or furnish payment / performance bond(s) and proof of insurance within the required time period, the bid security shall be forfeited to the City of Spokane.

**NON-COLLUSION.**

The undersigned authorized representative of the undersigned firm, being first sworn on oath, certifies that the firm has not, directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this bid proposal is submitted.

Name of Bidder: McClintock & Turk, Inc.



*Signature of Bidder's Authorized Representative*

President

*Title*

516 N. Sycamore  
Spokane, WA 99202

*Address*

(509) 535-7641

*Phone*

**IF INDIVIDUAL**

Signed and Sworn To (or Affirmed) Before Me On \_\_\_\_\_  
date

(Seal Or Stamp) \_\_\_\_\_  
Signature of Notary Public

My appointment expires \_\_\_\_\_

**IF PARTNERSHIP**

I certify that I know or have satisfactory evidence that the above named person signed this bid proposal, on oath stated that he/she was authorized to sign it and acknowledged it as the partner(s) of the bidder, a partnership, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

Signed and Sworn To (or Affirmed) Before Me On \_\_\_\_\_  
date

(Seal Or Stamp) \_\_\_\_\_  
Signature of Notary Public

My appointment expires \_\_\_\_\_

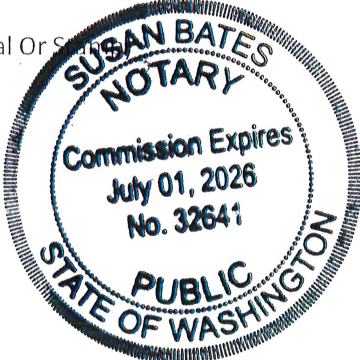
**IF CORPORATION**

I certify that I know or have satisfactory evidence that the above named person signed this bid proposal, on oath stated that he/she was authorized to sign it and acknowledged it as the representative of the bidder, a corporation, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

Signed and Sworn To (or Affirmed) Before Me On January 5, 2024  
date

(Seal Or Stamp)  \_\_\_\_\_  
Signature of Notary Public

My appointment expires 7/1/2026





# City of Spokane, Washington


## Supplemental Bidder Responsibility Criteria

After bid opening and prior to award, the apparent low bidder shall complete, sign and submit this form with attachments to the City (See instructions at the end of this form). The form shall be submitted within twenty four (24) hours after the notification, unless a different time and date is required by the specifications or otherwise mutually agreed upon.	
<b>Project Name: Purchase and Delivery of the Specified Conveyor (No Substitutions), Removal and Disposal of Existing Conveyor, and Install of Conveyor. Removal and Install Fall Under Public Works.</b>	
Project # <b>PW ITB 6005-23</b>	
<b>Part A: General Company Information</b>	
Company Name <b>McClintock &amp; Turk, Inc.</b>	
Address <b>516 N. Sycamore, Spokane Wa 99202</b>	
Contact Name and Title <b>Don Williams, President</b>	
Contact Phone <b>(509) 535-7641</b>	Contact E-mail <b>don@mcturk.net</b>
Years in business as a Prime Contractor <b>25</b>	Years in business as a sub-contractor <b>65</b>
Years in business under present Name <b>65</b>	
List any former company names under which the company, its owners, and/or its principals has operated in the past five (5) years <b>None</b>	
Explain reason for name change(s) in the past five (5) years	
<b>Part B: Work Experience</b>	
If the request for bids has project specific criteria, including work experience, list at least the requested number of construction projects completed within the required time frame on the attached Project Experience form which are similar in type, size and scope of work required for this project	
<b>Part C: Performance Evaluation</b>	
Under past or present names does the bidder have a history of receiving “deficient” or “inadequate” evaluations on two (2) or more contracts from the City or other municipalities or another governmental agency on a public works project within the last five (5) years?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If “Yes” attach a separate, signed / dated statement listing the projects and an explanation.	
<b>Part D: Record of Debarment / Disqualification</b>	
Has the bidder (including the primary contractor, any firm with which any of the primary contractor’s owners, officers, or partners was associated) been debarred, disqualified, removed or has been otherwise prevented from bidding on, or completing any governmental agency or public works projects, including debarment by the federal, state or other municipal government during the last five (5) years?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If “Yes”, attach a separate signed / dated statement listing any debarments, disqualifications, removal, etc. from any governmental public works project and the basis for the action.	

<b>Part E: Safety</b>
In the last five (5) years, has the bidder received willful or repeat violations of safety or health regulations by the OSHA or other agencies responsible for safety oversight?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," attach a separate signed /dated statement describing each willful or repeat violation, including information about the dates and nature of the violations, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed and a decision has been issued, state the case number and the date of the decision.
<b>Part F: Environmental</b>
In the last five (5) years, has the bidder received serious citations from government environmental enforcement agencies on projects for which the bidder was the contractor?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," attach a separate signed / dated statement describing each serious citation, including information about the dates of the citations, the nature of the violation, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed and a decision has been issued, state the case number and the date of the decision.
<b>Part G. Utilization Requirements</b>
In the last five (5) years, has it been determined by a government agency that the bidder did not comply with disadvantaged business enterprises, apprenticeship or other similar utilization requirements on public works projects?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a separate signed / dated statement listing the violations or failures to meet utilization requirements along with a detailed explanation of the extenuating circumstances surrounding the violation and/or failure.
<b>Part H: Discrimination</b>
Has the bidder or any of its owners, officers or partners been found guilty of violating or failing to comply with discrimination laws in contracting, employment or provision of public services?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a separate signed / dated statement identifying the type of violation, who was involved, the name of the public agency, year of the investigation, the resolution in court or administrative process, and the grounds for the findings.
<b>Part I. Prevailing Wage</b>
In the last five (5) years, has the bidder received prevailing wage violations as determined by the applicable state or federal government agency monitoring prevailing and/or Davis Bacon wage compliance?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," attach a separate signed/dated statement listing the prevailing wage violations, along with an explanation of each violation and how it was resolved. The City shall evaluate these explanations and the resolution of each violation to determine whether the violations demonstrate a pattern of failure to pay prevailing wages to workers unless there are extenuating circumstances acceptable to the City.



<b>Part J: Public Bidding Crime (Criminal Convictions)</b>
Has the bidder been convicted of a crime involving bidding on a public works contract within the last five (5) years?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a separate signed / dated statement listing the dates of conviction(s), the offense(s) convicted of, the punishment, and a brief statement of the facts underlying the conviction(s)
<b>Part K. Claims Against Retainage and Bonds</b>
Does the bidder have a record of multiple claims filed against the retainage or payment bonds for public works projects during the previous three (3) years?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a separate signed / dated statement listing the claims filed against the retainage and/or payment bond for any completed public works projects and include for each project a written explanation of the circumstances surrounding the claim and the ultimate resolution of the claim. The City shall evaluate the statement to determine if it demonstrates a lack of effective management by the bidder of making timely and appropriate payments, unless there are extenuating circumstances acceptable to the City in its sole discretion.
<b>Part L. Termination for Cause</b>
Has the bidder had any public works contract terminated for cause by any government agency during the previous five (5) years?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a separate signed / dated statement listing each contract terminated, the government agency terminating the contract and the circumstances involving the termination for cause. The City will determine if there are extenuating circumstances acceptable to the City in its sole discretion.
<b>Part M: Litigation</b>
Has the bidder been involved in lawsuits (or arbitrations for those instances where arbitration is completed in lieu of a lawsuit) with judgments entered against the bidder for failure to meet terms on contracts in the previous five (5) years?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a list of lawsuits and/or arbitrations with judgments / arbitration awards entered against the bidder along with a written explanation of the circumstances surrounding each lawsuit and/or arbitration. The City will evaluate the explanations to determine whether the lawsuits and/or arbitrations demonstrate a pattern of failing to meeting terms of conditions of contracts, unless there are extenuating circumstances acceptable to the City in its sole discretion.
<b>Part N: Delinquent State Taxes</b>
Does the bidder owe delinquent taxes to the Washington State Department of Revenue without a payment plan approved by the Department before the date of contract award?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes", attach a separate signed / dated statement describing the circumstances and stating that the bidder is not on the Washington State Department of Revenue's "Delinquent Taxpayer List".

<b>Part O: Subcontractor Responsibility</b>	
Does the bidder's standard subcontract form include the subcontractor language required by RCW 39.06.020? Does the bidder have an established procedure which it uses to validate the responsibility of each of its subcontractor? Does the subcontract form require that each of the bidder's subcontractors have and document a similar procedure for sub-tier subcontractors?	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
If "Yes" or "No", provide a copy of its standard subcontract form and a copy of the procedures used to validate the responsibility of subcontractors.	
<b>Signature</b>	
The undersigned certifies and affirms that the bidder will comply with and notify its principles and subcontractors of the provisions of the Spokane Fair Elections Code, Chapter 01.07, SMC which is viewable at <a href="http://spokanecity.org">spokanecity.org</a> .	
The undersigned certifies that the information and data contained herein is correct and complete. Failure to disclose information or submitting false or misleading information may result in rejection of my bid, revocation of award, contract termination, or may impact my firm's ability to bid on future projects by the City of Spokane.	
Signature of Authorized Representative	Date
	January 8, 2024
Printed Name of Authorized Representative	Title
Don Williams	President

Attachment to Supplemental Bidder Responsibility Criteria

Work Experience Form

Please complete one form per project and include the minimum number of projects (and forms) as requested. You may include any additional work experience you deem relevant in determining bidder responsibility. Please be sure to provide a thorough description of the work in order to demonstrate how your firm meets any required experience detailed in the specifications. You may attach additional documentation if needed.			
<b>PROJECT DETAIL</b>			
Bidder's Company Name McClintock & Turk, Inc.		Bidders Contact Name & Phone Number Ken Patterson (509) 535-7641	
Project Name <b>CSO 26-- COMBINED SEWER OVERFLOW</b>		Project Contract Number <b># 2010088</b>	
Project Owner <b>CITY OF SPOKANE</b>		Project Location <b>Spokane Falls Blvd, &amp; Lincoln Street Spokane, WA. 99201</b>	
Project Owner Contact Name & Title <b>Kyle Twohig- Director of Engineering Services</b>		Owner's Telephone Number <b>509-625-6152 - Desk ktwohig@spokanecity.org-- email</b>	
Notice to Proceed Date <b>4.20.18</b>	Final Completion Date <b>4.30.21</b>	Awarded Contract Value <b>\$2,307,000.00</b>	Final Contract Price <b>\$2,472,209.56</b>
Prime Contractor Name (If Not Bidder) <b>Garco Construction</b>		Contractor Contact Name & Phone Number (If Not Bidder) <b>Tim Loucks- Civil division 509-535-4688</b>	
Brief Project Description <b>Water service, pumps and piping. Grinders, gates, weirs. Hydraulics, Odor control unit and FRP DUCTING.</b>			
Brief Summary Of Technical Work Completed By Bidder, Including Any Relevant Details To Demonstrate Similar Experience And Any Required Experience Detailed In the Specifications  <ol style="list-style-type: none"> <li>1) Odor Control system</li> <li>2) Interior piping</li> <li>3) Flush Chamber gates &amp; Hydraulic lines</li> <li>4) CSO pumps and grinders</li> <li>5) Flow Control baffles, weirs, electroslide gate</li> </ol>			

Attachment to Supplemental Bidder Responsibility Criteria

Work Experience Form

Please complete one form per project and include the minimum number of projects (and forms) as requested. You may include any additional work experience you deem relevant in determining bidder responsibility. Please be sure to provide a thorough description of the work in order to demonstrate how your firm meets any required experience detailed in the specifications. You may attach additional documentation if needed.			
<b>PROJECT DETAIL</b>			
Bidder's Company Name McClintock & Turk, Inc.		Bidders Contact Name & Phone Number Ken Patterson, (509) 535-7641	
Project Name Field Master Services Agreement (Mechanical)		Project Contract Number Field Master Services Agreement #148022212	
Project Owner Jacobs Engineering Group, Inc.		Project Location 1004 N. Freya St. Spokane, WA 99202	
Project Owner Contact Name & Title Kimberly Lunacek Purchasing Professional		Owner's Telephone Number Jacobs Engineering Group, Inc. Ph: (720) 286-0128	
Notice to Proceed Date February, 2021	Final Completion Date December, 2031	Awarded Contract Value \$90,000	Final Contract Price Est. \$500,000
Prime Contractor Name (If Not Bidder) See bidder info		Contractor Contact Name & Phone Number (If Not Bidder) See bidder info	
Brief Project Description Field Master Services Agreement for Plumbing and Miscellaneous Work			
Brief Summary Of Technical Work Completed By Bidder, Including Any Relevant Details To Demonstrate Similar Experience And Any Required Experience Detailed In the Specifications Job #20-17-10, Tank #2 Removal Job #20-17-20, Tank Upload Job #20-17-21, PO Probe Job #20-17-23, Calcium Carbonate System Piping			

**SUBCONTRACT AGREEMENT**  
**Short Form**  
**2016 Edition**

<b>This Subcontract is between:</b>	
<b>CONTRACTOR:</b>	<u>McClintock &amp; Turk, Inc.</u> <b>POC:</b> _____ <u>P.O. Box 3243</u> <u>(509) 535-7641</u> <u>Spokane, WA 99202</u> <u>Phone: (509) 535-7641</u> <u>Fax: (509) 535-8812</u>
	<b>Contractor Registration No.:</b> <u>MCCLIT*370N0</u>
<b>SUBCONTRACTOR:</b>	<b>POC:</b> _____ _____ _____ _____ _____
	<b>Contractor Registration No.:</b> _____ <b>Federal Tax ID No.:</b> _____ <b>Worker's Compensation Account ID No.:</b> _____ <b>Unemployment Insurance Reference No.:</b> _____

<b>The Project is:</b>	_____ _____
<b>The Owner is:</b>	_____ _____ _____

Subcontractor agrees to provide all supervision, materials, labor and equipment to complete the work described below in strict accordance with the Contract Documents:

Attached for reference.

In consideration therefore, Contractor agrees to pay Subcontractor:

- a lump sum in of Dollars (\$0000.00), or
- according to unit prices below which on the basis of Owner's estimated quantities will yield a gross contract price of approximately <Amount> Dollars (\$<Amount>)

Unit Cost	Quantity	Description	Price
		<b>RCW 39.06.020- CHECKLIST / Verification of subcontractor responsibility criteria.</b> A public works contractor must verify responsibility criteria for each first-tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. <b>Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350 AS APPLICABLE TO PROJECT</b> (1) and possesses an electrical contractor license, if required by chapter 19.28 RCW, an elevator contractor license, if required by chapter 70.87 RCW, or a plumbing contractor license[,] if required by chapter 18.106 RCW. This verification requirement, as well as the responsibility criteria, must be included in every public works contract and subcontract of every tier. [2023 c 88 § 2; 2007 c 133 § 3.]	
		This is a prevailing wage project. Please provide us with your Statement of Intent to Pay Prevailing Wages, Weekly Certified Payroll and the Affidavit of Wages Paid.	
<b>TOTAL</b>			<b>\$0,000.00</b>
Price <input checked="" type="checkbox"/> excludes <input type="checkbox"/> includes sales and use tax.			

cost of the work plus a fee as set forth in Appendix 3.

Progress payments, less retainage of five percent (5%) or such percentage as Owner withholds from Contractor, shall be made to Subcontractor for Work satisfactorily performed no later than ten (10) days after receipt by Contractor of payment from Owner for Subcontractor's Work. Final payment of the balance due shall be made to Subcontractor no later than ten (10) days after receipt by Contractor of final payment from Owner for Subcontractor's Work. These payments are conditioned upon receipt of payment from Owner and such lien waivers, affidavits, warranties and guarantees required by the Contract Documents or Contractor, and other requirements as set forth in the General Conditions of this Subcontract.

In witness hereof, Contractor and Subcontractor have executed this Subcontract effective this \_\_ th day of XX23

*The General Conditions attached hereto are a part of and are incorporated into this Subcontract.*

McClintock & Turk, Inc.:

:

_____	_____
By: _____	By: _____
Its: _____	Its: _____
Date: _____	Date: _____

This Subcontract may be accepted by signature of an officer or duly authorized representative of Subcontractor without modification, and returned to Contractor within fifteen (15) days of its receipt. This Subcontract may also be accepted by silence, inaction, or by beginning performance of any aspect of the subcontract work, in such case, the Subcontractor shall be deemed to have accepted this Subcontract and all of its terms unmodified, as issued. The effective date of this Subcontract shall be the earlier of fifteen (15) days following its receipt by Subcontractor, or the date of Subcontractor's signature without modification.

SAMPLE

## GENERAL CONDITIONS

### SECTION 1 GENERAL RESPONSIBILITIES

**1.1 CONTRACTS.** The Main Contract is the contract between Contractor and Owner, and the associated general conditions, special conditions, supplementary conditions, specifications, drawings, plans, applicable building codes, addenda, change orders and other modifications. The terms of the Main Contract are incorporated herein by reference; such incorporation is general and unlimited. The Subcontract is this Subcontract Agreement, together with these General Conditions. Collectively, the Main Contract and Subcontract may be referenced herein as the Contract Documents

**1.2 OBLIGATIONS.** Subcontractor assumes toward Contractor all of the obligations and responsibilities set forth in this Subcontract as well as obligations and responsibilities Contractor assumes toward Owner in the Main Contract, and agrees to be bound by the provisions thereof insofar as applicable, generally or specifically, to Subcontractor's Work, including but not limited to, those provisions pertaining to dispute resolution.

**1.3 COMPLIANCE WITH LAWS.** Subcontractor shall comply with all applicable laws and regulations, and any changes or additions thereto during the course of the Project, without additional compensation, and shall require its lower tier subcontractors to do the same.

**1.4 SITE VISITATION AND VERIFICATION.** Subcontractor has carefully examined and understands the Main Contract; has satisfied itself as to the nature and location of the Subcontract Work, the character, quantity and kind of conditions to be encountered, and the character, kind and quality of the equipment needed to prosecute the Subcontract Work; has visited and familiarized itself with the location, conditions and other matters visible at the job site which can in any manner affect the Subcontract Work; and acknowledges that it has had reasonable opportunity to complete same. Subcontractor accepts this Subcontract on the basis of the foregoing, and not in reliance upon any opinion or representation by Contractor or others.

**1.5 SUBCONTRACT PRICE.** Unless otherwise agreed in writing, the Subcontract Price includes, and Subcontractor accepts exclusive responsibility for securing and paying for: (1) all permits, fees and licenses necessary for the performance of the Subcontract Work; (2) all federal, state, county, municipal and other taxes, including without limitation business and occupation taxes, personal property taxes, sales taxes, use taxes, penalties and interest, based upon labor, services, goods, equipment or other items acquired, performed, furnished or used in connection with the Subcontract Work; (3) paying any contributions, taxes or premiums, including penalties and interest, measured upon Subcontractor's payroll or required to be withheld from Subcontractor's employees; and (4) paying any pension, welfare, vacation, annuity and other benefit contributions owed in connection with labor agreements or applicable law.

**1.6 WORKERS COMPENSATION.** Subcontractor has the status of employer as defined by Industrial Insurance, the Workers' Compensation and Unemployment Compensation Acts, Social Security, and other similar laws, rules and regulations of the federal,

state and local government. Subcontractor shall withhold from its payroll applicable social security taxes, workers' compensation, and unemployment compensation contributions and withholding taxes and timely pay same, and Contractor shall in no way be liable as an employer to or on account of any of the employees of Subcontractor.

### SECTION 2 SAFETY

**2.1 SAFE ENVIRONMENT.** Safety is of paramount concern on the Project, and Subcontractor shall take all actions possible to create and maintain a safe working environment. In no event shall safety be compromised for efficiency, cost, etc.

**2.2 ACCIDENT PREVENTION PROGRAMS.** Subcontractor shall provide all safety equipment to complete its Subcontract Work as part of the Subcontract price. Subcontractor agrees that it, its employees and its lower tier subcontractors and their employees shall comply with Contractor's Accident Prevention Program including, but not limited to, any workplace drug-free programs required by state or federal law, or Contractor. Subcontractor shall also require its lower tier subcontractors to comply with Contractor's Accident Prevention Program. Subcontractor shall also implement its own site specific safety program for itself and its lower tier subcontractors that (1) identifies anticipated hazards that will more likely be encountered in all phases of the project; and (2) identify methods that will be used to abate those hazards, and shall require its lower tier subcontractors to establish and follow their own Accident Prevention Program.

**2.3 JOBSITE SAFETY MEETINGS.** Unless directed otherwise by Contractor, Subcontractor shall ensure that its employees and subcontractors attend Contractor's weekly jobsite safety meetings.

**2.4 DISCIPLINARY PROCEDURES.** Subcontractor shall have and enforce discipline procedures that will be followed in the event safety violations are discovered.

**2.5 STOPPAGE OF WORK.** Subcontractor shall immediately stop work which it or Contractor deems unsafe, or which is being performed in an unsafe manner. Subcontractor shall immediately correct the condition and shall not be entitled to any additional compensation or time for doing so.

**2.6 NOTICE.** Subcontractor shall give prompt written notice to Contractor of an incident involving bodily injury requiring a physician's care or hospitalization, property damage, or any failure that could have resulted in serious bodily injury, whether or not such an injury was actually sustained.

**2.7 HOUSEKEEPING.** Subcontractor shall regularly, and upon request by Contractor, remove and properly dispose of waste and debris, and shall generally keep its work area in as neat and organized a condition as reasonably possible. Subcontractor shall also regularly and upon request of Contractor properly



dispose of hazardous waste, at its own expense, which expense may include hauling, employment of certified personnel to handle material, dump fees, etc. Subcontractor's housekeeping obligations shall include the daily cleaning of roadways, streets and appurtenances, including sidewalks. Contractor may back charge Subcontractor for general housekeeping performed by Contractor to the extent said housekeeping arises out of Subcontractor's work.

**2.8 MATERIAL BREACH.** Breach by Subcontractor or any of its lower tier subcontractors of any of the above provisions shall be a material breach of contract and grounds for immediate termination.

### SECTION 3 SCHEDULING/TIME OF COMPLETION

**3.1 MAINTAINING SCHEDULE.** Time is of the essence in this Subcontract. Subcontractor shall perform the Subcontract Work as directed by Contractor in a manner that, in Contractor's opinion, benefits the overall Project schedule. Subcontractor agrees to cooperate with and coordinate its efforts with Contractor and other subcontractors whose work may interfere with the Subcontract Work. Subcontractor shall participate in the preparation of coordination drawings and work schedules as may be required by Contractor in areas of congestion, specifically advising Contractor in writing of any interference by others within twenty-four (24) hours of discovery. Should Subcontractor fall behind, it shall take necessary action to meet and maintain job progress without additional compensation, and shall be liable to and reimburse Contractor for damages resulting from or related to any delay, including, but not limited to, overtime and off-hour supervisory costs incurred by Contractor and by any of its other Subcontractors resulting from or relating to such delay.

### SECTION 4 PAYMENT

**4.1 WAIVERS AND RELEASES.** Contractor and Subcontractor expressly agree that Subcontractor shall provide, in a form satisfactory to Contractor, partial lien and claim waivers and releases on behalf of itself and all lower tier subcontractors and suppliers for their completed work. Subcontractor agrees that anyone completing a waiver or release on its behalf is authorized by Subcontractor to do so. Such partial lien and claim waivers and releases are an absolute condition precedent to Contractor's obligations to make progress or final payment to Subcontractor.

**4.2 RIGHT TO PAYMENT.** Subject to all other applicable terms in this Subcontract and Subcontractor's satisfaction of all payment prerequisites in the Contract Documents, Contractor shall pay Subcontractor the amount of its last approved application for payment within ten (10) working days after Contractor receives payment from Owner for such progress billing. Contractor and Subcontractor expressly agree that Owner's payment to Contractor for the Subcontractor's account is an absolute condition precedent to Contractor's obligations to make progress or final payment to the Subcontractor. Subcontractor expressly agrees to bear the risk of the Owner's non-payment, regardless of the reason. Subcontractor is relying on the credit of Owner, rather than Contractor, for payment of its Subcontract Work.

**4.3 PAYMENT AS TRUST FUNDS.** All payments to Subcontractor are trust funds for the payment of all sums owed by Subcontractor for labor, material, equipment, taxes, assessment, fees, penalties and all other charges pertaining to its work on the Project, and as such Subcontractor is a fiduciary for its employees, subcontractors, suppliers, and governmental entities to which taxes, assessments fees or penalties are owed, and shall pay them before it pays itself.

**4.4 PAYMENT TO LOWER TIER ENTITIES.** If it appears Subcontractor is not promptly paying its bills, if Subcontractor assigns or otherwise factors its accounts receivables, or if Contractor has any other grounds for concern, Contractor may take such steps as it deems necessary to insure that progress and final payments are used to pay such bills, including but not limited to the issuance of third party or two party checks.

**4.5 WITHHOLDING PAYMENT.** Contractor may withhold amounts otherwise due under this Subcontract, or under any other arrangement between the parties, as an offset to cover 150% of Contractor's reasonable estimate of any liability Contractor has incurred or may incur for which Subcontractor may be responsible under this Subcontract, or under any other agreement between the parties. This offset shall be subject to adjustment when the exact amounts of liability are determined, but in no event shall the amounts withheld bear interest.

**4.6 UNIT PRICE PAYMENTS.** In the event this Subcontract contains unit price items, it is understood and agreed that any quantities mentioned are approximate only, are based upon information furnished by Owner, and are subject to change as required by the Main Contract and as ordered and directed by Contractor. Price adjustments, if any, for variations in quantity are available to Subcontractor only if they are available to Contractor under the provisions of the Main Contract, and then only proportionate to any adjustment actually obtained by Contractor from the Owner.

### SECTION 5 CHANGES

**5.1 CHANGES AUTHORIZED.** Contractor may at any time and without notice to Subcontractor's sureties, make changes in, additions to, deletions from or alterations in the Subcontract Work or time of performance. Should Subcontractor believe such order entitles it to extra time or compensation, it shall, within five working days from the date of such order, and prior to instituting the change, submit a change order proposal or cost estimate indicating the adjustment in price and/or contract time it is seeking. Failure to provide such proposal or estimate shall constitute a waiver by Subcontractor for any additional compensation or time, but shall not relieve Subcontractor from performing the work and instituting the ordered changes. Should the parties be unable to agree on the price, Contractor may nevertheless order Subcontractor in writing to proceed with the Subcontract Work. Should Subcontractor begin work without such written order it shall be deemed to have waived any claim for additional compensation or time.

**5.2 COMPENSATION FOR CHANGED WORK.** Compensation for any change shall be based upon: (a) agreed upon lump sum; (b) unit prices previously agreed upon; (c) costs plus a mark-up not exceeding 10%, which percentage shall include overhead and profit; or (d) if the Subcontract amount is based upon the cost of the work plus a fee, then the amount shall be calculated as specified. Under any of the above methods the amount agreed upon shall include all time impacts, direct and indirect costs, and profit and overhead associated with the change. Furthermore, if the change is due to actions of the Owner or any person not a party to this Subcontract, then the compensation or time granted to Subcontractor shall be limited to the compensation or time Owner pays or grants Contractor for the change.

**5.3 ALLOWANCE ON CHANGED WORK.** Subcontractor shall be limited to the allowances for overhead and profit as stated in the Contract Documents. If such markups are not addressed in the Contract between Owner and Contractor, the allowance for overhead and profit shall not exceed 5% for work performed by lower tier subcontractors and 10% for work of subcontractor. This allowance for overhead and profit shall compensate Subcontractor for all costs of any kind attributable to direct and indirect delay, acceleration, or impact and for all non-craft labor, temporary construction facilities, engineering, estimating and home office costs, B&O taxes, or additional overhead because of extended time and any other cost incidental to the change in the Subcontract Work.

## **SECTION 6 UNCOVERING/CORRECTION OF WORK**

**6.1 UNCOVERING WORK.** Subcontractor shall, at its own expense, uncover any portion of the Subcontract Work which it covered in violation of the Contract Documents or contrary to a directive issued by Contractor, or when Contractor reasonably believes that the covered work does not conform to the Contract Documents. Subcontractor shall uncover the work within twenty-four (24) hours of Contractor's directive to do so. If the uncovered work conforms to the Contract Documents, or if its non-conforming condition is not the fault of Subcontractor, then Subcontractor shall be reimbursed for the costs associated with uncovering and restoring the work. In all other cases Subcontractor shall be responsible for uncovering, correcting and restoring the work, including any damage to work performed by others which Subcontractor damaged in uncovering the Subcontract Work.

**6.2 WARRANTIES.** Subcontractor warrants the Subcontract Work and materials furnished hereunder to Contractor and Owner on the same terms, and for the same period, as Contractor warrants the work to Owner under the Main Contract. Subcontractor warrants that it will perform its Work in a good and workmanlike manner and in conformance with the Contract Documents. With respect to the Subcontract Work, Subcontractor shall assume all warranty obligations and responsibilities of Contractor under the Main Contract. Without limiting the preceding sentences, this warranty shall run at least one year from the Owner's final acceptance of the Project. In no event shall Subcontractor's obligation in this regard be less than the obligation to promptly correct improper or defective Subcontract Work or materials discovered within one year from the date of final acceptance of the Project by Owner.

## **SECTION 7 CLAIMS/DEFAULT**

**7.1 CLAIMS.** Should Subcontractor desire to make a claim for additional compensation or time, or if it believes Contractor has breached the Subcontract, it shall submit a Notice of Claim within five (5) days of the directive or other event giving rise to the claim. The Notice of Claim shall provide, in as much detail and with as much supporting documentation as possible, the amount of additional compensation or time sought, and the contract provisions Subcontractor claims have been breached. Failure to provide such notice shall be deemed a waiver of any such claim.

**7.2 DEFAULT.** If Subcontractor refuses or fails to supply a sufficient quantity of skilled workers, proper materials, maintain the progress schedule, make prompt payment to laborers, subcontractors or suppliers, disregards any applicable law, or otherwise materially breaches this Subcontract, the Subcontractor shall be in default of this Agreement.

**7.3 FAILURE TO CURE.** If Subcontractor fails within three (3) days after written notification to commence and continue satisfactory correction of the default with diligence and promptness, then the Contractor, may without any prejudice to any other rights or remedies, shall have the right to any or all of the following remedies:

7.3.1 Supply sufficient laborers, material and equipment to complete the work and charge Subcontractor accordingly, including a 15% markup for overhead and profit;

7.3.2 Contract with other subcontractors to complete the work and back charge Subcontractor accordingly, including a 15% markup for overhead and profit; and/or

7.3.3 Withhold any payments due or to become due Subcontractor pending corrective action in amounts reasonably estimated as sufficient to cover potential losses.

7.3.4 Terminate this Subcontract upon three (3) days notice.

**7.4 DELAYS.** Contractor shall not be liable to Subcontractor for any damages or additional compensation as a consequence of delays caused by any person not a party to this Subcontract unless Contractor has first recovered the same on behalf of Subcontractor from said person, it being understood and agreed by Subcontractor that apart from such a recovery from said third party, Subcontractor's sole and exclusive remedy for delay shall be an extension of the Subcontract time.

**7.5 WRONGFUL TERMINATION.** If any finder of fact determines that Contractor wrongfully terminated Subcontractor for default, then the default termination shall be converted to one for convenience and damages shall be calculated as provided in Section 8.

## **SECTION 8 TERMINATION FOR CONVENIENCE**

Contractor may terminate all or any part of this Subcontract at any time for Contractor's convenience. If Owner has terminated Contractor for convenience, Subcontractor shall be paid the amount due and paid from Owner to Contractor for the Subcontract Work, less markup. Otherwise, Contractor shall pay Subcontractor for the work actually performed prior to termination in an amount proportionate to the Subcontract Price. Contractor shall not be liable to Subcontractor for any other costs or amounts, including prospective profits or unabsorbed overhead on Subcontract Work not performed.

## SECTION 9 INSURANCE

**9.1 INSURANCE REQUIRED.** Subcontractor shall procure, maintain and pay for such insurance as will protect against claims for bodily injury or for damage to property which may arise out of Subcontractor's Work or by the work of any lower tier subcontractor or by anyone employed by any of them or by anyone for whose acts any of them may be liable. Such insurance shall include, but not be limited to, Commercial General Liability, Excess Liability, Comprehensive Automobile Liability, Employers Liability and Workers Compensation. Subcontractor shall procure, maintain and pay for Workers Compensation Insurance coverage under the laws of the state where the work is performed. Comprehensive Automobile Liability insurance shall include coverage for all owned, hired and non-owned automobiles. If Subcontractor is to provide any service involving asbestos, lead abatement, or other pollutant, Subcontractor shall also provide insurance coverage for asbestos/lead paint abatement/removal or pollution. Minimum coverages and limits of liability for all insurance, shall be as specified in this section or if greater, the Main Contract.

**9.2 APPROPRIATE FORMS.** Commercial General Liability insurance shall be based on Insurance Services Office ISO Form CG 00 01 or its equivalent and shall confer a status or contain an endorsement (Form CG 2503, or equivalent), requiring that the general aggregate limit of liability shall apply to this Project. The coverage includes Blanket Contractual Liability insurance applicable to Subcontractor's indemnity obligations under this Subcontract. The coverages required herein shall extend six years after substantial completion.

**9.3 ADDITIONAL INSURED ENDORSEMENT.** Subcontractor shall obtain both a Broad Form Additional Insured Status or Endorsement to its Commercial General Liability policy (Form CG 2010 and CG 2037 or equivalent) which includes completed operations coverage, as well as a Commercial Automobile Liability Policy, naming Contractor, Owner, and any other entity required by the Main Contract, as "additional insureds". The foregoing "additional insured" status or endorsements shall also include coverage for liability arising out of (a) completed operations for ten years following substantial completion, (b) operations performed for Contractor or Owner by Subcontractor, (c) acts or omissions of Contractor or Owner in connection with general supervision of Subcontractor's operations, and (d) claims for bodily injury, death or property damage brought against Contractor or Owner by Subcontractor's employees, or the employees of Subcontractor's subcontractors of any tier, however caused, related to the performance of the work under the Main Contract. The insurance afforded to above stated additional insureds under Subcontractor's

policies shall be primary insurance and not excess over, or contributing with, any insurance purchased or maintained by additional insureds, and shall confer a status or contain an endorsement which provides the same. In the event Subcontractor and Contractor are covered by Contractor's insurance, Contractor's policy shall only apply excess of Subcontractor's policy. Subcontractor shall provide Additional Insured Endorsements to Contractor upon request. Subcontractor shall not name Contractor or Owner as additional insured on a professional services liability agreement.

**9.4 WORKER'S COMPENSATION.** Owner-operators are required to furnish Worker's Compensation certificates, notwithstanding any statutory exemptions. For states that do not require Worker's Compensation coverage, Owner/Operators shall elect into coverage under the Workers Compensation laws of the governing state. Owner/Operators shall file with the Industrial Insurance Commission a written declaration stating that the provisions of the Worker's Compensation laws shall apply to it and its surety. The effective date of such coverage shall be the date of commencement of work under this Subcontract. Owner/Operators shall make all payments as they become due and shall furnish evidence satisfactory to Contractor of the same. Should Owner/Operator choose to revoke its election of coverage, fail to furnish satisfactory evidence of payment, or fail to elect into Worker's Compensation coverage, payments for the same shall be deducted from the Subcontract amount or from monthly progress payments, due the Subcontractor at Contractor's sole election.

**9.5 LIMITS.** Subcontractor is required to carry insurance for the amounts specified below and shall present current certificates of insurance and endorsements to Contractor prior to doing any work at the site. Those certificates of insurance shall be based on 25S Acord Form or equivalent and shall, together with appropriate endorsements, include the coverages described above and shall contain limits in the minimum amounts specified below. All insurance certificates shall also contain a provision that coverage afforded thereunder shall not be canceled or non-renewed, or restrictive modifications added, without thirty (30) days prior written notice to Contractor. The Certificates shall also delete any language which modifies or disclaims the Insurer's obligations to actually notify Contractor of any such cancellation, non-renewal, or modification. Such Certificates of Insurance and applicable endorsements required herein shall be in a form acceptable to Contractor and shall provide satisfactory evidence that Subcontractor has complied with all insurance requirements. If Subcontractor's existing policy provides higher limits than those specified below, the higher limits shall be applicable and the certificates of insurance provided by Subcontractor shall reflect those higher limits, otherwise Subcontractor shall provide insurance with the following minimum coverage limits:

*Worker's Compensation: Statutory Limits.*

*Employer's Liability: \$1,000,000.00 each accident and each employee, limit by disease.*

*Commercial General Liability: \$1,000,000.00 each occurrence; Aggregate: general aggregate limits of liability do not apply on a per project basis, aggregate limits shall be at least*

twice the occurrence limit; Deductible: not greater than \$25,000.00.

**Comprehensive Auto Liability:** \$1,000,000.00 each occurrence.

**Asbestos Abatement/Removal or Pollution:** Liability \$1,000,000.00 each occurrence; \$2,000,000.00 aggregate. NA

**Professional Services Liability:** \$1,000,000.00 each occurrence; \$2,000,000.00 aggregate. NA

**Umbrella/Excess Liability:** \$5,000,000.00.

**Notices:** Subcontractor shall provide McClintock & Turk, Inc. written notice of cancellation of any insurance policy required by this contract within two (2) days of receipt from the insurance carrier.

**9.6 WAIVER OF SUBROGATION.** Contractor and Subcontractor waive all rights against each other and by and between the Subcontractor's lower tier subcontractors, suppliers, agents and employees for damages caused by fire or other perils to the extent covered by insurance obtained pursuant to this Subcontract or any other property insurance applicable to the Work, except such rights as they may have to the proceeds of such insurance held by Contractor or Owner as fiduciary. Subcontractor shall require its lower tier subcontractors and suppliers to similarly waive subrogation in writing in favor of each of the parties named herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

**SECTION 10  
INDEMNIFICATION**

**10.1 GENERAL RESPONSIBILITIES.** Subcontractor assumes responsibility for and agrees to indemnify and hold Contractor, Contractor's surety and Owner; hereinafter "Indemnitees") harmless from any and all claims, demands, damages, expenses, losses, fines, penalties or liabilities, including loss of use and all actions, arising from, resulting in any manner directly or indirectly from or connected with or in the course of the performance of the Subcontract Work or the Subcontract obligations or services. Subcontractor's duty to indemnify for liability for damage arising out of bodily injury to persons, damage to property, or services performed shall apply only to the extent of the negligence of Subcontractor or Subcontractor's agents or employees when negligence is an element of liability. When negligence is not an element of liability, Subcontractor's indemnity obligations will not be apportioned or reduced. Subcontractor's obligation to indemnify and hold Indemnitees harmless shall include, but will not be limited to, attorney and expert fees, court costs, the reasonable hourly rate of Indemnitees' employees and all other claim-related expenses, to the fullest extent permitted by law, even though such claims may prove to be false, groundless, or fraudulent.

**10.2 WAIVER OF WORKER'S COMPENSATION IMMUNITY.** For the purposes of these indemnification

provisions only, Subcontractor specifically and expressly waives any immunity that may be granted it under the worker's compensation laws of any state; provided that such waiver shall be expressly limited to Subcontractor's indemnity obligations herein and shall not be intended as a benefit to any third party. Further, the indemnification obligation under this Subcontract shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under worker's compensation acts, disability benefits acts, or other employee benefits acts.

**10.3 INDEMNIFICATION SURVIVES TERMINATION.** Subcontractor's indemnification obligations as stated herein shall extend to claims occurring after this subcontract agreement is terminated as well as while it is in force.

**10.4 DUTY TO DEFEND.** At Contractor's option, Subcontractor shall either defend Indemnitees using a law firm chosen by Contractor or reimburse Contractor for its defense costs in all lawsuits or other actions arising out of the foregoing obligations. Subcontractor's defense obligations shall not be apportioned or reduced in any way by the negligence or fault of Indemnitees.

**THE UNDERSIGNED HEREBY CERTIFY THAT THIS SECTION WAS MUTUALLY NEGOTIATED.**

McClintock & Turk, Inc. \_\_\_\_\_

**SECTION 11  
DISPUTE RESOLUTION**

**11.1 DISPUTE RESOLUTION.** All disputes arising out of this Subcontract shall be decided by litigation unless the parties mutually agree to another means of dispute resolution.

**11.2 ATTORNEYS' FEES.** The substantially prevailing party in any dispute shall be awarded its attorneys' fees and costs, including consultant and expert witness fees. If neither party wholly prevails, the party that substantially prevails shall be awarded its attorney fees and costs, including consultant and expert witness fees.

**11.3 CLAIMS ARISING FROM OWNER.** If Contractor is involved in a dispute either prosecuting or defending Subcontractor or the Subcontract Work, Subcontractor agrees to pay or reimburse Contractor for all fees and costs in connection therewith to the extent of Subcontractor's interest in the matter, whether or not Subcontractor is a party to the proceeding. Subcontractor further agrees to be bound by the decision resulting from that dispute to the same extent as Contractor, whether or not it was a party to the proceeding. Furthermore, Subcontractor will suspend or stay any action against Contractor pending resolution of Contractor's dispute with Owner, if any. With respect to claims by Subcontractor for which the Contractor believes the Owner is wholly or partially responsible, Subcontractor may, at Contractor's sole discretion, prosecute the matter in the name of

Contractor, and shall take full responsibility for preparation and presentation of the case, and the associated fees and costs.

**11.4 LIMITATIONS PERIOD.** Subcontractor must file and serve a Summons and Complaint within 90 days after substantial completion of the Project. This is an absolute condition precedent to maintaining an action.

**11.5 WORK CONTINUATION AND PAYMENT.** Unless otherwise agreed in writing, Subcontractor shall continue to perform in accordance with the Project Schedule during any dispute resolution proceeding.

## **SECTION 12 MISCELLANEOUS**

**12.1 CHOICE OF LAW/VENUE.** This Subcontract shall be considered to have been made in and shall be interpreted, to the extent permitted by law, under the laws of the State of Washington and venue shall be in Spokane County, Washington or the appropriate federal court in Washington.

**12.2 NO WAIVER.** The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Subcontract, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right with respect to further performance.

**12.3 INTEGRATION CLAUSE.** This Subcontract represents the final integrated understanding of the parties and shall supersede any prior proposals, offers, negotiations, revisions, unincorporated written communications or oral discussions, statements, representations or agreements.

**12.4 TITLES.** The titles to the sections and paragraphs in this Subcontract are for reference only and shall not be relied upon or cited for any purpose.

**12.5 SAVINGS CLAUSE.** The partial or complete invalidity of any one or more provisions of this Subcontract shall not affect the validity or continuing force and effect of any other provision. If any provision is invalid, in whole or in part, the balance of the provisions shall be considered reformed to reflect the intent of the parties to the greatest extent possible consistent with the law.

**12.6 NO IMPLIED DUTIES.** Subcontractor expressly acknowledges and agrees that all of the obligations Contractor owes to Subcontractor are contained in the express written provisions of this Subcontract and that Contractor owes no implied duties or obligations to Subcontractor.

### **END OF GENERAL CONDITIONS**

# SUBCONTRACTOR LIST

## City of Spokane Project Name: PW ITB 6005-23, Purchase and Delivery of the Specified Conveyor (No Substitutions), Removal and Disposal of Existing Conveyor, and Install of Conveyor. Removal and Install Fall Under Public Works.

This form is to be submitted with the Bid Proposal, or within one (1) hour after the published bid submittal time.

### **RCW 39.30.060** (as amended) states:

*“Every invitation to bid on a prime contract that is expected to cost one million dollars or more for the construction, alteration, or repair of any public building or public work ... shall require each prime contract bidder to submit as part of the bid, or within one (1) hour after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of: HVAC (heating, ventilation, and air conditioning); plumbing as described in chapter 18.106 RCW; and electrical as described in chapter 19.28 RCW, or to name itself for the work.*

***The prime contract bidder shall not list more than one (1) subcontractor for each category of work identified, unless subcontractors vary with bid alternates, in which case the prime contract bidder must indicate which subcontractor will be used for which alternate. Failure of the prime contract bidder to submit as part of the bid the names of such subcontractors or to name itself to perform such work or the naming of two or more subcontractors to perform the same work shall render the prime contract bidder's bid nonresponsive and, therefore, void.”*** (emphasis added)

### **Subcontractor Named (List prime contract bidder if prime contract bidder intends to self-perform the work):**

McClintock & Turk Inc. Mechanical Contractor

**Work to be performed:** Provide new conveyor & associated components per owner's requirements as manufactured by Serpentix Conveyor Corp. Complete removal /disposal of existing conveyor and the purchasing & installation of new conveyor. Provide project supervision and permitting. Provide on-site review for track installation, final equipment certification, & conduct O&M training.

### **Subcontractor Named: (List prime contract bidder if prime contract bidder intends to self-perform the work))**

Power City Electric Inc.

#### **Work to be performed:**

Motor and panel disconnects/reconnects, conduit, wiring and permitting.

### **Subcontractor Named (List prime contract bidder if prime contract bidder intends to self-perform the work):**

#### **Work to be performed:**

### **Subcontractor Named (List prime contract bidder if prime contract bidder intends to self-perform the work):**

#### **Work to be performed:**

### **Subcontractor Named (List prime contract bidder if prime contract bidder intends to self-perform the work):**

#### **Work to be performed:**

**BID BOND**

We, McClintock & Turk, Inc. as Principal,  
and Old Republic Surety Company as Surety,  
are held and firmly bound unto the CITY OF SPOKANE, a Washington State municipal  
corporation, in the penal sum of FIVE PERCENT (5%) OF THE TOTAL AMOUNT BID, for the  
payment of which we jointly and severally bind ourselves, and our legal representatives and  
successors.

THE CONDITIONS OF THE OBLIGATION are that if the City of Spokane shall make  
timely award to the Principal for the **Purchase and Delivery of the Specified Conveyor (No  
Substitutions), Removal and Disposal of Existing Conveyor, and Install of Conveyor. Removal  
and Install Fall Under Public Works,** according to the terms of the bid made by the Principal;  
and the Principal shall, within the specified time, enter into a contract with the City of Spokane  
and furnish bond(s) acceptable to the City, if required, then this obligation shall be null and void;  
otherwise it shall remain in full force and effect; but in no event will the surety's liability exceed  
this bond's face amount.

SIGNED AND SEALED on December 28th, 2023

AS PRINCIPAL

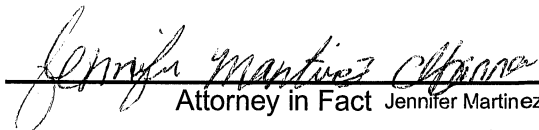
McClintock & Turk, Inc.

By: 

Title: President

A valid POWER OF  
ATTORNEY must  
accompany this bond.

Old Republic Surety Company  
AS SURETY

By:   
Attorney in Fact Jennifer Martinez Ibarra



# OLD REPUBLIC SURETY COMPANY

## POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC SURETY COMPANY, a Wisconsin stock insurance corporation, does make, constitute and appoint:

**Jennifer Martinez Ibarra**

its true and lawful Attorney(s)-in-Fact, with full power and authority for and on behalf of the company as surety, to execute and deliver and affix the seal of the company thereto (if a seal is required), bonds, undertakings, recognizances or other written obligations in the nature thereof, (other than bail bonds, bank depository bonds, mortgage deficiency bonds, mortgage guaranty bonds, guarantees of installment paper and note guaranty bonds, self-insurance workers compensation bonds guaranteeing payment of benefits, or black lung bonds), as follows:

### ALL WRITTEN INSTRUMENTS

Principal: McClintock & Turk, Inc.

Obligee: City of Spokane

and to bind OLD REPUBLIC SURETY COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This appointment is made under and by authority of the board of directors at a special meeting held on February 18, 1982.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC SURETY COMPANY on February 18, 1982.

RESOLVED that, the president, any vice-president or assistant vice president, in conjunction with the secretary or any assistant secretary, may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the company to execute and deliver and affix the seal of the company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any Power of Attorney previously granted to such person.

RESOLVED FURTHER, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company

- (i) when signed by the president, any vice president or assistant vice president, and attested and sealed (if a seal be required) by any secretary or assistant secretary; or
- (ii) when signed by the president, any vice president or assistant vice president, secretary or assistant secretary, and countersigned and sealed (if a seal be required) by a duly authorized attorney-in-fact or agent; or
- (iii) when duly executed and sealed (if a seal be required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the Power of Attorney issued by the company to such person or persons.

RESOLVED FURTHER that the signature of any authorized officer and the seal of the company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the company; and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, OLD REPUBLIC SURETY COMPANY has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 20th day of September, 2022.

*Karen J. Haffner*

Assistant Secretary



OLD REPUBLIC SURETY COMPANY

*Alan Pavlic*

President

STATE OF WISCONSIN, COUNTY OF WAUKESHA - SS

On this 20th day of September, 2022, personally came before me, Alan Pavlic and Karen J. Haffner

, to me known to be the individuals and officers of the OLD REPUBLIC SURETY COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say: that they are the said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said corporation.



*Kathryn R. Pearson*

Notary Public

My Commission Expires: September 28, 2026

(Expiration of notary's commission does not invalidate this instrument)

### CERTIFICATE

I, the undersigned, assistant secretary of the OLD REPUBLIC SURETY COMPANY, a Wisconsin corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.



Signed and sealed at the City of Brookfield, WI this 28th day of December, 2023.

*Karen J. Haffner*

Assistant Secretary





**City of Spokane**

**PUBLIC WORKS CONTRACT**

Title: **SERPENITX REPLACEMENT PROJECT**

This Contract is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **McCLINTOCK & TURK, INC.**, whose address is 516 North Sycamore Street, Spokane, Washington 99220 as ("Contractor"), individually hereafter referenced as a "party", and together as the "parties".

The parties agree as follows:

1. **PERFORMANCE/SCOPE OF WORK.** The Contractor will do all work, furnish all labor, materials, tools, construction equipment, transportation, supplies, supervision, organization and other items of work and costs necessary for the proper execution and completion of the work described in the specifications entitled **Purchase and Delivery of the Specified Conveyor, Removal and Disposal of Existing Conveyor and Installation of Conveyor**, selected via PW ITB 6005-23.
2. **CONTRACT DOCUMENTS.** The Contract Documents are this Contract, the Contractor's completed bid proposal form, the contract provisions, contract plans, standard specifications, standard plans, addenda, various certifications and affidavits, supplemental agreements, change orders and subsurface boring logs (if any), including Contractor's Response to PW ITB (Exhibit B). These contract documents are on file at the Riverside Park Water Reclamation Facility and are incorporated into this Contract by reference as if they were set forth at length. In the event of a conflict, or to resolve an ambiguity or dispute, federal and state requirements supersede this Contract, and this Contract supersedes the other contract documents.
3. **TERM.** The term of this Contract begins on January 8, 2024, and ends on December 31, 2024, unless amended by written agreement or terminated earlier under the provisions.
4. **TERMINATION.** Either party may terminate this Contract by ten (10) days written notice to the other party. In the event of such termination, the City shall pay the Contractor for all work previously authorized and performed prior to the termination date.
5. **COMPENSATION/PAYMENT.**
  - A. **COMPENSATION.** Total compensation for Contractor's services under this Contract shall be a maximum amount not to exceed **ONE MILLION FOUR HUNDRED TWENTY-NINE THOUSAND SIX HUNDRED FOUR AND NO/100 DOLLARS (\$1,429,604.00)**, plus sales tax if applicable, unless modified by a

written amendment to this Contract. This is the maximum amount to be paid under this Contract for the work described in Section 1 above, and shall not be exceeded without the prior written authorization of the City in the form of an executed amendment to this Contract.

- B. PAYMENT. The Contractor will send its applications for payment to the Riverside Park Water Reclamation Facility, 4401 North Aubrey L. White Parkway, Spokane, Washington 99205-3939. All invoices should include the City Clerk File No. "OPR XXXX-XXXX" and an approved L & I Intent to Pay Prevailing Wage number. The final invoice should include an approved Affidavit of Wages Paid number. Payment will not be made without this documentation included on the invoice. **Payment will be made via direct deposit/ACH** within thirty (30) days after receipt of the Company's application except as provided by state law. Five percent (5%) of the Contract price may be retained by the City, in accord with RCW 60.28 for a minimum of forty five (45) days after final acceptance, as a trust fund for the protection and payment of: the claims of any person arising under the Contract; and the State with respect to taxes imposed pursuant to Titles 50, 51 and 82 RCW which may be due from the Contractor.

6. WAGES. The Contractor and all subcontractors will submit a "Statement of Intent to Pay Prevailing Wages" certified by the industrial statistician of the Department of Labor and Industries, prior to any payments. The "Statement of Intent to Pay Prevailing Wages" shall include: (1) the Contractor's registration number; and (2) the prevailing wages under RCW 39.12.020 and the number of workers in each classification. Each voucher claim submitted by the Contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the "Statement(s) of Intent to Pay Prevailing Wages" on file with the City. Prior to the payment of funds held under RCW 60.28, the Contractor and subcontractors must submit an "Affidavit of Wages Paid" certified by the industrial statistician.

7. STATEMENT OF INTENT TO PAY PREVAILING WAGES TO BE POSTED. The Contractor and each subcontractor required to pay the prevailing rate of wages shall post in a location readily visible at the job site: (1) a copy of a "Statement of Intent to Pay Prevailing Wages" approved by the industrial statistician of the State Department of Labor and Industries; and (2) the address and telephone number of the industrial statistician of the Department of Labor and Industries where a complaint or inquiry concerning prevailing wages may be made.

8. BONDS. The Contractor may not commence work until it obtains all insurance, permits and bonds required by the contract documents and applicable law. This includes the execution of a performance bond and a payment bond on the forms attached, each equal to one hundred percent (100%) of the contract price, and written by a corporate surety company licensed to do business in Washington State.

9. PUBLIC WORKS REQUIREMENTS. The Contractor and each subcontractor are required to fulfill the Department of Labor and Industries Public Works and Prevailing Wage Training Requirement under RCW 39.04.350. The contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify the responsibility criteria listed in RCW 39.04.350(1) for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria. This verification requirement, as well as responsibility criteria, must be included in every public works contract and subcontract of every tier.

10. INSURANCE. During the period of the Contract, the Contractor shall maintain in force at its own expense, each insurance noted below with companies or through sources approved by the State Insurance Commissioner pursuant to RCW 48:

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;
- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Contractor's services to be provided under this Contract;
  - i. Acceptable supplementary Umbrella insurance coverage combined with Company's General Liability insurance policy must be a minimum of \$1,000,000, in order to meet the insurance coverage limits required in this Contract; and
- C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles; and
- D. Property Insurance if materials and supplies are furnished by the Contractor. The amount of the insurance coverage shall be the value of the materials and supplies of the completed value of improvement. Hazard or XCU (explosion, collapse, underground) insurance should be provided if any hazard exists.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Consultant or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, the Consultant shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns this signed Agreement. **The certificate shall specify the City of Spokane as "Additional Insured"** specifically for Contractor's services under this Agreement, as well as all of the parties who are additional insureds, and include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

11. INDEMNIFICATION. The Contractor shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from the Contractor's negligence or willful misconduct under this Agreement, including attorneys' fees and litigation costs; provided that nothing herein shall require a Contractor to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of the Contractor's agents or employees and the City, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of the Contractor, its agents or employees. The Contractor specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by the Contractor's own employees against the City and, solely for the purpose of this indemnification

and defense, the Contractor specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. The Contractor recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

12. CONTRACTOR'S WARRANTY. The Contractor's warranty for all work, labor and materials shall be in accordance with the contract documents.

13. SUBCONTRACTOR RESPONSIBILITY.

A. The Contractor shall include the language of this section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. Upon request of the City, the Contractor shall promptly provide documentation to the City demonstrating that the subcontractor meets the subcontractor responsibility criteria below. The requirements of this section apply to all subcontractors regardless of tier.

B. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:

1. Have a current certificate of registration in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;
2. Have a current Washington Unified Business Identifier (UBI) number;
3. If applicable, have:
  - a. Have Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW;
  - b. A Washington Employment Security Department number, as required in Title 50 RCW;
  - c. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;
  - d. An electrical contractor license, if required by Chapter 19.28 RCW;
  - e. An elevator contractor license, if required by Chapter 70.87 RCW.
4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

C. On Public Works construction projects, as defined in RCW 39.04.010, with an estimated cost of six hundred thousand dollars (\$600,000) or more, at least fifteen (15) percent of the labor hours on each project shall be performed by apprentices enrolled in a State-approved apprenticeship program; and for each contract in the project fifteen (15) percent of the labor hours

for each craft that has an available state-approved apprenticeship program for Spokane County and utilizes more than one hundred sixty (160) hours in each contract shall be performed by apprentices enrolled in a state-approved apprenticeship program.

1. Subcontracting Requirements. The utilization percentages for apprenticeship labor for Public Works construction contracts shall also apply to all subcontracts of one hundred thousand dollars (\$100,000) or more within those contracts, and at least fifteen percent (15%) of the labor hours for each such subcontract shall be performed by apprentices in a state-approved apprenticeship program. For each craft that has an available apprenticeship program for Spokane county and performs more than one hundred sixty (160) hours on each project, fifteen (15) percent of the labor hours shall be performed by apprentices enrolled in a State-approved apprenticeship program
2. Each subcontractor which this chapter applies is required to execute a form, provided by the city, acknowledging that the requirements of Article X 07.06 SMC are applicable to the labor hours for the project.

14. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Contractor agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Contractor.

15. EXECUTIVE ORDER 11246.

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include but not be limited to the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. The Contractor will send each labor union, or representative of workers with which it has a collective bargaining contract or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

- E. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The Contractor will include the provisions of paragraphs A through G in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, HOWEVER, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as the result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

16. DEBARMENT AND SUSPENSION. The Contractor has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

17. LIQUIDATED DAMAGES. Liquidated damages shall be in accordance with the contract documents.

18. ASSIGNMENTS. The Contractor may not assign, transfer or sublet any part of the work under this Contract, or assign any monies due, without the written approval of the City, except as may be required by law. In the event of assignment of accounts or monies due under this Contract, the Contractor specifically agrees to give immediate written notice to the City Administrator, no later than five (5) business days after the assignment.

19. ANTI-KICKBACK. No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in the Contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the Contract.

20. COMPLIANCE WITH LAWS. Each party shall comply with all applicable federal, state, and local laws and regulations that are incorporated herein by reference.

21. DISPUTES. This Contract shall be performed under the laws of the State of Washington. Any litigation to enforce this Contract or any of its provisions shall be brought in Spokane County, Washington.

22. SEVERABILITY. In the event any provision of this Contract should become invalid, the rest of the Contract shall remain in full force and effect.

23. AUDIT / RECORDS. The Contractor and its subcontractors shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Contract. The Contractor and its subcontractors shall provide access to authorized City representatives, at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Contract, the federal law shall prevail.

24. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Contractor shall be responsible for contacting the State of Washington Business License Services at [www.dor.wa.gov](http://www.dor.wa.gov) or 360-705-6741 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

25. CONSTRUAL. The Contractor acknowledges receipt of a copy of the contract documents and agrees to comply with them. The silence or omission in the contract documents concerning any detail required for the proper execution and completion of the work means that only the best general practice is to prevail and that only material and workmanship of the best quality are to be used. This Contract shall be construed neither in favor of nor against either party.

26. MODIFICATIONS. The City may modify this Contract and order changes in the work whenever necessary or advisable. The Contractor will accept modifications when ordered in writing by the Director of Engineering Services, and the Contract time and compensation will be adjusted accordingly.

27. INTEGRATION. This Contract, including any and all exhibits and schedules referred to herein or therein set forth the entire Agreement and understanding between the parties pertaining to the subject matter and merges all prior agreements, negotiations and discussions between them on the same subject matter.

28. FORCE MAJEURE. Neither party shall be liable to the other for any failure or delay in performing its obligations hereunder, or for any loss or damage resulting therefrom, due to: (1) acts of God or public enemy, acts of government, riots, terrorism, fires, floods, strikes, lock outs, epidemics, act or failure to act by the other party, or unusually severe weather affecting City, Contractor or its subcontractors, or (2) causes beyond their reasonable control and which are not foreseeable (each a "Force Majeure Event"). In the event of any such Force Majeure Event, the date of delivery or performance shall be extended for a period equal to the time lost by reason of the delay.

29. KEY PERSONS. The Contractor shall not transfer or reassign any individual designated in this Contract as essential to the Work, nor shall those key persons, or employees of Contractor identified as to be involved in the Project Work be replaced, removed or withdrawn from the Work without the express written consent of the City, which shall not be unreasonably withheld. If any such individual leaves the Contractor's employment, the Contractor shall present to the City one or more individuals with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval does not release the

Contractor from its obligations under this Contract.

**McCLINTOCK & TURK, INC.**

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature                      Date

By \_\_\_\_\_  
Signature                      Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

**Attachments that are part of this Contract:**  
Exhibit A - Certification Regarding Debarment  
Exhibit B – Response to PW ITB 6005-23  
Payment Bond  
Performance Bond  
24-007



**EXHIBIT A**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
  - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
  - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.

2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.

4. I understand that a false statement of this certification may be grounds for termination of the contract.

<hr/> Name of Subrecipient / Contractor / Consultant (Type or Print)	<hr/> Program Title (Type or Print)
<hr/> Name of Certifying Official (Type or Print)	<hr/> Signature
<hr/> Title of Certifying Official (Type or Print)	<hr/> Date (Type or Print)

**EXHIBIT B**

**PAYMENT BOND**

We, **McCLINTOCK & TURK, INC.**, as principal, and \_\_\_\_\_, as surety, are held and firmly bound to the City of Spokane, Washington, in the sum of **ONE MILLION FOUR HUNDRED TWENTY-NINE THOUSAND SIX HUNDRED FOUR AND NO/100 DOLLARS (\$1,429,604.00)**, plus sales tax if applicable, for the payment of which, we bind ourselves and our legal representatives and successors, jointly and severally by this document.

The principal has entered into a contract with the City of Spokane, Washington, to do all work and furnish all materials for the **Purchase and Delivery of the Specified Conveyor, Removal and Disposal of Existing Conveyor and Installation of Conveyor**, selected via PW ITB 6005-23. If the principal shall:

- A. pay all laborers, mechanics, subcontractors, material suppliers and all person(s) who shall supply such person or subcontractors; and pay all taxes and contributions, increases and penalties as authorized by law; and
- B. comply with all applicable federal, state and local laws and regulations;

then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation. Any judgment obtained against the City, which relates to or is covered by the contract or this bond, shall be conclusive against the principal and the surety, as to the amount of damages, and their liability, if reasonable notice of the suit has been given.

SIGNED AND SEALED on \_\_\_\_\_.

**McCLINTOCK & TURK, INC.,**

AS PRINCIPAL

By: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_,  
AS SURETY

By: \_\_\_\_\_  
Its Attorney in Fact

A valid POWER OF ATTORNEY  
for the Surety's agent must  
accompany this bond.

STATE OF WASHINGTON        )  
  ) ss.  
County of \_\_\_\_\_)

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
\_\_\_\_\_ signed this document; on oath stated that he/she was  
authorized to sign the document and acknowledged it as the agent or representative of the  
named surety company which is authorized to do business in the State of Washington, for  
the uses and purposes therein mentioned.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public

My appointment expires \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney

**PERFORMANCE BOND**

We, **McCLINTOCK & TURK, INC.**, as principal, and \_\_\_\_\_, as Surety, are held and firmly bound to the City of Spokane, Washington, in the sum of **ONE MILLION FOUR HUNDRED TWENTY-NINE THOUSAND SIX HUNDRED FOUR AND NO/100 DOLLARS (\$1,429,604.00)**, plus sales tax if applicable, for the payment of which, we bind ourselves and our legal representatives and successors, jointly and severally by this document.

The principal has entered into a Contract with the City of Spokane, Washington, to do all the work and furnish all materials for the **Purchase and Delivery of the Specified Conveyor, Removal and Disposal of Existing Conveyor and Installation of Conveyor**, selected via PW ITB 6005-23. If the principal shall:

- A. promptly and faithfully perform the Contract, and any contractual guaranty and indemnify and hold harmless the City from all loss, damage or claim which may result from any act or omission of the principal, its agents, employees, or subcontractors; and
- B. comply with all applicable federal, state and local laws and regulations;

then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation. Any judgment obtained against the City, which relates to or is covered by the Contract or this bond, shall be conclusive against the principal and the Surety, not only as to the amount of damages, but also as to their liability, if reasonable notice of the suit has been given.

SIGNED AND SEALED on \_\_\_\_\_

**McCLINTOCK & TURK, INC.,**  
AS PRINCIPAL

By: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_,  
AS SURETY

By: \_\_\_\_\_  
Its Attorney in Fact

A valid POWER OF ATTORNEY  
for the Surety's agent must  
accompany this bond.

STATE OF WASHINGTON            )  
  ) ss.  
County of \_\_\_\_\_         )

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
\_\_\_\_\_ signed this document; on oath stated that  
he/she was authorized to sign the document and acknowledged it as the agent or representative of  
the named Surety Company which is authorized to do business in the State of Washington, for the  
uses and purposes mentioned in this document.

DATED on \_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary

My appointment expires \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd**

1/10/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

**Submitting Dept**

WASTEWATER MANAGEMENT

**Project #**

**Contact Name/Phone**

KYLE 625-4647

**Bid #**

**Contact E-Mail**

KARRINGTON@SPOKANECITY.ORG

**Requisition #**

VALUE BLANKET

**Agenda Item Type**

Purchase w/o Contract

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

4320-CONSENT TO AWARD BIOSOLIDS HAULING SERVICES TO SAFEWARE, INC.

**Agenda Wording**

Consent to award multi-year value blanket to Safeware, Inc. for Biosolids Hauling Services. One year value blanket with four options to renew annually not to exceed 5 years. Term February 1, 2024 to January 31, 2029.

**Summary (Background)**

Hauling services are needed to move biosolids from the RPWRF to the Beneficial Use Facility, Boulder Park. Time is needed for the RPWRF to locate, evaluate, and submit for DOE approval more agriculture land to be included in the RPWRF Biosolids land application program. This is through the OMNIA Contract POP Pricing No. 159469.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget?

Total Cost \$ 250,000.00

Current Year Cost \$ 250,000.00

Subsequent Year(s) Cost \$ 250,000.00

**Narrative**

This is through the OMNIA Contract POP Pricing No. 159469. A multi-year value blanket is requested to pay as we utilize the services.

**Amount**

**Budget Account**

Expense \$ 250,000.00

# 4320.43220.35148.54703.99999

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#



## Continuation of Wording, Summary, Approvals, and Distribution

### Agenda Wording

### Summary (Background)

#### **Approvals**

##### Dept Head

ARRINGTON, KYLE

##### Division Director

FEIST, MARLENE

##### Accounting Manager

ALBIN-MOORE, ANGELA

##### Legal

SCHOEDEL, ELIZABETH

##### For the Mayor

JONES, GARRETT

#### **Additional Approvals**

#### **Distribution List**

Jason Swazey; jswazey@safewareinc.com

hbarnhart@spokanecity.org

kkeck@spokanecity.org

mmurray@spokanecity.org

Tax & Licenses

dcampbell@safewareinc.com

tprince@spokanecity.org

rpwrfaccounting@spokanecity.org



## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	January 29, 2024
<b>Submitting Department</b>	Wastewater Management/RPWRF
<b>Contact Name</b>	Kyle Arrington
<b>Contact Email &amp; Phone</b>	<a href="mailto:karrington@spokanecity.org">karrington@spokanecity.org</a>
<b>Council Sponsor(s)</b>	<u>CM Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Consent to award Biosolids Hauling Services to Safeware, Inc.
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	Hauling services are needed to move biosolids from the RPWRF to the Beneficial Use Facility, Boulder Park. Time is needed for the RPWRF to locate, evaluate, and submit for DOE approval more agriculture land to be included in the RPWRF Biosolids land application program.  This is through the OMNIA Contract POP Pricing No. 159469.
<b>Fiscal Impact</b>	
<b>Approved in current year budget?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Total Cost: <u>\$250,000.00</u> Current year cost: \$250,000.00 Subsequent year(s) cost: \$250,000.00	
<b>Narrative:</b> <u>We anticipate approximately \$250,000.00 per year</u>	
<b>Funding Source</b> <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring <input type="checkbox"/> N/A Specify funding source: Program revenue Is this funding source sustainable for future years, months, etc? Yes, program revenue	
<b>Expense Occurrence</b> <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring <input type="checkbox"/> N/A  Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
What impacts would the proposal have on historically excluded communities? There will be no disproportionate impacts to historically excluded communities.	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? N/A: The proposed expenditure is for critical utility infrastructure and our NPDES permit.	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? N/A: The proposed expenditure is for critical utility infrastructure and our NPDES permit.	

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?  
This proposal aligns with the City's Purchasing Policy.



# QUOTATION

Safeware, Inc.  
 5710 South 32nd Street  
 Phoenix, AZ 85040  
 USA  
 800-331-6707  
 www.safewareinc.com

Order Number	
10080220	
Order Date	Page
11/06/2023 17:16:02	1 of 2

Quote Expires On: 12/06/2023

**Contract No:** OMNIA PoP Contract #159469

**Bill To:**            **Customer ID:**   134488  
 City Of Spokane  
 808 W Spokane Falls Blvd  
 Spokane, WA 99201

**Ship To:**  
 City Of Spokane  
 808 W Spokane Falls Blvd  
 Spokane, WA 99201

509-755-2489

Requested By: Heather Barnhart

<b>PO Number</b>	<b>Taker</b>	<b>Email</b>
Biosolids	Deann Campbell	dcampbell@safewareinc.com
<b>Freight Terms</b>	<b>Phone</b>	<b>Fax</b>
Freight Paid		
<b>Sales Representative</b>		
Kevin Yahne		

Quantities					Item ID Item Description	Pricing UOM Unit Size	Unit Price	Extended Price
Ordered	Allocated	Remaining	UOM Unit Size	Disp.				
1.00	0.00	1.00	EA		OMNIA POP	EA	0.00	0.00
				1.0	OMNIA Contract #159469 Lead Agency: Port of Portland Public Safety, Emergency Preparedness, Safety Equipment and Solutions April 1, 2021 - April 1, 2026 Standard freight PAID, all HAZMAT/expressed freight billed. *Register with OMNIA at www.omniapartners.com/publicsector	1.0		
1.00	0.00	1.00	EA		KIS BIOSOLIDS HAULING	EA	61.77	61.77
				1.0	Biosolids Hauling Spokane Wastewater Biosolids hauling, Spokane Wastewater Treatment Plant to Boulder Park Processing Facility, Per Ton, actual weights charged per load	1.0		
1.00	0.00	1.00	EA		KIS BIOSOLIDS HAULING FUEL SURCHARGE	EA	0.00	0.00
				1.0	Fuel surcharge for Biosolids hauling Fuel surcharge added for 90 gallons of diesel fuel when avg diesel price is >\$4.00 per gallon. Price based on US EIA website, on-highway diesel fuel price/West Coast PADD 5 for week of service <a href="https://www.eia.gov/petroleum/gasdiesel">https://www.eia.gov/petroleum/gasdiesel</a>	1.0		



# QUOTATION

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 5710 South 32nd Street  
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Order Number	
10080220	
Order Date	Page
11/06/2023 17:16:02	2 of 2

Quote Expires On: 12/06/2023

**Contract No:** OMNIA PoP Contract #159469

<i>Quantities</i>					<i>Item ID</i>	<i>Pricing</i>		<i>Unit</i>	<i>Extended</i>
<i>Ordered</i>	<i>Allocated</i>	<i>Remaining</i>	<i>UOM</i>	<i>Unit Size</i>	<i>Disp.</i>	<i>UOM</i>		<i>Price</i>	<i>Price</i>
						<i>Unit Size</i>			

Total Lines: 3

**SUB-TOTAL:** 61.77

**TAX:** 5.56

**AMOUNT DUE:** 67.33

*Actual freight added per freight terms*

Loads are anticipated to be approx. 31 tons, so yes, approx. \$2k per load for the hauling fee.

Based on the numbers from your earlier emails below, I'm calculating between 290 to 323 loads per year off of the 9,000-10,000 wet tons.

Below is the estimate of Biosolids that we will need trucked to Boulder Park.

1. Estimated production for winter season:
  1. 3360 dry tons
2. Biosolids going to current farmland (Est):
  1. 1106 dry tons
3. Unassigned Biosolids that need a home:
  1. 2254 dry tons
  2. This is about 9,000 to 10,000 wet tons or cubic yards.
  3. If stored in one location this would take up approximately 3 acres of land at 1 yard deep

Based off the high end of 10,000 tons x \$61.77 per ton, I'm getting a high end of \$617,700 before the fuel surcharge. I can make the quote show this number if you prefer.

Fuel Surcharge: 323 loads x 90 gallons is 29,070 gallons of diesel. If we assume a \$1 per gallon surcharge (not sure if we should assume higher in a worst case scenario?) we can add approx. \$29,070 to that total, bringing us to approx. \$647,000. I'm not sure what size of a safety factor to calculate into that.

**Agenda Sheet for City Council:****Committee:** Finance & Administration **Date:** 01/22/2024**Committee Agenda type:** Consent**Date Rec'd**

1/11/2024

**Clerk's File #****Renews #****Cross Ref #****Council Meeting Date:** 02/05/2024**Submitting Dept**

FLEET SERVICES

**Project #****Contact Name/Phone**

RICK GIDDINGS 625-7706

**Bid #**

SOURCEWELL

**Contact E-Mail**

RGIDDINGS@SPOKANECITY.ORG

**Requisition #**

RE20413

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

MCATHCART

**Agenda Item Name**

5100 - 3 2025 MACK REFUSE TRUCKS

**Agenda Wording**

Fleet Service would like to purchase 3 CNG powered 2025 Mack TerraPro Chassis with Wittke front loader bodies for Solid Waste Collections from Transport Equipment of Spokane.

**Summary (Background)**

These trucks will replace diesel models which are no longer reliable or cost effective to operate. Total cost including tax is \$1,500,862.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 1,500,862.00

Current Year Cost \$ 1,500,862.00

Subsequent Year(s) Cost \$ 0

**Narrative**

Vehicles will be purchased using Sourcewell Contract #091219-LEG.

**Amount****Budget Account**

Expense \$ 1,500,862.00

# 4500-45900-94000-56404-99999

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#



## Continuation of Wording, Summary, Approvals, and Distribution

### Agenda Wording

### Summary (Background)

#### **Approvals**

##### Dept Head

GIDDINGS, RICHARD

##### Division Director

STRATTON, JESSICA

##### Accounting Manager

ORLOB, KIMBERLY

##### Legal

HARRINGTON,

##### For the Mayor

PICCOLO, MIKE

#### **Additional Approvals**

##### PURCHASING

PRINCE, THEA

#### **Distribution List**

JamesK@transportequip.com

rgiddings@spokanecity.org

atrussell@spokanecity.org

rhughes@spokanecity.org

tprince@spokanecity.org

jsalstrom@spokanecity.org

**Agenda Sheet for City Council:****Committee:** PIES **Date:** 01/29/2024**Committee Agenda type:** Consent**Date Rec'd**

1/11/2024

**Clerk's File #****Renews #****Cross Ref #****Council Meeting Date:** 02/12/2024**Submitting Dept**

FLEET SERVICES

**Project #****Contact Name/Phone**

RICK GIDDINGS 625-7706

**Bid #**

SOURCEWELL

**Contact E-Mail**

RGIDDINGS@SPOKANECITY.ORG

**Requisition #**

RE20413

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

MCATHCART

**Agenda Item Name**

5100 - 3 2025 MACK REFUSE TRUCKS

**Agenda Wording**

Fleet Service would like to purchase 3 CNG powered 2025 Mack TerraPro Chassis with Wittke front loader bodies for Solid Waste Collections from Transport Equipment of Spokane.

**Summary (Background)**

These trucks will replace diesel models which are no longer reliable or cost effective to operate. Total cost including tax is \$1,500,862.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 1,500,862.00

Current Year Cost \$ 1,500,862.00

Subsequent Year(s) Cost \$ 0

**Narrative**

Vehicles will be purchased using Sourcewell Contract #091219-LEG.

**Amount****Budget Account**

Expense \$ 1,500,862.00

# 4500-45900-94000-56404-99999

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#





**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

<b><u>Dept Head</u></b>	GIDDINGS, RICHARD
<b><u>Division Director</u></b>	STRATTON, JESSICA
<b><u>Accounting Manager</u></b>	ORLOB, KIMBERLY
<b><u>Legal</u></b>	HARRINGTON,
<b><u>For the Mayor</u></b>	PICCOLO, MIKE

**Additional Approvals**

<b><u>PURCHASING</u></b>	PRINCE, THEA

**Distribution List**

JamesK@transportequip.com	rgiddings@spokanecity.org
atrussell@spokanecity.org	rhughes@spokanecity.org
tprince@spokanecity.org	
jsalstrom@spokanecity.org	

## Committee Agenda Sheet

### Finance & Administration Committee

<b>Committee Date</b>	January 22, 2024
<b>Submitting Department</b>	Fleet Services
<b>Contact Name</b>	Rick Giddings
<b>Contact Email &amp; Phone</b>	<a href="mailto:rgiddings@spokanecity.org">rgiddings@spokanecity.org</a> 509-625-7706
<b>Council Sponsor(s)</b>	Please enter the name of the Council Sponsor(s)
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Purchase of 3 Mack Front Loaders for SWC
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>	Fleet Services would like to purchase 3 CNG powered 2025 Mack TerraPro Chassis with Wittke front loader bodies for the Solid Waste Collections Department from Transport Equipment of Spokane. The total cost for all three including sales tax is \$1,500,862. These will replace older diesel models which are no longer reliable or financially viable to operate.
*use the Fiscal Impact box below for relevant financial information	
<b>Fiscal Impact</b>	
<b>Approved in current year budget?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Total Cost: <u>\$1,500,862</u> Current year cost: \$1,500,862 Subsequent year(s) cost: \$0	
<b>Narrative:</b> <u>Competitive pricing was obtained by utilizing Sourcewell Contract #091219-LEG.</u>	
<b>Funding Source</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A Specify funding source: Program revenue Is this funding source sustainable for future years, months, etc? No	
<b>Expense Occurrence</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A  Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts</b> (If N/A, please give a brief description as to why)	
What impacts would the proposal have on historically excluded communities? None Identified.	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? Data will not be collected.	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? Lifecycle cost data such as fuel and maintenance will be collected regularly for future analysis as needed.	
Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others? Aligns with CIP and Centralized Fleet Policy.	

SALESMAN: JAMES KNOTT  
 CUST#: 13069  
 DEAL#: 488  
 DATE: 11/29/2023



5615 E. 3RD AVE., SPOKANE WA 99212  
 OFFICE#(509)381-0795  
 CELL#(509)714-8232  
 JAMESK@TRANSPORTEQUIP.COM

**CUSTOMER INFORMATION (A)**

CITY OF SPOKANE FLEET SERVICES		509-625-7865	
COMPANY NAME		COMPANY PHONE	
915 N NELSON ST.	SPOKANE WA 99201		
PHYSICAL ADDRESS	CITY ST ZIP CODE	MAILING ADDRESS CITY ST ZIP CODE	
ADAM RUSSELL	ASST. FLEET SUP. 509-232-8843	509-440-2092	ATRUSSELL@SPOKANECITY.ORG
COMPANY CONTACTS NAME	POSTION OFFICE PHONE	EXT CELL PHONE	EMAIL
F.E.T.	61-6001280	SPOKANE, WA	
TAX EXEMPTIONS	MC# DOT# TAX ID#	PURCHASE ORDER	F.O.B. TEMP PERMIT#

**TITLE APPLICATION INFO (B)**

CITY OF SPOKANE FLEET SERVICES	915 N NELSON ST.	SPOKANE WA 99201
NAME ON TITLE	ADDRESS	CITY STATE ZIP CODE
N/A		
LIEN HOLDER NAME	ADDRESS	CITY STATE ZIP CODE
PLEASE OVERNIGHT TITLE WORK TO THE FOLLOWING LOCATION, MUST BE A PHYSICAL ADDRESS.		
CITY OF SPOKANE	915 N NELSON ST.	SPOKANE WA 99201
NAME	ADDRESS	CITY STATE ZIP CODE

**UNIT INFORMATION (C)**

STOCK#	YEAR	MAKE	MODEL	COLOR	VIN#	MILES	RSA#	PRICE
N002122	2025	MACK	TERRAPRO 64R G	WHITE	1M2TE7GC2SM002122		SW-2621266	\$195,484.20
N002123	2025	MACK	TERRAPRO 64R G	WHITE	1M2TE7GC4SM002123		SW-2621266	\$195,536.20
N002124	2025	MACK	TERRAPRO 64R G	WHITE	1M2TE7GC6SM002124		SW-2621266	\$195,536.20

SUB TOTAL: \$586,556.60

**FACTORY/EXTENDED/AFTERMARKET WARRANTY (D)**

LPO#	STOCK#	MONTHS	MILES	DESCRIPTION OF COVERAGE	PRICE	QTY	PRICE
	N002122,	12	100,000	STANDARD CHASSIS COVERAGE	\$0.00	3	\$0.00
	N002123,	24	250,000	STANDARD ENGINE COVERAGE	\$0.00	3	\$0.00
	N002124	36	UNLIMITED	STANDARD TRANSMISSION COVERAGE	\$0.00	3	\$0.00
							\$0.00
							\$0.00

SUB TOTAL: \$0.00

**ADD-ONS BY DEALER OR OTHER VENDORS (E)**

LPO#	STOCK#	DESCRIPTION	PRICE	QTY	TOTAL
	N002122	WITTKER SUPERDUTY 34YD FRONT LOADER - TAILGATE CNG TANKS	\$279,200.00	1	\$260,886.20
	N002123	WITTKER SUPERDUTY 40YD FRONT LOADER - ROOF CNG TANKS	\$283,100.00	1	\$264,688.60
	N002124	WITTKER SUPERDUTY 40YD FRONT LOADER - ROOF CNG TANKS	\$283,100.00	1	\$264,688.60
					\$0.00
					\$0.00

SUB TOTAL: \$790,263.40

**TRADE INFORMATION (F)**

YEAR:	MAKE:	MODEL:	VIN#:	MILES:	PAYOFF:	T.E.I. OFFER:	NET TRADE:
							\$0.00
							\$0.00

SUB TOTAL: \$0.00

**ADDITIONAL NOTES (G)**

Our pricing includes expected surcharges and flooring costs that TEI will accrue on each of the chassis during the build process. These charges are the result of continual increased material costs, extended body builder completion times, and federal interest rate increases.

**DISCLOSURES (H)**

This proposal may be withdrawn by us if not accepted within 30 days. Buyer agrees to purchase from seller the above described equipment for the prices listed on this agreement. Any changes in specifications may result in a change in the sell price. Acceptance of Proposal: The above prices, specifications and conditions are satisfactory and are hereby accepted. Payment will be made as outlined above. Prices prevailing at the time of delivery to apply, and this offer shall be subject to availability at the time the order is placed. Important Please Read- Disclaimer of Warranties! Any warranties on the products sold hereby, are the warranties of the manufacturer of those products. TEI hereby expressly disclaims all warranties, either expressed or implied including any implied warranty of merchantability or fitness for a particular purpose, and the Seller neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of the vehicle. This disclaimer does not affect the manufacturer's warranty on this unit. I agree to hold Seller (Dealer) harmless against any and all claims for warranty except for those items specifically covered in writing in the warranty section of this sales order agreement which I have read, understand and agree to. I have read the proposal/warranties disclosures and understand its contents:

**TOTALS**

UNIT TOTAL w/o F.E.T.:	\$586,556.60
ADD-ONS:	\$790,263.40
SUB TOTAL:	\$1,376,820.00
F.E.T. @ 0%	\$0.00
SUB TOTAL:	\$1,376,820.00
WARRANTY:	\$0.00
NET TRADE:	\$0.00
SUB TOTAL:	\$1,376,820.00
SALES TAX @ 0.0%	\$0.00
SUB TOTAL:	\$1,376,820.00
DOC FEE:	\$175.00
DEPOSIT:	\$0.00
DOWN PMT:	\$0.00
<b>TOTAL BALANCE:</b>	<b>\$1,376,995.00</b>

BUYERS SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
 SELLERS SIGNATURE: *James Knott* DATE: 11/29/2023

**Agenda Sheet for City Council:****Committee:** Finance & Administration **Date:** 01/22/2024**Committee Agenda type:** Consent**Date Rec'd**

1/11/2024

**Clerk's File #****Renews #****Cross Ref #****Council Meeting Date:** 02/05/2024**Submitting Dept**

FLEET SERVICES

**Project #****Contact Name/Phone**

RICK GIDDINGS 625-7706

**Bid #**

5921-23

**Contact E-Mail**

RGIDDINGS@SPOKANECITY.ORG

**Requisition #**

CR25862

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

MCATHCART

**Agenda Item Name**

5100 – CONTRACT WITH DAY WIRELESS FOR RADIO SYSTEM MAINTENANCE

**Agenda Wording**

Fleet Service would like to contract with Day Management Corp, (Day Wireless Systems) for the preventative maintenance and repair of the City's non-emergency radio communications system and equipment.

**Summary (Background)**

This contract will allow us to provide backup radio maintenance and repair and emergency response on an as needed basis to minimize potential interruptions to the City's critical non-emergency radio communications.

Lease? NO

Grant related? NO

Public Works? YES

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost

\$ 150,000.00

Current Year Cost

\$ 150,000.00

Subsequent Year(s) Cost

\$ 150,000.00

**Narrative**

An RFP was issued in November 2023. 4 firms responded and Day Management was unanimously selected based on competency, experience, and cost by an evaluation committee.

**Amount****Budget Account**

Expense

\$ 150,000.00

# 5100-71700-48348-54201-99999

Select

\$

#

Select

\$

#

Select

\$

#

\$

#

\$

#



# Continuation of Wording, Summary, Approvals, and Distribution

## Agenda Wording

## Summary (Background)

### **Approvals**

<b><u>Dept Head</u></b>	GIDDINGS, RICHARD
<b><u>Division Director</u></b>	STRATTON, JESSICA
<b><u>Accounting Manager</u></b>	ORLOB, KIMBERLY
<b><u>Legal</u></b>	
<b><u>For the Mayor</u></b>	PICCOLO, MIKE

### **Additional Approvals**

<b><u>PURCHASING</u></b>	PRINCE, THEA

### **Distribution List**

	rgiddings@spokanecity.org
tprince@spokanecity.org	atrussell@spokanecity.org
tbrazington@spokanecity.org	tstudebaker@daywireless.com
contracts@daywireless.com	

**Agenda Sheet for City Council:****Committee:** PIES **Date:** 01/29/2024**Committee Agenda type:** Consent**Date Rec'd**

1/11/2024

**Clerk's File #****Renews #****Cross Ref #****Council Meeting Date:** 02/12/2024**Submitting Dept**

FLEET SERVICES

**Project #****Contact Name/Phone**

RICK GIDDINGS 625-7706

**Bid #**

5921-23

**Contact E-Mail**

RGIDDINGS@SPOKANECITY.ORG

**Requisition #**

CR25862

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

MCATHCART

**Agenda Item Name**

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**Agenda Wording**

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**Summary (Background)**

This contract will allow us to provide backup radio maintenance and repair and emergency response on an as needed basis to minimize potential interruptions to the City's critical non-emergency radio communications.

Lease? NO

Grant related? NO

Public Works? YES

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost

\$ 150,000.00

Current Year Cost

\$ 150,000.00

Subsequent Year(s) Cost

\$ 150,000.00

**Narrative**

An RFP was issued in November 2023. 4 firms responded and Day Management was unanimously selected based on competency, experience, and cost by an evaluation committee.

**Amount****Budget Account**

Expense

\$ 150,000.00

#

5100-71700-48348-54201-99999

Select

\$

#

Select

\$

#

Select

\$

#

\$

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\$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

<b><u>Dept Head</u></b>	GIDDINGS, RICHARD
<b><u>Division Director</u></b>	STRATTON, JESSICA
<b><u>Accounting Manager</u></b>	ORLOB, KIMBERLY
<b><u>Legal</u></b>	
<b><u>For the Mayor</u></b>	PICCOLO, MIKE

**Additional Approvals**

<b><u>PURCHASING</u></b>	PRINCE, THEA

**Distribution List**

	rgiddings@spokanecity.org
tprince@spokanecity.org	atrussell@spokanecity.org
tbrazington@spokanecity.org	tstudebaker@daywireless.com
contracts@daywireless.com	

# Expenditure Control Form



1. All requests being made, including those against master agreements, must be accompanied by this form.
2. All requests requiring City Council approval exceeding \$100,000 must be accompanied by this form.
3. Route **ALL** requests to the Division Director first and then the CFO for signature.
4. The CFO will route for signature to the City Administrator.

**Today's Date:** 10/4/23      **Type of expenditure:**      Goods       Services

**Department:** Fleet Services

**Approving Supervisor:** Rick Giddings

**Amount of Proposed Expenditure:** 150,000

Is this against a master agreement? If yes, please provide the number:

**Funding Source** Fleet Services Fund

**Please verify correct funding sources. Indicate breakdown if more than one funding source.**

### Why is this expenditure necessary now?

Our Radio Communications technician retired in June. We have shifted many of his duties to our Commissioning Technicians, however, we still need a contract in place for radio equipment parts, repair, maintenance, and emergency service.

### What are the impacts if expenses are deferred?

Potential disruption of critical City radio communications.

### What alternative resources have been considered?

Hiring a FTE to maintain and repair our radio system. Last year, our Communications Technician only billed 153 hours to departments for radio service. We have determined this is an inefficient use of a FTE. We would still need a contract to purchase radios and equipment.

### Description of the goods or service and any additional information?

This contract would ensure continuity of operations for the City's Radio system.

**Person Submitting Form/Contact:** Rick Giddings

**Division Director:**

*Rick Giddings*

**CFO Signature:**

*Tonya Wallace*

**City Administrator Signature:**

*[Signature]*

### Additional Comments:

An RFP will be issued once the ECF is approved. It is likely the contract won't be in place until December. Expected 2023 encumbrance should not exceed \$12,500.












# LD Service Contracts

Final Audit Report

2023-10-05

Created:	2023-10-04
By:	Richard Giddings (rgiddings@spokanecity.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAIm3xfiMUmLDRjp9cK9UQ3KSjeT7qFRZm

## "LD Service Contracts" History

-  Document created by Richard Giddings (rgiddings@spokanecity.org)  
2023-10-04 - 11:31:27 PM GMT - IP address: 198.1.39.252
-  Document e-signed by Richard Giddings (rgiddings@spokanecity.org)  
Signature Date: 2023-10-04 - 11:32:09 PM GMT - Time Source: server- IP address: 198.1.39.252
-  Document emailed to Tonya Wallace (twallace@spokanecity.org) for signature  
2023-10-04 - 11:32:11 PM GMT
-  Email viewed by Tonya Wallace (twallace@spokanecity.org)  
2023-10-04 - 11:57:01 PM GMT - IP address: 198.1.39.252
-  Document e-signed by Tonya Wallace (twallace@spokanecity.org)  
Signature Date: 2023-10-04 - 11:57:24 PM GMT - Time Source: server- IP address: 198.1.39.252
-  Document emailed to Garrett Jones (gjones@spokanecity.org) for signature  
2023-10-04 - 11:57:26 PM GMT
-  Email viewed by Garrett Jones (gjones@spokanecity.org)  
2023-10-05 - 10:03:35 PM GMT - IP address: 198.1.39.252
-  Document e-signed by Garrett Jones (gjones@spokanecity.org)  
Signature Date: 2023-10-05 - 10:03:53 PM GMT - Time Source: server- IP address: 198.1.39.252
-  Agreement completed.  
2023-10-05 - 10:03:53 PM GMT

## Committee Agenda Sheet

### Finance & Administration Committee

<b>Committee Date</b>	January 22, 2024
<b>Submitting Department</b>	Fleet Services
<b>Contact Name</b>	Rick Giddings
<b>Contact Email &amp; Phone</b>	<a href="mailto:rgiddings@spokanecity.org">rgiddings@spokanecity.org</a> 509-625-7706
<b>Council Sponsor(s)</b>	Please enter the name of the Council Sponsor(s)
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	5100 – Contract with Day Wireless for Radio System Maintenance
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>	Fleet Services would like to contract with Day Management Corp. (dba Day Wireless Systems) for the preventative maintenance, and emergency repair of the City's Radio Communication System and related equipment. This contract is necessary to minimize potential interruptions to our critical non-emergency radio communications. The initial contract term is 2 years with three additional one-year extensions.
<p>*use the Fiscal Impact box below for relevant financial information</p>	<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>150000</u></p> <p style="padding-left: 20px;">Current year cost: 150000</p> <p style="padding-left: 20px;">Subsequent year(s) cost: 150000</p> <p><b>Narrative:</b> <u>An RFP was issued in October. All 4 respondents' proposals were evaluated by a selection committee based on experience, ability, and overall cost. Day wireless was unanimously selected as the contract recipient.</u></p> <p><b>Funding Source</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Program revenue</p> <p>Is this funding source sustainable for future years, months, etc? Yes</p> <p><b>Expense Occurrence</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
What impacts would the proposal have on historically excluded communities? None identified	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? Data will not be collected.	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? Ongoing cost data will be collected by Fleet Services for further analysis as needed.	
Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others? Aligns with Centralized Fleet policy.	



**CITY OF SPOKANE**  
**PURCHASED SERVICE CONTRACT**  
**Title: RADIO SYSTEM MAINTENANCE AND**  
**ON-CALL EMERGENCY SERVICE**

This Contract is made and entered into by and between the **CITY OF SPOKANE** as (“City”), a Washington municipal corporation, and **DAY MANAGEMENT CORP. d/b/a DAY WIRELESS SYSTEMS**, whose address is 13212 East Indiana Avenue, Spokane Valley, Washington 99216 as (“Company”), individually hereafter referenced as a “party”, and together as the “parties”.

The parties agree as follows:

**1. PERFORMANCE/SCOPE OF WORK.**

The Company will do all work, furnish all labor, materials, tools, equipment, transportation, supplies, supervision, organization and other items of work and costs necessary for the proper execution and completion of the work described in the specifications entitled IRFP 5921-23, and Company’s Response to IRFP which is attached as Exhibit B. In the event of a conflict or discrepancy in the Contract documents, this City Purchased Service Contract controls.

**2. TERM OF CONTRACT.**

The term of this Contract begins on January 1, 2024, and shall run through December 31, 2025, unless amended by written agreement or terminated earlier under the provisions. This Contract may be extended by written agreement of the parties not to exceed three (3) additional one year contract periods.

**3. TERMINATION.**

Either party may terminate this Contract, with or without cause, by ten (10) days written notice to the other party. In the event of such termination, the City shall pay the Company for all work previously authorized and performed prior to the termination date.

**4. COMPENSATION / PAYMENT.**

Total compensation for Company’s *as-needed* services under this Contract shall not exceed **ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$150,000.00)**, per year, not including sales tax if applicable, in accordance with Company’s rate structure as set forth in Exhibit B, unless modified by a written amendment to this Contract. This is the maximum amount to be paid under this Contract for the work described in Section 1 above and shall not be exceeded without the prior written authorization of the City in the form of an executed amendment to this Contract.

The Company shall submit its applications for payment to Spokane Fleet Services, Administration Office, 915 North Nelson Street, Spokane, Washington 99202. **Payment will be made via direct deposit/ACH** within thirty (30) days after receipt of the Company’s application except as provided by state law. If the City objects to all or any portion of the invoice, it shall notify the Company and

reserves the right to only pay that portion of the invoice not in dispute. In that event, the parties shall immediately make every effort to settle the disputed amount.

**5. ASSIGNMENT AND SUBCONTRACTING.**

The Company shall not assign or subcontract its obligations under this Contract without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by the Company shall incorporate by reference this Contract, except as otherwise provided. The Company shall ensure that all subcontractors comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release the Company from liability or any obligation within this Contract, whether before or after City consent, assignment or subcontract.

**6. WAGES.**

The Company and all subcontractors will submit a "Statement of Intent to Pay Prevailing Wages" certified by the industrial statistician of the Department of Labor and Industries, prior to any payments. The "Statement of Intent to Pay Prevailing Wages" shall include: (1) the Company's registration number; and (2) the prevailing wages under RCW 39.12.020 and the number of workers in each classification. Each voucher claim submitted by the Company for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the "Statement(s) of Intent to Pay Prevailing Wages" on file with the City. Prior to the payment of funds held under RCW 60.28, the Company and subcontractors must submit an "Affidavit of Wages Paid" certified by the industrial statistician.

**7. STATEMENT OF INTENT TO PAY PREVAILING WAGES TO BE POSTED.**

The Company shall post in a location readily visible at the job site: (1) a copy of a "Statement of Intent to Pay Prevailing Wages" approved by the industrial statistician of the State Department of Labor and Industries; and (2) the address and telephone number of the industrial statistician of the Department of Labor and Industries where a complaint or inquiry concerning prevailing wages may be made. **If City agrees to Company's use of subcontractors per City's written approval per the terms of Section 5 herein, Company shall additionally require each subcontractor to comply with the terms of this section.**

**8. PUBLIC WORKS REQUIREMENTS.**

The Company **shall** fulfill the Department of Labor and Industries Public Works and Prevailing Wage Training Requirement under RCW 39.04.350. The Company must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify the responsibility criteria listed in RCW 39.04.350(1) for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria. This verification requirement, as well as responsibility criteria, must be included in every public works contract and subcontract of every tier. **If City agrees to Company's use of subcontractors per City's written approval per the terms of Section 5 herein, each Company subcontractor must also fulfill the Department of Labor and Industries Public Works and Prevailing Wage Training Requirement set forth in this section.**

**9. INSURANCE.**

During the period of the Contract, the Company shall maintain in force at its own expense, each insurance noted below with companies or through sources approved by the State Insurance Commissioner pursuant to RCW 48:

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which

requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;

B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Company's services to be provided under this Contract;

i Acceptable supplementary Umbrella insurance coverage, combined with the Company's General Liability insurance policy must be a minimum of \$1,000,000, in order to meet the insurance coverages required under this Contract;

C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles; and

D. Property Insurance if materials and supplies are furnished by the Company. The amount of the insurance coverage shall be the value of the materials and supplies of the completed value of improvement. Hazard or XCU (explosion, collapse, underground) insurance should be provided if any hazard exists.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Company or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Contract, the Company shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns this signed Contract. **The certificate shall specify the City of Spokane as "Additional Insured"** specifically for Company's services under this Contract, as well as all of the parties who are additional insureds, and include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level. The Company shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

## 10. INDEMNIFICATION.

The Company shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from the Company's negligence or willful misconduct under this Contract, including attorneys' fees and litigation costs; provided that nothing herein shall require a Company to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of the Company's agents or employees and the City, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of the Company, its agents or employees. The Company specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by the Company's own employees against the City and, solely for the purpose of this indemnification and defense, the Company specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. The Company recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this Contract.

**11. TAXES, FEES AND LICENSES.**

A. Company shall pay and maintain in current status, all necessary licenses, fees, assessments, permit charges, etc. necessary to conduct the work included under this Contract. It is the Company's sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.

B. The cost of any permits, licenses, fees, etc. arising as a result of the projects included in this Contract shall be included in the project budgets.

**12. CITY OF SPOKANE BUSINESS LICENSE.**

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Company shall be responsible for contacting the State of Washington Business License Services at [www.dor.wa.gov](http://www.dor.wa.gov) or 360-705-6741 to obtain a business registration. If the Company does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

**13. SOCIAL EQUITY REQUIREMENTS / NON-DISCRIMINATION.**

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Company agrees to comply with, and to require that all subcontractors comply with, federal, state and local nondiscrimination laws, including but not limited to: the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination in Employment Act, and the American's With Disabilities Act, to the extent those laws are applicable.

**14. DEBARMENT AND SUSPENSION.**

The Company has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

**15. AUDIT.**

The Company and its sub-contractor shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Contract. The Company and its sub-contractors shall provide access to authorized City representatives, at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Contract, the federal law shall prevail.

**16. STANDARD OF PERFORMANCE.**

The standard of performance applicable to Company's services will be the degree of skill and diligence normally employed by professional company performing the same or similar services at the time the services under this Contract are performed.

**17. OWNERSHIP AND USE OF RECORDS AND DOCUMENTS.**

Original documents, drawings, designs, reports, or any other records developed or created under this Contract shall belong to and become the property of the City. All records submitted by the City to the Company shall be safeguarded by the Company. The Company shall make such data, documents and files available to the City upon the City's request. If the City's use of the Company's records or data is not related to this project, it shall be without liability or legal exposure to the Company.

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act* [PRA]) all materials received or created by the City of Spokane are **public records** and are available to the public for viewing via the City Clerk's Records (online) or a valid Public Records Request (PRR).

**18. ANTI KICK-BACK.**

No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in the Contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in this Contract.

**19. MISCELLANEOUS PROVISIONS.**

A. **Amendments/Modifications:** This Contract may be modified by the City in writing when necessary, and no modification or Amendment of this Contract shall be effective unless signed by an authorized representative of each of the parties hereto.

B. The Company, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, the Company shall comply with the requirements of this Section.

C. This Contract shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in a court of competent jurisdiction, located in Spokane County, Washington.

D. **Captions:** The titles of sections or subsections are for convenience only and do not define or limit the contents.

E. **Severability:** If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.

F. **Waiver:** No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Company after the time the same shall have become due nor payment to the Company for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.

G. **Entire Contract:** This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire Contract between the City and the Company. If conflict occurs between Contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Contract to afford the City the maximum benefits.

H. **No personal liability:** No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made or in any connection with this Contract.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Contract by having legally-binding representatives affix their signatures below.

**DAY MANAGEMENT CORP. d/b/a  
DAY WIRELESS SYSTEMS**

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature                      Date

By \_\_\_\_\_  
Signature                      Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

**Attachments that are part of this Contract:**

- Exhibit A – Certification Regarding Debarment
- Exhibit B - Company’s IRFP Response
- Certification of Compliance with Wage Payment Statutes



**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
  - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
  - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.
2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. I understand that a false statement of this certification may be grounds for termination of the contract.

<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Name of Subrecipient / Contractor / Consultant (Type or Print)	<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Program Title (Type or Print)
<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Name of Certifying Official (Type or Print)	<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Signature
<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Title of Certifying Official (Type or Print)	<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Date (Type or Print)

**EXHIBIT B**



## Certification of Compliance with Wage Payment Statutes and Washington Department of Labor and Industries Training Requirement

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date (INSERT DATE), the bidder is not a “willful” violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

As of July 1, 2019, have fulfilled the Department of Labor and Industries’ Public Works and Prevailing Wage Training Requirement before bidding and/or performing work on public works projects under RCW 39.04.350 and RCW 39.06.020 by either of the following:

- 1) Received training on the requirements related to public works and prevailing wage under chapter RCW 39.04.350 and chapter 39.12; or
- 2) Be certified exempt by the Department of Labor and Industries by having completed three or more public work projects and have a had a valid business license in Washington for three or more years.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

\_\_\_\_\_  
Bidder’s Business Name

\_\_\_\_\_  
Signature of Authorized Official\*

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
City

\_\_\_\_\_  
State

*Check One:*

Sole Proprietorship  Partnership  Joint Venture  Corporation   
State of Incorporation, or if not a corporation, State where business entity was formed:

\_\_\_\_\_  
If a co-partnership, give firm name under which business is transacted:

\_\_\_\_\_  
*\* If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner*

**Agenda Sheet for City Council:****Committee:** PIES **Date:** 01/29/2024**Committee Agenda type:** Consent**Date Rec'd**

1/16/2024

**Clerk's File #****Renews #****Cross Ref #****Council Meeting Date:****Submitting Dept**

ENGINEERING SERVICES

**Project #**

2022088

**Contact Name/Phone**

DAN BULLER 625-6391

**Bid #****Contact E-Mail**

DBULLER@SPOKANECITY.ORG

**Requisition #****Agenda Item Type**

Engineer Construction Contract

**Council Sponsor(s)**

JBINGLE

**Agenda Item Name**

0370 - LOW BID AWARD - RAY STREET WATER MAIN (2022088) - TBD

**Agenda Wording**

Low Bid of (to be determined at bid opening) (City, ST) for Ray Street Water Main - \$\_\_\_\_\_. An administrative reserve of \$\_\_\_\_\_, which is 10% of the contract, will be set aside. (Lincoln Heights Neighborhood Council)

**Summary (Background)**

On \_\_, bids were opened for the above project. The low bid was from (to be determined at bid opening) in the amount of \$\_\_\_\_\_, which is \$\_\_\_\_\_ or \_\_\_\_\_% (above/below) the Engineer's Estimate of \$1,000,000; \_\_\_\_\_ other bids were received as follows: (to be determined). All information will be provided prior to the council vote date.

Lease? NO Grant related? NO Public Works? YES

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$

Current Year Cost \$

Subsequent Year(s) Cost \$

**Narrative****Amount****Budget Account**

Expense \$ 0 # 0

Select \$ #

Select \$ #

Select \$ #

\$ #

\$ #



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

Dept Head

Division Director

Accounting Manager

Legal

For the Mayor

**Additional Approvals**

**Distribution List**

	ddaniels@spokanecity.org
publicworksaccounting@spokanecity.org	eraea@spokanecity.org
kgoodman@spokanecity.org	jgraff@spokanecity.org
pyoung@spokanecity.org	

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Submitting Department</b>	Public Works, Engineering
<b>Contact Name</b>	Dan Buller
<b>Contact Email &amp; Phone</b>	<a href="mailto:dbuller@spokanecity.org">dbuller@spokanecity.org</a> 625-6391
<b>Council Sponsor(s)</b>	CM Bingle
<b>Committee Date</b>	1-29-24
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Ray St. Water Transmission Main
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<ul style="list-style-type: none"> <li>• Engineering Services is designing a water transmission main project for the water dept. on Ray St. between Hartson &amp; 11<sup>th</sup> Ave., a distance of about 2,200 LF.</li> <li>• The pipe to be replaced was installed in 1936 so is at the end of its expected life.</li> <li>• This project is planned for construction beginning this spring through mid-summer.</li> <li>• To facilitate an early spring start, we pre-purchased the pipe which was the subject of a briefing paper you saw a couple weeks ago.</li> <li>• This project has some interesting challenges in that the available ROW is narrow in some locations. We will be working closely with neighboring property owners to minimize impacts.</li> <li>• This project is locally funded by water rates.</li> </ul>
<b>Proposed Council Action</b>	None at this time. Following bid opening, we will bring a purchase contract to council for approval.
<b>Fiscal Impact</b>	
Total Cost: The estimated cost of this project is approximately \$1,000,000.	
Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
Funding Source <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring	
Specify funding source: Federal grant (majority) & arterial street fund (what isn't covered by the grant)	
Expense Occurrence <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring	
Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
What impacts would the proposal have on historically excluded communities?	
Public Works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.	

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

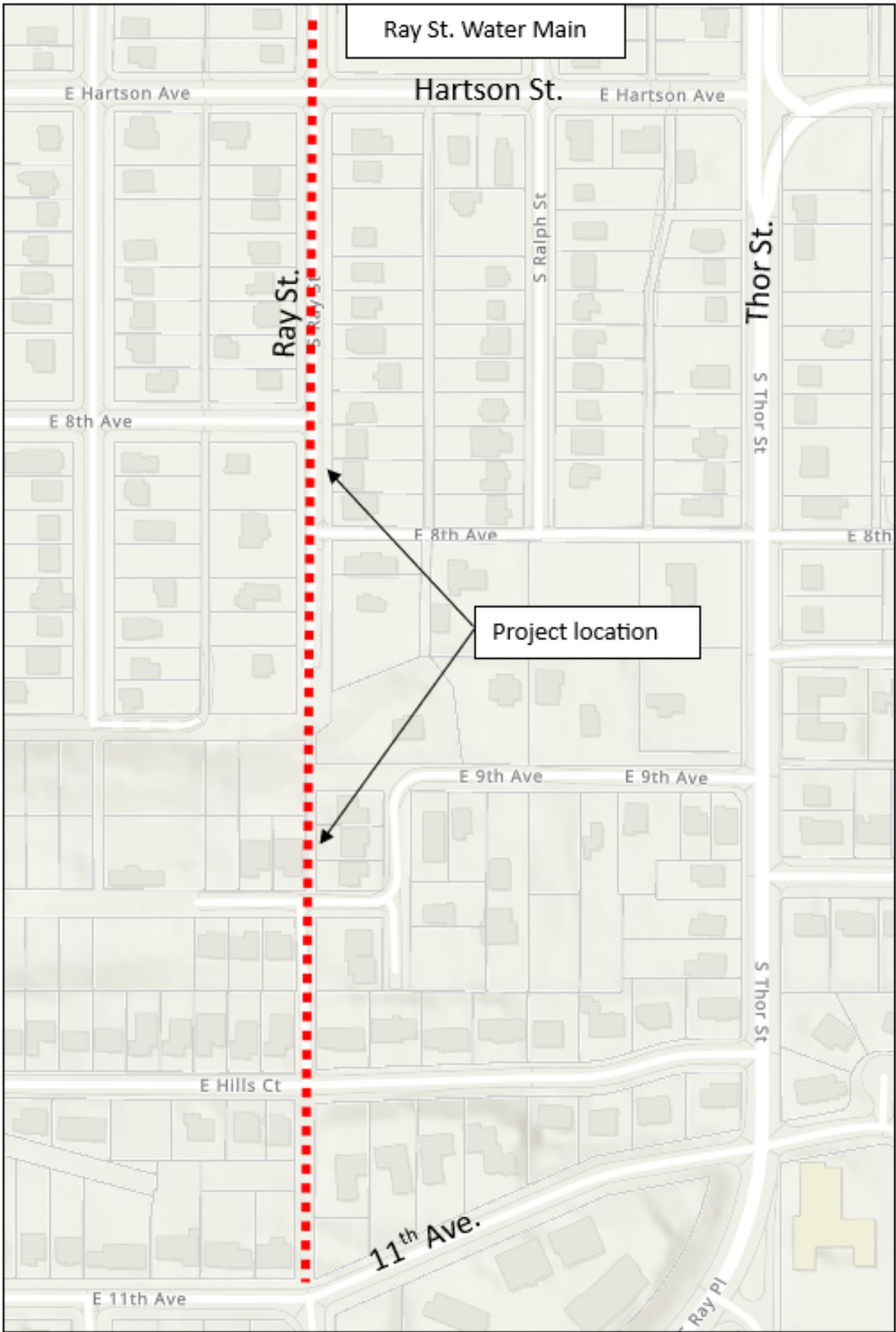
N/A – This contract supports multiple public works projects and should not impact racial, gender identity, national origin, income level, disability, sexual orientation or other existing disparity factors.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Public Works follows the City's established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

The projects is consistent with our adopted six year programs as well as the annual budget and strategic initiative to advance street improvement activities.





**Agenda Sheet for City Council:****Committee:** PIES **Date:** 01/29/2024**Committee Agenda type:** Consent**Date Rec'd**

1/16/2024

**Clerk's File #****Renews #****Cross Ref #****Council Meeting Date:****Submitting Dept**

ENGINEERING SERVICES

**Project #**

2021088

**Contact Name/Phone**

DAN BULLER 625-6391

**Bid #****Contact E-Mail**

DBULLER@SPOKANECITY.ORG

**Requisition #****Agenda Item Type**

Engineer Construction Contract

**Council Sponsor(s)**

JBINGLE

**Agenda Item Name**

0370 - LOW BID AWARD - WASHINGTON/STEVENS BRIDGE (2021088) - TBD

**Agenda Wording**

Low Bid of (to be determined at bid opening) (City, ST) for Washington/Stevens Bridge Deck Rehabilitation - \$\_\_\_\_\_. An administrative reserve of \$\_\_\_\_\_, which is 10% of the contract, will be set aside.  
(Riverside Neighborhood Council)

**Summary (Background)**

On \_\_\_\_, bids were opened for the above project. The low bid was from (to be determined at bid opening) in the amount of \$\_\_\_\_\_, which is \$\_\_\_\_\_ or \_\_\_\_\_% (above/below) the Engineer's Estimate of \$5,000,000; \_\_\_\_\_ other bids were received as follows: (to be determined). All information will be provided prior to the council vote date.

Lease? NO Grant related? NO Public Works? YES

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$

Current Year Cost \$

Subsequent Year(s) Cost \$

**Narrative****Amount****Budget Account**

Expense \$ 0 # 0

Select \$ #

Select \$ #

Select \$ #

\$ #

\$ #



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

Dept Head

Division Director

Accounting Manager

Legal

For the Mayor

**Additional Approvals**

**Distribution List**

	ddaniels@spokanecity.org
publicworksaccounting@spokanecity.org	eraea@spokanecity.org
kgoodman@spokanecity.org	jgraff@spokanecity.org
pyoung@spokanecity.org	

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	January 29, 2024
<b>Submitting Department</b>	Public Works, Engineering Services
<b>Contact Name</b>	Dan Buller
<b>Contact Email &amp; Phone</b>	<a href="mailto:dbuller@spokanecity.org">dbuller@spokanecity.org</a> , 625-6391
<b>Council Sponsor(s)</b>	<a href="#">CM Bingle</a>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Washington-Stevens Deck Resurfacing
<b>Proposed Council Action</b>	<input type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<ul style="list-style-type: none"> <li>The city has received a federal grant to resurface the bridge decks for the two south channel bridges and the one north channel bridge on Washington &amp; Stevens Streets as shown on the attached exhibit.</li> <li>In addition, Washington St. between the bridges will receive a grind and overlay.</li> <li>This work is planned for spring/summer/fall of 2024.</li> </ul> <p>Traffic will be detoured around these bridges for a portion of the work.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$5,000,000</u></p> <p>    Current year cost: \$5,000,000</p> <p>    Subsequent year(s) cost: 0</p> <p><b>Narrative:</b> Please provide financial due diligence review, as applicable, such as number and type of positions, grant match requirements, summary type details (personnel, maintenance and supplies, capital, revenue), impact on rates, fees, or future shared revenue</p> <p><b>Funding Source</b>    <input checked="" type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Select Funding Source*</p> <p>Is this funding source sustainable for future years, months, etc? <a href="#">Click or tap here to enter text.</a></p> <p><b>Expense Occurrence</b>    <input checked="" type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
<p>What impacts would the proposal have on historically excluded communities?</p> <p>Public Works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.</p>	

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

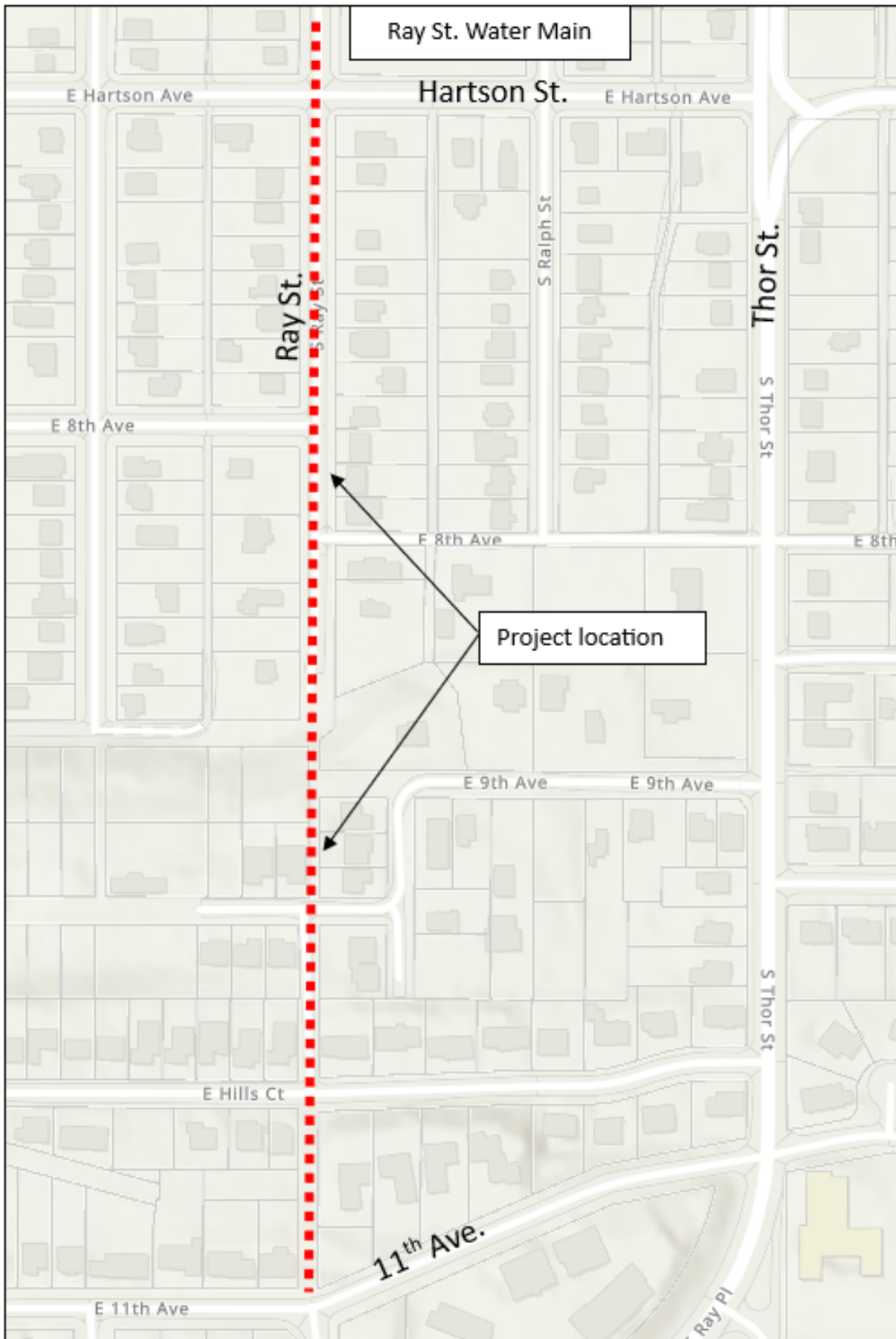
N/A – This contract supports multiple public works projects and should not impact racial, gender identity, national origin, income level, disability, sexual orientation or other existing disparity factors.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Public Works follows the City's established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

The projects is consistent with our adopted six year programs as well as the annual budget and strategic initiative to advance street improvement activities.



# Expenditure Control Form



- 1. All requests being made, including those against master agreements, must be accompanied by this form.
- 2. All requests requiring City Council approval exceeding \$100,000 must be accompanied by this form.
- 3. Route ALL requests to the Division Director first and then the CFO for signature.
- 4. The CFO will route for signature to the City Administrator.

**Today's Date:** 1/16/24

**Type of expenditure:** PW construction

Goods  Services

**Department:** Engineering Services

**Approving Supervisor:** Dan Buller

**Amount of Proposed Expenditure:** \$5,000,000 (engineer's estimate)

Is this against a master agreement? If yes, please provide the number:

**Funding Source** Mostly federal grant

**Please verify correct funding sources. Indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

The city has received a federal grant covering all of the project cost to resurface these three bridges. This grant will have to be returned if not used by next year.

**What are the impacts if expenses are deferred?**

The city has received a federal grant covering approximately all of the project cost to resurface these three bridges. This grant will have to be returned if not used by next year.

**What alternative resources have been considered?**

This project is 100% grant funded. There are no alternatives.

**Description of the goods or service and any additional information?**

Resurfacing of three bridges as well as the pavement in between the three bridges.

**Person Submitting Form/Contact:** Dan Buller, Engineering Services Director

**Division Director:**

*Marlene Feist*

**CFO Signature:**

**City Administrator Signature:**

*Garrett Jones*  
Garrett Jones (Jan 17, 2024 13:02 PST)

**Additional Comments:**

Project 2021088











# ECF -Washington/Stevens Bridge Deck Rehabilitation 2021088

Final Audit Report

2024-01-17

Created:	2024-01-17
By:	Brittany Kraft (bkraft@spokanecity.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA-kQbljxKM6GT0yNcCGLVux2rhxLq1Gb0

## "ECF -Washington/Stevens Bridge Deck Rehabilitation 2021088" History

-  Document created by Brittany Kraft (bkraft@spokanecity.org)  
2024-01-17 - 0:12:13 AM GMT- IP address: 198.1.39.252
-  Document emailed to Marlene Feist (mfeist@spokanecity.org) for signature  
2024-01-17 - 0:12:46 AM GMT
-  Email viewed by Marlene Feist (mfeist@spokanecity.org)  
2024-01-17 - 0:22:23 AM GMT- IP address: 198.1.39.252
-  Document e-signed by Marlene Feist (mfeist@spokanecity.org)  
Signature Date: 2024-01-17 - 0:22:37 AM GMT - Time Source: server- IP address: 198.1.39.252
-  Document emailed to Matthew Boston (mboston@spokanecity.org) for signature  
2024-01-17 - 0:22:38 AM GMT
-  Email viewed by Matthew Boston (mboston@spokanecity.org)  
2024-01-17 - 6:01:34 AM GMT- IP address: 193.19.109.45
-  Document e-signed by Matthew Boston (mboston@spokanecity.org)  
Signature Date: 2024-01-17 - 8:56:52 PM GMT - Time Source: server- IP address: 198.1.39.252
-  Document emailed to Garrett Jones (gjones@spokanecity.org) for signature  
2024-01-17 - 8:56:53 PM GMT
-  Email viewed by Garrett Jones (gjones@spokanecity.org)  
2024-01-17 - 9:02:23 PM GMT- IP address: 172.225.80.248
-  Document e-signed by Garrett Jones (gjones@spokanecity.org)  
Signature Date: 2024-01-17 - 9:02:44 PM GMT - Time Source: server- IP address: 174.204.92.51

✔ Agreement completed.

2024-01-17 - 9:02:44 PM GMT



**Agenda Sheet for City Council:****Committee:** PIES **Date:** 01/29/2024**Committee Agenda type:** Consent**Date Rec'd**

1/16/2024

**Clerk's File #**

OPR 2022-0168

**Renews #****Cross Ref #****Council Meeting Date:** 02/12/2024**Submitting Dept**

SOLID WASTE DISPOSAL

**Project #****Contact Name/Phone**

DAVID PAINE 6878

**Bid #**

PW ITB 5537-21

**Contact E-Mail**

DPAINE@SPOKANECITY.ORG

**Requisition #**

CR 25892

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

4490 CONTRACT AMENDMENT FOR SCAFFOLDING SERVICES

**Agenda Wording**

Contract amendment with BrandSafway Services, LLC (Spokane Valley, WA) for scaffolding services at the Waste to Energy Facility from 4/1/23-3/31/24. An additional \$100,000.00 is requested for a total annual cost of \$800,000.00 plus tax.

**Summary (Background)**

During scheduled and emergency outages at the Waste to Energy Facility, scaffolding must be placed in the boilers to allow safe access for repairs. On Jan. 10, 2022 bidding closed on PW ITB 5537-21 for scaffolding services and BrandSafway Services, LLC., was the only respondent. Due to multiple unplanned outages in 2023, additional funding is needed to complete the rest of the work required through the end of the contract term.

Lease? NO

Grant related? NO

Public Works? YES

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 800,000.00

Current Year Cost \$ 100,000.00

Subsequent Year(s) Cost \$ 0

**Narrative**

This is an annual operating and maintenance expense. The additional funds needed for this contract will be offset by adjustments to other planned maintenance in 2024.

**Amount****Budget Account**

Expense \$ 100,000.00

# 4490-44100-37148-54803-34002

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

<b><u>Dept Head</u></b>	AVERYT, CHRIS
<b><u>Division Director</u></b>	FEIST, MARLENE
<b><u>Accounting Manager</u></b>	ALBIN-MOORE, ANGELA
<b><u>Legal</u></b>	HARRINGTON,
<b><u>For the Mayor</u></b>	PICCOLO, MIKE

**Additional Approvals**

<b><u>PURCHASING</u></b>	PRINCE, THEA

**Distribution List**

Jorge Torres, jtorres4@brandsafway.com	mdorgan@spokanecity.org
jsalstrom@spokanecity.org	tprince@spokanecity.org
rrinderle@spokanecity.org	

# Expenditure Control Form



- 1. All requests being made, including those against master agreements, must be accompanied by this form.
- 2. All requests requiring City Council approval exceeding \$100,000 must be accompanied by this form.
- 3. Route **ALL** requests to the Division Director first and then the CFO for signature.
- 4. The CFO will route for signature to the City Administrator.

---

**Today's Date:** \_\_\_\_\_ **Type of expenditure:** Goods      Services  
**Department:** \_\_\_\_\_  
**Approving Supervisor:** \_\_\_\_\_

---

**Amount of Proposed Expenditure:**  
Is this against a master agreement? If yes, please provide the number:

**Funding Source**

**Please verify correct funding sources. Indicate breakdown if more than one funding source.**

---

**Why is this expenditure necessary now?**

**What are the impacts if expenses are deferred?**

**What alternative resources have been considered?**

**Description of the goods or service and any additional information?**

---

**Person Submitting Form/Contact:**

---

**Division Director:** \_\_\_\_\_ **CFO Signature:** \_\_\_\_\_ **City Administrator Signature:** \_\_\_\_\_

**Additional Comments:**

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	January 29, 2024
<b>Submitting Department</b>	Solid Waste Disposal
<b>Contact Name</b>	David Paine
<b>Contact Email &amp; Phone</b>	<a href="mailto:dpaine@spokanecity.org">dpaine@spokanecity.org</a> , 625-6878
<b>Council Sponsor(s)</b>	<u>CP Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Contract amendment for scaffolding services at the Waste to Energy Facility.
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>During scheduled and emergency outages at the WTE, scaffolding must be placed in the boilers to allow safe access for repairs. On Jan. 10, 2022 bidding closed on PW ITB 5537-21 for these scaffolding services and BrandSafway Services, LLC., of Spokane Valley, was the only bidder.</p> <p>The initial contract award was be for one year, from Apr. 1, 2022 through March 31, 2023, with the option of four (4) additional one-year renewals. The first renewal currently runs from April 1, 2023 through March 31, 2024 with a cost not to exceed \$700,000.00 including tax. Due to multiple unplanned outages in 2023, additional scaffolding services were required. In order to fund the rest of the work required through the end of the contract term, an additional \$100,000.00 is needed.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$100,000.00 additional for a total annual cost of \$800,000.00</u></p> <p>    Current year cost: \$100,000.00</p> <p>    Subsequent year(s) cost: 0</p> <p><b>Narrative:</b> <u>This is an annual operating and maintenance expense. The additional funds needed for this contract will be offset by adjustments to other planned maintenance in 2024.</u></p> <p><b>Funding Source</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Program revenue</p> <p>Is this funding source sustainable for future years, months, etc? Yes</p> <p><b>Expense Occurrence</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
<p>What impacts would the proposal have on historically excluded communities?</p> <p>This work is necessary to maintain the WTE Facility's ability to generate low-cost power supplied to the grid. Low-cost power is imperative to curbing the rise in cost of electricity.</p>	

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

The contractor is governed by WA L&I.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

The COS Procurement Policies regulate and safeguard this process.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This work supports the continued safe operation the Facility. The expenditure is supportive of the Sustainable Action Plan and the Capital Improvement Program.



**City of Spokane**  
**CONTRACT AMENDMENT**  
**Title: SCAFFOLDING SERVICES FOR SCHEDULED  
OUTAGES AND EMERGENCY OUTAGES**

This Contract Amendment is made and entered into by and between the **CITY OF SPOKANE** as (“City”), a Washington municipal corporation, and **BRANDSAFWAY SERVICES, LLC**, whose address is 6206 East Trent Avenue, building No. 3, Suite A, Spokane, Washington 99212 as (“Contractor”), individually hereafter referenced as a “party”, and together as the “parties”.

*WHEREAS, the parties entered into a Contract wherein the Contractor agreed to perform Scaffolding Services for Scheduled Outages and Emergency Outages for the City; and*

*WHEREAS, unanticipated work was required in 2023 resulting in additional funds, thus, the original Contract needs to be formally Amended by this written document; and*

*NOW, THEREFORE, in consideration of these terms, the parties mutually agree as follows:*

**1. CONTRACT DOCUMENTS.**

The original Contract, dated March 17, 2022, any previous amendments, renewals and / or extensions / thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE TERM.**

This Contract Amendment shall become effective on April 1, 2023 and shall run through March 31, 2024.

**3. COMPENSATION.**

The City shall pay an estimated maximum annual cost not to exceed **ONE HUNDRED THOUSAND AND 00/100 (\$100,000.00)**, plus tax, for everything furnished and done under this Contract Amendment. This is the maximum amount to be paid under this Amendment, and shall not be exceeded without the prior written authorization of the City, memorialized with the same formality as the original Contract and this Renewal document.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Contract Renewal by having legally-binding representatives affix their signatures below.

**BRANDSAFWAY SERVICES, LLC.**

By \_\_\_\_\_  
Signature                      Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

Attest:

\_\_\_\_\_  
City Clerk

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature                      Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd** 1/16/2024

**Clerk's File #** OPR 2019-1094

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

<b>Submitting Dept</b>	SOLID WASTE DISPOSAL	<b>Project #</b>	
------------------------	----------------------	------------------	--

<b>Contact Name/Phone</b>	DAVID PAINE 6878	<b>Bid #</b>	PW ITB 5130-19
---------------------------	------------------	--------------	----------------

<b>Contact E-Mail</b>	DPAINE@SPOKANECITY.ORG	<b>Requisition #</b>	CR 25893
-----------------------	------------------------	----------------------	----------

<b>Agenda Item Type</b>	Contract Item		
-------------------------	---------------	--	--

<b>Council Sponsor(s)</b>	BWILKERSON		
---------------------------	------------	--	--

<b>Agenda Item Name</b>	4490 CONTRACT RENEWAL FOR INSULATION SERVICES		
-------------------------	---	--	--

**Agenda Wording**

Contract renewal 4 of 4 with BrandSafway Services, LLC (Pasco, WA) for removal and replacement of insulation and cladding at the Waste to Energy Facility from 2/1/2024-1/31/2025 with an annual cost not to exceed \$350,000.00.

**Summary (Background)**

During outages at the Waste to Energy Facility, removal of insulation and cladding for boiler walls and other areas is needed to allow access. Replacement of the insulation as well as fabrication and installation of removable insulation blankets is also required. In 2019, BrandSafway Services, LLC was the only respondent to PW ITB 5130-19 for these services and was awarded the contract for one year with the option of four (4) additional one-year renewals. This will be the final renewal.

Lease? NO Grant related? NO Public Works? YES

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 350,000.00

Current Year Cost \$ 350,000.00

Subsequent Year(s) Cost \$ 0

**Narrative**

This is an annual maintenance expense that was planned for in the 2024 Solid Waste Disposal Budget.

**Amount**

**Budget Account**

Expense	\$ 350,000.00	# 4490-44100-37148-54803-34002
Select	\$	#
Select	\$	#
Select	\$	#
	\$	#
	\$	#





## Continuation of Wording, Summary, Approvals, and Distribution

### Agenda Wording

### Summary (Background)

#### **Approvals**

##### Dept Head

AVERYT, CHRIS

##### Division Director

FEIST, MARLENE

##### Accounting Manager

ALBIN-MOORE, ANGELA

##### Legal

HARRINGTON,

##### For the Mayor

PICCOLO, MIKE

#### **Additional Approvals**

##### PURCHASING

PRINCE, THEA

#### **Distribution List**

Jorge Torres, jtorres4@brandsafway.com

mdorgan@spokanecity.org

jsalstrom@spokanecity.org

tprince@spokanecity.org

rrinderle@spokanecity.org

# Expenditure Control Form



1. All requests being made, including those against master agreements, must be accompanied by this form.
2. All requests requiring City Council approval exceeding \$100,000 must be accompanied by this form.
3. Route **ALL** requests to the Division Director first and then the CFO for signature.
4. The CFO will route for signature to the City Administrator.

**Today's Date:** \_\_\_\_\_ **Type of expenditure:**    Goods                    Services  
**Department:** \_\_\_\_\_  
**Approving Supervisor:** \_\_\_\_\_

**Amount of Proposed Expenditure:**  
 Is this against a master agreement? If yes, please provide the number:

**Funding Source**

**Please verify correct funding sources. Indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

**What are the impacts if expenses are deferred?**

**What alternative resources have been considered?**

**Description of the goods or service and any additional information?**

**Person Submitting Form/Contact:**

**Division Director:** \_\_\_\_\_                    **CFO Signature:** \_\_\_\_\_                    **City Administrator Signature:** \_\_\_\_\_

**Additional Comments:**

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	January 29, 2024
<b>Submitting Department</b>	Solid Waste Disposal
<b>Contact Name</b>	David Paine
<b>Contact Email &amp; Phone</b>	<a href="mailto:dpaine@spokanecity.org">dpaine@spokanecity.org</a> , 625-6878
<b>Council Sponsor(s)</b>	<u>CP Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Contract renewal for removal and replacement of insulation and cladding at the Waste to Energy Facility.
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>During outages at the WTE, removal of insulation and cladding for boiler walls and other areas is needed to allow access. Replacement of the insulation as well as fabrication and installation of removable insulation blankets is also required during these outages.</p> <p>On October 31, 2019 bidding on PW ITB 5130-19 closed for these insulation services. BrandSafway Services, LLC., of Pasco, WA was the only response received. The bid stipulated that the contract will be for one year with the option of four (4) additional one-year periods. The initial term was from February 1, 2020 through January 31, 2021 with a cost of \$100,000.00. This will be the final renewal from February 1, 2024 through January 31, 2025 with an additional cost not to exceed \$350,000.00 including tax.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$350,000.00</u></p> <p style="padding-left: 20px;">Current year cost: \$350,000.00</p> <p style="padding-left: 20px;">Subsequent year(s) cost: 0</p> <p><b>Narrative:</b> <u>This is an annual maintenance expense that was planned for in the 2024 SWD Budget.</u></p> <p><b>Funding Source</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Program revenue</p> <p>Is this funding source sustainable for future years, months, etc? Yes</p> <p><b>Expense Occurrence</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
<p>What impacts would the proposal have on historically excluded communities?</p> <p>This work is necessary to maintain the WTE Facility's ability to generate low-cost power supplied to the grid. Low-cost power is imperative to curbing the rise in cost of electricity.</p>	

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

The contractor is governed by WA L&I.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

The COS Procurement Policies regulate and safeguard this process.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This work supports the continued safe operation the Facility. The expenditure is supportive of the Sustainable Action Plan and the Capital Improvement Program.



**City of Spokane**  
**CONTRACT RENEWAL**  
**4 of 4**  
**Title: INSULATION SERVICES**

This Contract Renewal is made and entered into by and between the **CITY OF SPOKANE** as (“City”), a Washington municipal corporation, and **BRANDSAFWAY SERVICES, LLC**, whose address is 1523 East Hillsborough Avenue, Pasco, Washington 99301 as (“Contractor”), individually hereafter referenced as a “party”, and together as the “parties”.

*WHEREAS, the parties entered into a Contract wherein the Contractor agreed to perform INSULATION SERVICES; REMOVAL AND REPLACEMENT OF INSULATION AND CLADDING FOR BOILER WALLS AND PIPING AND FABRICATION OF AND INSTALLATION OF REMOVABLE INSULATION BLANKETS for the City; and*

*WHEREAS, the initial contract provided for 4 additional one-year renewals, with this being the final of those renewals.*

*NOW, THEREFORE, in consideration of these terms, the parties mutually agree as follows:*

**1. CONTRACT DOCUMENTS.**

The original Contract, dated December 11, 2019 and December 26, 2019, any previous amendments, renewals and / or extensions / thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE TERM.**

This Contract Renewal shall become effective on February 1, 2024 and shall run through January 31, 2025.

**3. COMPENSATION.**

The City shall pay an estimated maximum annual cost not to exceed **THREE HUNDRED FIFTY THOUSAND AND 00/100 (\$350,000.00)** for everything furnished and done under this Contract Renewal. This is the maximum amount to be paid under this Renewal, and shall not be exceeded without the prior written authorization of the City, memorialized with the same formality as the original Contract and this Renewal document.

**4. DEBARMENT AND SUSPENSION.**

The Contractor has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or

ineligible from participation in Federal Assistance Programs under Executive Order 12549 and “Debarment and Suspension”, codified at 29 CFR part 98.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Contract Renewal by having legally-binding representatives affix their signatures below.

**BRANDSAFWAY SERVICES, LLC.**

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature                      Date

By \_\_\_\_\_  
Signature                      Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

**Attachments that are part of this Agreement:**

Certificate of Debarment

24-001

**ATTACHMENT  
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
  - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
  - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.
  
2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
  
3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  
  2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. I understand that a false statement of this certification may be grounds for termination of the contract.

<hr/> Name of Subrecipient / Contractor / Consultant (Type or Print)	<hr/> Program Title (Type or Print)
<hr/> Name of Certifying Official (Type or Print)	<hr/> Signature
<hr/> Title of Certifying Official (Type or Print)	<hr/> Date (Type or Print)



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd** 1/16/2024

**Clerk's File #** OPR 2020-0016

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

<b>Submitting Dept</b>	SOLID WASTE DISPOSAL	<b>Project #</b>	
------------------------	----------------------	------------------	--

<b>Contact Name/Phone</b>	DAVID PAINE 6878	<b>Bid #</b>	PW ITB 5196-19
---------------------------	------------------	--------------	----------------

<b>Contact E-Mail</b>	DPAINE@SPOKANECITY.ORG	<b>Requisition #</b>	CR 25894
-----------------------	------------------------	----------------------	----------

<b>Agenda Item Type</b>	Contract Item		
-------------------------	---------------	--	--

<b>Council Sponsor(s)</b>	BWILKERSON		
---------------------------	------------	--	--

<b>Agenda Item Name</b>	4490 CONTRACT EXTENSION FOR REFRACTORY AND SANDBLASTING SERVICES		
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**Agenda Wording**

One year contract extension with Helfrich Brothers Boiler Works, Inc. (Lawrence, MA) for refractory installation and sandblasting services at the Waste to Energy Facility through Jan. 31, 2025 with an additional cost not to exceed \$1,450,000.00.

**Summary (Background)**

The Waste to Energy Facility conducts two scheduled outages each year for boiler maintenance. During these outages, sandblasting and replacement of damaged refractory tiles is needed in the furnace. In 2019, Helfrich Brothers Boiler Works was awarded a two-year contract for these services, with the option of one additional two-year renewal, not to exceed five years. Per bid specifications, the contract is allowed to span five years so this final renewal will be extended for one additional year.

Lease? NO Grant related? NO Public Works? YES

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 3,350,000.00 (3 year total)

Current Year Cost \$ 1,450,000.00

Subsequent Year(s) Cost \$ 0

**Narrative**

This is an annual operating and maintenance expense that was planned and budgeted for in the 2024 Solid Waste Disposal Budget.

**Amount**

**Budget Account**

Expense	\$ 1,450,000.00	# 4490-44100-37148-54803-34002
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Select	\$	#
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Select	\$	#
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Select	\$	#
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	\$	#
--	----	---

	\$	#
--	----	---





**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

<b><u>Dept Head</u></b>	AVERYT, CHRIS
<b><u>Division Director</u></b>	FEIST, MARLENE
<b><u>Accounting Manager</u></b>	ALBIN-MOORE, ANGELA
<b><u>Legal</u></b>	HARRINGTON,
<b><u>For the Mayor</u></b>	PICCOLO, MIKE

**Additional Approvals**

<b><u>PURCHASING</u></b>	PRINCE, THEA

**Distribution List**

Dennis Lincoln, dlincoln@hbbwinc.com	mdorgan@spokanecity.org
jsalstrom@spokanecity.org	tprince@spokanecity.org
rrinderle@spokanecity.org	

# Expenditure Control Form



1. All requests being made, including those against master agreements, must be accompanied by this form.
2. All requests requiring City Council approval exceeding \$100,000 must be accompanied by this form.
3. Route **ALL** requests to the Division Director first and then the CFO for signature.
4. The CFO will route for signature to the City Administrator.

---

**Today's Date:** \_\_\_\_\_ **Type of expenditure:** Goods      Services  
**Department:** \_\_\_\_\_  
**Approving Supervisor:** \_\_\_\_\_

---

**Amount of Proposed Expenditure:**  
Is this against a master agreement? If yes, please provide the number:

**Funding Source**

**Please verify correct funding sources. Indicate breakdown if more than one funding source.**

---

**Why is this expenditure necessary now?**

**What are the impacts if expenses are deferred?**

**What alternative resources have been considered?**

**Description of the goods or service and any additional information?**

---

**Person Submitting Form/Contact:**

---

**Division Director:** \_\_\_\_\_ **CFO Signature:** \_\_\_\_\_ **City Administrator Signature:** \_\_\_\_\_

**Additional Comments:**

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	January 29, 2024
<b>Submitting Department</b>	Solid Waste Disposal
<b>Contact Name</b>	David Paine
<b>Contact Email &amp; Phone</b>	<a href="mailto:dpaine@spokanecity.org">dpaine@spokanecity.org</a> , 625-6878
<b>Council Sponsor(s)</b>	<u>CP Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Contract amendment for refractory installation and sandblasting at the Waste to Energy Facility.
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>The Waste to Energy Facility conducts two scheduled outages each year for necessary maintenance to the boilers. During these outages, sandblasting of the convection cavity, superheater tubes, screen tubes and generator tubes is needed. In addition, damaged refractory and tiles are replaced in the lower furnace.</p> <p>On December 2, 2019 bidding closed on PW ITB 5196-19 for these services and Helfrich Brothers Boiler Works, Inc. was the lowest cost responsive/responsible bidder. The initial contract award was for two years beginning on February 1, 2020 and going through January 31, 2022 with the possibility of one additional two-year renewal, not to exceed five (5) years. The contract is currently on its first allowed renewal from February 1, 2022 through January 31, 2024 with a cost not to exceed \$1,900,000.00 including tax. Per the bid specifications, the contract is allowed to span five years so this final renewal will be extended for one additional year with an added cost of \$1,450,000.00 including tax.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$1,450,000.00</u></p> <p>    Current year cost: \$1,450,000.00</p> <p>    Subsequent year(s) cost: 0</p> <p><b>Narrative:</b> <u>This is an annual operating and maintenance expense that was planned and budgeted for in 2024.</u></p> <p><b>Funding Source</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Program revenue</p> <p>Is this funding source sustainable for future years, months, etc? Yes</p> <p><b>Expense Occurrence</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
What impacts would the proposal have on historically excluded communities?	

This work is necessary to maintain the WTE Facility's ability to generate low-cost power supplied to the grid. Low-cost power is imperative to curbing the rise in cost of electricity.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

The contractor is governed by WA L&I.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

The COS Procurement Policies regulate and safeguard this process.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This work supports the continued safe operation the Facility. The expenditure is supportive of the Sustainable Action Plan and the Capital Improvement Program.



City of Spokane  
**CONTRACT AMENDMENT/EXTENSION**  
**Title: REFRACTORY INSTALLATION  
AND SANDBLASTING SERVICES**

This Contract Amendment/Extension is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **HELFRICH BROTHERS BOILER WORKS, INC.**, whose address is 39 Merrimack Street, Lawrence, MA 01843 , as "Company", individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the parties agreed to provide Refractory Installation and Sandblasting Services; and*

*WHEREAS, additional funds are needed, and the Contract time for performance needs to be extended, thus, the original Contract needs to be formally Amended and Extended by this written document; and*

*NOW, THEREFORE, in consideration of these terms, the parties mutually agree as follows:*

**1. CONTRACT DOCUMENTS.**

The original Contract, dated January 3, 2020 and January 21, 2020, any previous amendments, renewals and / or extensions / thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE TERM.**

This Contract Amendment/Extension shall become effective on February 1, 2022 and shall run through January 31, 2025.

**3. COMPENSATION.**

The City shall pay an estimated maximum amount not to exceed **ONE MILLION FOUR HUNDRED FIFTY THOUSAND AND 00/100 (\$1,450,000.00)** for everything furnished and done under this Contract Amendment/Extension. This is the maximum amount to be paid under this Amendment/Extension and shall not be exceeded without the prior written authorization of the City, memorialized with the same formality as the original Contract and this Amendment/Extension document.

**4. DEBARMENT AND SUSPENSION.**

The Company has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or

ineligible from participation in Federal Assistance Programs under Executive Order 12549 and “Debarment and Suspension”, codified at 29 CFR part 98.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Contract Amendment/Extension by having legally-binding representatives affix their signatures below.

**HELFRICH BROTHERS BOILER WORKS, INC.**

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature                      Date

By \_\_\_\_\_  
Signature                      Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

**Attachments that are part of this Agreement:**  
Certificate of Debarment

23-206a

**ATTACHMENT A  
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
  - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
  - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.
  
2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
  
3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  
  2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. I understand that a false statement of this certification may be grounds for termination of the contract.

<hr/> Name of Subrecipient / Contractor / Consultant (Type or Print)	<hr/> Program Title (Type or Print)
<hr/> Name of Certifying Official (Type or Print)	<hr/> Signature
<hr/> Title of Certifying Official (Type or Print)	<hr/> Date (Type or Print)

OPR 2020-0016 (that was generated based on Bid PW ITB 5196-19)	2nd Renewal										
	Valid From 2/1/2024 Through 1/31/2025										
	HELFRICH BROTHERS BOILER WORKS										
	<b>FIRST BOILER - COLD IRON</b>										
	Labor (estimated) 6 shifts of 504 hours Refractory: 7										
	Labor (estimated) 4 shifts of 336 hours Sandblasting: 7 people										
						Overtime Rate	Est Hours	Total Labor \$	Double Time	Est Hours	Total Labor \$
<b>Boilermaker</b>	\$106.60		240		\$25,584.00	\$154.57	60	\$9,274.20	\$186.55	60.00	\$11,193.00
<b>Brick Mason</b>	\$79.80		160		\$12,768.00	\$115.71	80	\$9,256.80			
<b>Hod Carrier &amp; Mason Tender Superintendent</b>	\$73.00		160		\$11,680.00	\$105.85	80	\$8,468.00			
Bill of Materials plus costs											
Mob and Demob	\$				18,500.00						
PPE	\$				12,500.00						
Per Diem Total	\$				15,500.00						
Sales Tax (8.9%)	\$				11,990.44						
<b>Total for First Boiler</b>					<b>\$146,714.44</b>						
	<b>SECOND BOILER - COLD IRON</b>										
	Labor (estimated) 6 shifts of 504 hours Refractory: 14										
	Labor (estimated) 4 shifts of 336 hours Sandblasting: 14 people 7/shift										
						Overtime Rates	Est Hours	Total Labor \$	Double Time	Est. Hours	Total Labor \$
<b>Boilermaker</b>	\$106.60		240		\$25,584.00	\$154.57	60	\$9,274.20	\$186.55	60.00	\$11,193.00
<b>Brick Mason</b>	\$79.80		160		\$12,768.00	\$115.71	80	\$9,256.80			
<b>Hod Carrier &amp; Mason Tender Superintendent</b>	\$73.00		160		\$11,680.00	\$105.85	80	\$8,468.00			
Bill of Materials plus costs											
Mob and Demob	\$				18,500.00						
PPE	\$				12,500.00						
Per Diem Total	\$				15,500.00						
Sales Tax (8.9%)	\$				11,990.44						
<b>Total for Second Boiler</b>					<b>\$146,714.44</b>						
<b>Overall Extended Cold Iron</b>					<b>\$293,428.87</b>						
	<b>FIRST BOILER - NON COLD IRON</b>										
	Labor (estimated) 6 shifts of 504 hours Refractory: 7										
	Labor (estimated) 4 shifts of 336 hours Sandblasting: 7										
						Overtime Rates	Est. Hours	Total Labor \$	Doubletime	Est Hours	Total Labor \$
<b>Boilermaker</b>	\$106.60		240		\$25,584.00	\$154.57	60	\$9,274.20	\$186.55	60	\$11,193.00
<b>Brick Mason</b>	\$79.80		160		\$12,768.00	\$115.71	80	\$9,256.80			
<b>Hod Carrier &amp; Mason Tender Superintendent</b>	\$73.00		160		\$11,680.00	\$105.85	80	\$8,468.00			
Bill of Materials plus costs											
Mob and Demob	\$				18,500.00						
PPE	\$				12,500.00						
Per Diem Total	\$				15,500.00						
Sales Tax (8.9%)	\$				11,990.44						
<b>Total for First Boiler</b>					<b>\$146,714.44</b>						



SECOND BOILER - NON COLD IRON			Overtime Rate	Est. hours	Total Labor \$	Double Time	Est. Hours	Total Labor \$	
Labor (estimated) 6 shifts of 504 hours Refractory: 14 Labor (estimated) 4 shifts of 336 hours Sandblasting: 14									
Boilermaker	\$106.60	240	\$25,584.00	\$154.57	60	\$9,274.20	\$186.55	60	\$11,193.00
Brick Mason	\$79.80	160	\$12,768.00	\$115.71	80	\$9,256.80			
Hod Carrier & Mason Tender	\$73.00	160	\$11,680.00	\$105.85	80	\$8,468.00			
Superintendent									

Bill of Materials plus costs									
Mob and Demob	\$		18,500.00						
PPE	\$		12,500.00						
Per Diem Total	\$		15,500.00						
Sales Tax (8.9%)	\$		11,990.44						
<b>Total for Second Boiler</b>			<b>\$146,714.44</b>						

**Overall Extended Non Cold Iron \$293,428.87**

EMERGENCY SERVICES			Overtime Rate	Est. hours	Total Labor \$	Double time	Est. Hours	Total Labor \$
Labor (estimated) 1shifts of 48hours Refractory: 4 people								
Boilermaker	\$106.60	32	\$3,411.20	\$154.57	16	\$2,473.12		
Brick Mason	\$79.80	160	\$12,768.00					
Hod Carrier & Mason Tender	\$73.00	160	\$11,680.00					
Superintendent								

Bill of Materials plus costs									
Mob and Demob	\$		3,500.00						
PPE	\$		380.00						
Per Diem Total	\$		1,500.00						
Sales Tax (8.9%)	\$		3,178.40						
<b>Total for Second Boiler</b>			<b>\$38,890.72</b>						

\*\* Bill of Materials + cost amount  
 Dennis Lincoln Chief Operating Officer  
[dlincoln@hbbwinc.com](mailto:dlincoln@hbbwinc.com)  
 Office 978-683-7244 Cel 978-360-54  
 Dennis Lincoln  
 11/2/2021

**Agenda Sheet for City Council:****Committee:** PIES **Date:** 01/29/2024**Committee Agenda type:** Consent**Date Rec'd**

1/16/2024

**Clerk's File #**

OPR 2020-0786

**Renews #****Cross Ref #****Council Meeting Date:** 02/12/2024**Submitting Dept**

SOLID WASTE DISPOSAL

**Project #****Contact Name/Phone**

DAVID PAINE 6878

**Bid #**

RFQ 5426-20

**Contact E-Mail**

DPAINE@SPOKANECITY.ORG

**Requisition #**

VB 301196

**Agenda Item Type**

Purchase w/o Contract

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

4490 VALUE BLANKET FOR THE PURCHASE OF FABRIC FILTER BAGS

**Agenda Wording**

Value blanket renewal 2 of 4 with Micronics Engineered Filtration Group (Chattanooga, TN) for the purchase of fabric filter bags for the Waste to Energy Facility from 1/1/2024-12/31/2024 and a cost not to exceed \$99,000.00 including tax and delivery.

**Summary (Background)**

The Waste to Energy Facility uses fabric filter bags to remove fine particulate from the furnace air prior to discharge. They require replacement every 4-5 years or as they become worn. On Sep. 30, 2020, bidding closed on RFQ 5426-20 for the as-needed purchase of these bags and Micronics (fka National Filter Media) was the low-cost bidder. The initial value blanket award was for two years with the option of three additional one-year renewals. This will be the second renewal.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget?

Total Cost \$ 99,000.00

Current Year Cost \$ 99,000.00

Subsequent Year(s) Cost \$ 0

**Narrative**

This is an annual maintenance expense that was planned for in the 2024 Solid Waste Disposal Budget.

**Amount****Budget Account**

Expense \$ 99,000.00

# 4490-44100-37148-53210-34002

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

**Dept Head**

AVERYT, CHRIS

**Division Director**

FEIST, MARLENE

**Accounting Manager**

ALBIN-MOORE, ANGELA

**Legal**

HARRINGTON,

**For the Mayor**

PICCOLO, MIKE

**Additional Approvals**

**PURCHASING**

PRINCE, THEA

**Distribution List**

mdorgan@spokanecity.org

jsalstrom@spokanecity.org

tprince@spokanecity.org

rrinderle@spokanecity.org

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	January 29, 2024
<b>Submitting Department</b>	Solid Waste Disposal
<b>Contact Name</b>	David Paine
<b>Contact Email &amp; Phone</b>	<a href="mailto:dpaine@spokanecity.org">dpaine@spokanecity.org</a> , 625-6878
<b>Council Sponsor(s)</b>	<u>CP Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Value blanket renewal for the purchase of bag house fabric filter bags for the Waste to Energy Facility.
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>The Waste to Energy Facility utilizes fabric filter bags to remove fine particulate from the air before discharge from the facility. These bags must be replaced every 4-5 years or as they become worn. If damaged or worn bags are not replaced periodically, the facility runs the risk of violating its Air Operating Permit, which could result in excessive fines.</p> <p>On September 30, 2020, bidding closed on RFQ 5246-20 for the as-needed annual requirement of tapered fabric filter bags. Two responses were received from National Filter Media (Olive Branch, MS) and BHA Altair, LLC (Overland Park, KS). National Filter Media was the low cost, responsive and responsible bidder. The initial value blanket award was for a two-year period, beginning January 1, 2021 through December 31, 2022, with the option of three (3) one-year renewals. This will be the second of those renewals from January 1, 2024 through December 31, 2024 with a cost not to exceed \$99,000.00, including tax and delivery.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$99,000.00</u></p> <p>    Current year cost: \$99,000.00</p> <p>    Subsequent year(s) cost: 0</p> <p><b>Narrative:</b> <u>This is an annual planned maintenance expense that was budgeted for in 2024.</u></p> <p><b>Funding Source</b>            <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Program revenue</p> <p>Is this funding source sustainable for future years, months, etc? Yes</p> <p><b>Expense Occurrence</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
What impacts would the proposal have on historically excluded communities?	

This work is necessary to maintain the WTE Facility's ability to generate low-cost power supplied to the grid. Low-cost power is imperative to curbing the rise in cost of electricity.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

The contractor is governed by WA L&I.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

The COS Procurement Policies regulate and safeguard this process.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This work supports the continued safe operation the Facility. The expenditure is supportive of the Sustainable Action Plan and the Capital Improvement Program.



ENGINEERED FILTRATION GROUP

Micronics Eng. Filtration Group Inc.
1201 Riverfront Pkwy.
Suite A
Chattanooga, TN 37402
www.micronicsinc.com

Table with quote details: Quote Number (86295022), Quote Date (12/14/2023), Expiration Date (06/13/2024), Revision, Sold To (12000368), Ship To (12005995), Purchase Order.

Sales Quote

SOLD TO
CITY OF SPOKANE
808 W SPOKANE FALLS BLVD,
SPOKANE, WA 99201
UNITED STATES

SHIP TO
CITY OF SPOKANE
2900 S GEIGER BLVD
SPOKANE, WA 99224
UNITED STATES

Table with sales terms: Attention (Rick Rinderle), Salesperson (Ryan Nickerson), Payment Terms (NET 30 DAYS), Ship Via, Ship Terms (FOB ORIGIN, PPA), Resale, Remarks, Delivery, Currency (USD).

Micronics Engineered Filtration Group (MEFG) submits this proposal during the COVID-19 pandemic declared by the World Health Organization ("Pandemic"). Consequently, MEFG cannot anticipate or plan for any potential adverse supply chain or logistics impact the Pandemic may have on the cost or schedule proposed by MEFG or any impact related to government action in countries where the raw material will be manufactured, procured, shipped, or delivered.

Table with item details: #, Item Number, Description, Qty Quoted, Price, Extended Price. Includes a summary row for Sales Amount (75,081.50).

Pricing is for the total quantity of products shown. Updated pricing can be given for different quantities. Due to market conditions on raw materials quoted pricing is valid for 10 days from date of issue. Terms and Conditions attached apply.

Sincerely,
Micronics

Ryan Nickerson



TOTAL ENGINEERED FILTRATION SOLUTIONS

## Micronics Engineered Filtration Group, Inc. - General Terms and Conditions of Sale

In the absence of a written contract, executed between Micronics Engineered Filtration Group, Inc. ("Seller") and the Customer, providing specific terms and conditions for the commercial dealings between Seller and such Customer, these general Terms and Conditions constitute a binding contractual agreement between Seller and all Customers, and are referred to herein as "Terms and Conditions." Customer accepts these Terms and Conditions by placing an order for the products listed in the attached Quotation, Purchase Order, Order Acknowledgement, or Invoice. In all transactions, Micronics' documentation (such as Orders, Purchase Orders, Quotations, Acknowledgements, Invoices, etc.), and these Terms and Conditions, shall represent the controlling contractual arrangement between Micronics and any Customer. A Customer may issue its own purchase order, or similar form, for administrative purposes, but all transactions and contractual relationships between Micronics and such Customer shall be controlled by Micronics' documentation and these Terms and Conditions.

Additional or conflicting terms and conditions contained in a purchase order, or similar form, produced by Customer will be null and void. No course of prior dealings between the parties, and no usage of trade, will alter or determine the meaning and enforceability of these Terms and Conditions. These Terms and Conditions contain the entire understanding of the parties with respect to the matters contained herein and supersede and replace, in their entirety, any and all prior communications and contemporaneous agreements and understandings, whether oral, written, electronic, or implied (if any) between the parties with respect to the subject matter hereof.

1. **ORDERS.** If Customer either verbally or through one or more written orders, delivery tickets, or other instruments, requests that Seller supply products or perform services, and Seller agrees to provide those products or perform those services, each such request regardless of form shall be deemed an "Order" governed by and subject to these Terms and Conditions. Agreements or stipulations in any Order that are contrary to, in any way, to these Terms and Conditions shall be void, unless Seller and Customer have expressly agreed in writing that such agreement or stipulation shall supersede these Terms and Conditions.

2. **ORDER ACCEPTANCE.** Orders issued by Customer shall only be valid Orders if Seller provides confirmation of Seller's acceptance of the Order. This "Order Acceptance" may take the form of either a verbal or written acceptance.

3. **PRODUCT DELIVERY.** Seller and Customer will determine a mutually agreeable date or schedule for delivery of the products or services (the "Delivery Schedule") prior to or upon Order Acceptance. Such agreement shall be either verbal or in writing. Customer agrees to accept delivery within 10 business days of the Delivery Schedule for the Order. Should Customer delay delivery by 10 or more business days beyond the Delivery Schedule, Customer agrees that Seller may bill Customer, and Customer will pay, for the Order based on the agreed Delivery Schedule. Customer agrees to pay for the Order in accordance with the payment terms specified in the Order and/or these Terms and Conditions, assuming that the invoice date is the Delivery Date for the Order. Customer agrees that all risk of loss or damage shall pass to Customer on the invoice date for the Order. Customer agrees to pay any storage costs for the Order from the invoice date. Storage costs shall be invoiced at the beginning of each month and shall be equal to Seller's actual cost but in no case less than 5% of the Order sales value per month. Seller shall be allowed to select the storage location for the Order. For Orders with an invoice price of greater than \$50,000, Seller and Customer agree to sign an Ownership Transfer Agreement to acknowledge the terms specified herein if Customer does not take delivery in accordance with the Delivery Schedule.

In filling Order, Seller shall have the right to deliver, and Buyer shall be obligated to purchase and accept, an additional quantity of the product not to exceed five percent (5%) of the quantity ordered by Buyer, to the extent such excess delivery results from the utilization of complete units of raw materials from which the product is made or from less than customarily anticipated scrap rate.

4. **ORDER CANCELLATION.** Customer acknowledges that the products and services provided by Seller are custom products produced to Customer's unique specifications. As such, upon Order Acceptance, Customer may not cancel an Order without Seller's written agreement. Upon Seller's agreement to cancel an Order, Customer agrees to immediately reimburse Seller for any and all costs incurred in relation to the Order and any unique or excess purchase commitments made by Seller related to the cancelled Order plus Seller's overhead and reasonable profit.

5. **PRODUCT RETURNS.** Seller will not approve or accept any returns of products that have been used, modified, adjusted or repaired without Seller's prior written consent. Seller must approve all product returns in writing and provide a Return Material Authorization number that shall accompany all product returns. Seller shall not be responsible for making any refunds on product returns that do not have a Return Material Authorization number. Seller reserves the right to charge a reasonable restocking fee for all product returns.

6. **SUSPENSION OR DELAY.** If Customer requests or causes a suspension or delay of Seller's work, Customer shall immediately pay Seller all appropriate charges and commitments incurred up to the date of such event plus Seller's overhead and reasonable profit. Customer shall incur incremental monthly storage fees for delays or suspensions greater than 10 days equivalent to five percent (5%) of the entire Order.

7. **INVOICING; PAYMENT.** Unless otherwise confirmed by Seller in writing at Order Acceptance, Customer shall have 30 days from the date of the invoice to pay the amount due thereon, or to notify Seller in writing of a bona fide dispute asserted in good faith as to one or more of the invoice items. If Seller has not received payment of the invoiced amount within 30 days from the due date of the invoice, Seller shall be entitled to claim and pursue all available legal and equitable remedies against Customer to recover the invoiced amounts, plus Seller's collection and litigation costs (including attorneys' fees), plus interest on all amounts owed. Seller shall retain a lien on any products delivered hereunder until such time as the Order has been fully paid for by Customer. Customer agrees to sign any reasonable documentation to allow the Seller to perfect its lien on the products, and Seller agrees to timely release any liens filed on the products upon satisfaction of all obligations of Customer under these Terms and Conditions.

8. **DEPOSITS AND PROGRESS PAYMENTS.** From time to time, Seller may require deposits and progress payments for Orders. Quotations and Order Acceptances for Orders requiring deposits and progress payments shall specify the invoicing schedule for the Order. Invoices generated for deposits and progress payments shall be due upon receipt by Customer. Seller reserves the right to unilaterally cancel an Order and retain all deposits and prior progress payments as liquidated damages should Customer not pay Order deposits and/or progress payments within 30 days of the Invoice Date. Customer agrees that Seller will not be obligated to meet any Delivery Schedule if Customer is in arrears on any deposits and/or progress payments. Seller shall not be liable for any damages of any kind relating to the Delivery Schedule should Customer be in arrears on deposits and/or progress payments. For the purposes of this clause, Invoice Date shall be the date Seller transmits the invoice to Customer.

9. **OPERATION.** Customer is solely responsible for proper application, operation and maintenance of products sold hereunder. Seller shall not be responsible for any losses incurred by Customer or third parties if Customer fails to properly apply, operate, or maintain the products sold hereunder. Customer agrees to indemnify Seller for any losses incurred by third parties upon Customer's failure of proper application, operation, and/or maintenance of the products sold hereunder.

Seller may offer written or verbal recommendations on application, operation, design, construction and/or material. However, Seller shall not be liable for any losses, costs or damage resulting from or connected with the use of such recommendations.

10. **WARRANTY.** Seller warrants, only to Customer, or Customer's immediate customer, that the products and services provided are free from defects in material and workmanship. The duration of this warranty is the earlier of eighteen (18) months from the delivery of the products or services, or twelve (12) months after installation (the "Warranty Period"). Products are deemed delivered the earlier of when delivered to Customer, or Customer's immediate customer, or when an invoice is issued by Seller for such products. Services are deemed delivered when all work is completed related to the Order. If Customer, or Customer's immediate customer, discovers during the Warranty Period a defect in material or workmanship, it must notify Seller in writing. Such notification must be received by Seller prior to the expiration of the Warranty Period. Within a reasonable time after such notification, Seller will correct any defect in material or workmanship with either new or used replacement parts. Customer shall be responsible for all costs of installation of repaired or replaced parts. If Seller is unable to repair the products after reasonable attempts, Seller will provide, at its option, one of the following: (a) a replacement, or (b) a full refund of the purchase price. These remedies are Customer's, and their immediate customer's, exclusive remedies for breach of warranty. If Seller determines that any warranty claim is not covered by this warranty, Customer shall pay Seller for any repair or replacement made by Seller. In no case shall Seller be liable for any special, incidental, or consequential damages based upon breach of warranty, breach of contract, negligence, tort, statute, or any other legal theory. Such damages include, but are not limited to, loss of profits, loss of savings or revenue, loss of use of the products or any associated equipment, cost of capital, cost of substitute equipment, facilities or services, downtime, the claims of third parties including customers, and injury to property. Any action for breach of warranty must be commenced within the Warranty Period.

Customer shall operate and maintain the products in accordance with Seller's instructions, including the use of Sellers approved replacement parts and consumables, failure to do so may void warranty. Any modifications or repairs to products sold to Customer shall void this warranty unless such modifications or repairs are performed by either Seller or an authorized service provider approved by Seller in writing. Seller's warranty does not cover damage caused by chemical attack or abrasive material, misuse or improper operation, and is conditioned on Customer not being in default of any payment obligation to Seller. Customer shall accept minor variations in dimensions or other variance from specifications so long as there is no impairment of function or useful life of the product.

THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

11. **COMPLIANCE WITH LAWS.** Customer and Seller each agree to comply with all laws, rules, and regulations applicable to these Terms and Conditions or the performance of work hereunder. If either party is required to pay any fine or penalty resulting from the other party's violation of such laws, rules or regulations, the party who committed the direct violation shall immediately reimburse the other for any such payment.

12. **FORCE MAJEURE.** Except for the duty to make timely payments, and the indemnification provisions under these General Terms and Conditions, neither Customer nor Seller shall be responsible to the other for any delay, damage, or failure caused by or occasioned by a Force Majeure Event. As used herein, "Force Majeure Event" shall mean: Any act of God, act of nature or the elements, terrorism, insurrection, revolution or civil strife, piracy, war or hostile actions, labor strikes, acts of public enemies, federal or state laws, rules and regulations of any governmental authorities having jurisdiction over the premises, inability to procure material, equipment, or necessary labor in the open market, acute and unusual labor, material, or equipment shortages, or any other causes (except financial) beyond the control of either party. Delays due to any of the above causes shall not be deemed to be a breach of or failure to perform hereunder. Neither Customer nor Seller shall be required against its will to resolve any labor or other similar dispute except in accordance with applicable law.

13. **INTELLECTUAL PROPERTY.** Seller retains all intellectual property rights in any property, process, idea, other items invented or composed in the course of, or incident to, the performance of Seller in relation to this transaction. Customer acquires no right or interest in any such intellectual property in any way arising out of, or relating to, this transaction.

14. **INDEMNITY**

a. Seller hereby agrees that Customer shall have no liability for and hereby agrees to save, indemnify, and keep harmless Customer from all suits, claims, demands and expenses of every kind, including, but not limited to, attorneys' fees and court costs incurred in defending, handling and settling such suits, claims and demands, arising out of any act of gross negligence of Seller in the performance of its obligations hereunder.

Notwithstanding anything to the contrary contained herein, Seller's obligation to indemnify and hold harmless Customer shall be limited to the extent of the percentage of fault attributable to Seller causing such claim, demand, liability, expense and cause of action, and the limitations of liability established herein.

b. Customer hereby agrees that Seller shall have no liability for and hereby agrees to save, indemnify, and keep harmless Seller from all suits, claims, demands and expenses of every kind, including, but not limited to, attorneys' fees and court costs incurred in defending, handling and settling such suits, claims and demands, arising out of any negligence or misconduct of Customer in relation to or arising out of Seller's performance of its obligations hereunder. Notwithstanding anything to the contrary contained herein, Customer's obligation to indemnify and hold harmless Seller shall be limited to the extent of the percentage of fault attributable to Customer causing such claim, demand, liability, expense and cause of action.

c. Customer and Seller each waive any right to special, indirect and consequential damages against the other party hereto.

15. **SEVERABILITY.** If any provision of these Terms and Conditions is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be void, and the remainder of these Terms and Conditions shall remain operative and binding on the Parties.

16. **JURISDICTION; VENUE; WAIVER OF JURY TRIAL.** These Terms and Conditions shall be governed, construed, and interpreted in accordance with the laws of the state of Tennessee without regard to any choice of law provisions. Any claim or lawsuit arising from or relating to these Terms and Conditions shall be filed and maintained in a court of competent jurisdiction in Chattanooga, Tennessee. To the extent allowed by law, the parties each waive their right to a jury trial for any matter arising from or relating to these Terms and Conditions.

**Agenda Sheet for City Council:****Committee:** PIES **Date:** 01/29/2024**Committee Agenda type:** Consent**Date Rec'd**

1/16/2024

**Clerk's File #**

OPR 2023-0026

**Renews #****Cross Ref #****Council Meeting Date:** 02/12/2024**Submitting Dept**

SOLID WASTE DISPOSAL

**Project #****Contact Name/Phone**

DAVID PAINE 6878

**Bid #**

IPWQ 5678-22

**Contact E-Mail**

DPAINE@SPOKANECITY.ORG

**Requisition #**

CR 25895

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

4490 CONTRACT AMENDMENT FOR ANNUAL HVAC SERVICES

**Agenda Wording**

Contract amendment with McKinstry Co., LLC. (Spokane, WA) for HVAC Services at the Waste to Energy Facility from 3/31/23-2/29/24 for an additional cost \$30,000.00 and a total annual cost of \$80,000.00.

**Summary (Background)**

The Waste to Energy Facility utilizes HVAC systems in all areas of the plant. This equipment requires quarterly inspections and as-needed repairs. On Dec. 21, 2022, McKinstry was the low cost bidder for IPWQ 5678-22 for these services and awarded a one year contract from 3/1/23-2/29/24 with a cost not to exceed \$50,000.00. Due to some unanticipated major repairs needed, an additional \$30,000.00 is needed to complete the remainder of scheduled work for the contract term.

Lease? NO

Grant related? NO

Public Works? YES

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ \$80,000.00

Current Year Cost \$ \$30,000.00

Subsequent Year(s) Cost \$ 0

**Narrative**

This is an annual maintenance expense. The additional funds needed will be offset by adjustments to other planned maintenance in 2024.

**Amount****Budget Account**

Expense \$ 30,000.00

# 4490-44100-37148-54803-34002

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#





**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

<b><u>Dept Head</u></b>	AVERYT, CHRIS
<b><u>Division Director</u></b>	FEIST, MARLENE
<b><u>Accounting Manager</u></b>	ALBIN-MOORE, ANGELA
<b><u>Legal</u></b>	HARRINGTON,
<b><u>For the Mayor</u></b>	PICCOLO, MIKE

**Additional Approvals**

<b><u>PURCHASING</u></b>	PRINCE, THEA

**Distribution List**

Paul Steinheiser, paulst@mckinstry.com	mdorgan@spokanecity.org
jsalstrom@spokanecity.org	tprince@spokanecity.org
rrinderle@spokanecity.org	

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	January 29, 2024
<b>Submitting Department</b>	Solid Waste Disposal
<b>Contact Name</b>	David Paine
<b>Contact Email &amp; Phone</b>	<a href="mailto:dpaine@spokanecity.org">dpaine@spokanecity.org</a> , 625-6878
<b>Council Sponsor(s)</b>	<u>CP Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Contract amendment for HVAC Services at the Waste to Energy Facility
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>The Waste to Energy Facility utilizes HVAC systems in all areas of the plant as well as the Administration Building. This equipment requires quarterly inspections and as-needed repairs to maintain safe operation of the facility and equipment.</p> <p>On December 21, 2022, bidding closed on IPWQ 5678-22 for scheduled and unscheduled maintenance to the HVAC systems at the Waste to Energy Facility. McKinstry was the low cost bidder and awarded a one year contract, with the possibility of four (4) additional one-year renewals. The contract term is from March 1, 2023 through February 29, 2024 with a cost not to exceed \$50,000.00. Due to some unanticipated major repairs needed, the original contract will need an additional \$30,000.00 including tax added, bringing the total annual cost to \$80,000.00.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$30,000.00 additional for a total annual cost of \$80,000.00</u></p> <p>    Current year cost: \$30,000.00</p> <p>    Subsequent year(s) cost: 0</p> <p><b>Narrative:</b> <u>This is an annual maintenance expense. The additional funds needed for this contract will be offset by adjustments to other planned maintenance in 2024.</u></p> <p><b>Funding Source</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Program revenue</p> <p>Is this funding source sustainable for future years, months, etc? Yes</p> <p><b>Expense Occurrence</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
<p>What impacts would the proposal have on historically excluded communities?</p> <p>This work is necessary to maintain the WTE Facility's ability to generate low-cost power supplied to the grid. Low-cost power is imperative to curbing the rise in cost of electricity.</p>	

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

The contractor is governed by WA L&I.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

The COS Procurement Policies regulate and safeguard this process.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This work supports the continued safe operation the Facility. The expenditure is supportive of the Sustainable Action Plan and the Capital Improvement Program.



**City of Spokane**  
**CONTRACT AMENDMENT #1**  
Title: **Preventative Maintenance**  
**IPWQ 5678-22**

This Contract Amendment is made and entered into by and between the **City of Spokane** as (“City”), a Washington municipal corporation, and **McKinstry Co., LLC.**, whose address is 601 East Riverside Avenue, Suite 510, Spokane, Washington 99202 as (“**Contractor**”), individually hereafter referenced as a “Party”, and together as the “Parties”.

*WHEREAS, the parties entered into a Contract wherein the **Contractor** agreed to provide Annual HVAC Services – Scheduled and Unscheduled preventative maintenance located at the Waste to Energy Facility; and*

*WHEREAS, a change or revision of the Work has been requested, thus the original Contract needs to be formally Amended by this written document; and*

*NOW, THEREFORE, in consideration of these terms, the parties mutually agree as follows:*

**1. CONTRACT DOCUMENTS.**

The Contract, dated January 18, 2023, and January 19, 2023, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE DATE.**

This Contract Amendment shall become effective on March 1, 2023.

**3. ADDITIONAL WORK.**

The Scope of Work in the original Contract is revised to include the following:

**Unanticipated repairs costs.**

**4. COMPENSATION.**

The City shall pay an additional amount not to exceed **THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000.00)** for everything furnished and done under this Contract Amendment. This is the maximum amount to be paid under this Amendment, and shall not be exceeded without the prior written authorization of the City, memorialized with the same formality as the original Contract and this document.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Contract Amendment by having legally-binding representatives affix their signatures below.

**McKINSTRY CO. LLC.**

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature Date

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

**Attachments that are part of this Agreement:**

N/A

U2023-002



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd** 1/16/2024

**Clerk's File #** OPR 2020-0091

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

<b>Submitting Dept</b>	SOLID WASTE DISPOSAL	<b>Project #</b>	
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<b>Contact Name/Phone</b>	DAVID PAINE 625-6878	<b>Bid #</b>	ITB 5210-19
---------------------------	----------------------	--------------	-------------

<b>Contact E-Mail</b>	DPAINE@SPOKANECITY.ORG	<b>Requisition #</b>	VB 301132
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<b>Agenda Item Type</b>	Purchase w/o Contract		
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<b>Council Sponsor(s)</b>	BWILKERSON		
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<b>Agenda Item Name</b>	4490 PURCHASE OF HIGH CALCIUM QUICKLIME		
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**Agenda Wording**

Value blanket renewal 3 of 3 with Pete Lien and Sons (Rapid City, SD) for the purchase and delivery of high calcium quicklime at the Waste to Energy Facility from 3/1/24-2/29/25 with an annual cost not to exceed \$1,500,000.00.

**Summary (Background)**

High calcium quicklime is used to reduce the acid in the flue gas and control the final pH of the ash. On Dec.16, 2019 bidding closed on ITB 5210-19 for the purchase and delivery of this quicklime and Pete Lien and Sons was the only responsible bidder. The initial value blanket award in 2019 was for two years with the option of three additional one-year renewals. This will be the last of those renewals and the price per ton will increase from \$252.93 to \$278.94 plus fuel surcharges.

Lease? NO Grant related? NO Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost	\$ 1,500,000.00
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Current Year Cost	\$ 1,500,000.00
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Subsequent Year(s) Cost	\$ 0
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**Narrative**

This is an annual operating expense that was planned for in the 2024 Solid Waste Disposal Budget.

**Amount**

**Budget Account**

Expense	\$ 1,500,000.00	# 4490-44100-37148-532023
Select	\$	#
Select	\$	#
Select	\$	#
	\$	#
	\$	#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

**Dept Head**

AVERYT, CHRIS

**Division Director**

FEIST, MARLENE

**Accounting Manager**

ALBIN-MOORE, ANGELA

**Legal**

HARRINGTON,

**For the Mayor**

PICCOLO, MIKE

**Additional Approvals**

**PURCHASING**

PRINCE, THEA

**Distribution List**

mdorgan@spokanecity.org

jsalstrom@spokanecity.org

tprince@spokanecity.org

rrinderle@spokanecity.org

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	January 29, 2024
<b>Submitting Department</b>	Solid Waste Disposal
<b>Contact Name</b>	David Paine
<b>Contact Email &amp; Phone</b>	<a href="mailto:dpaine@spokanecity.org">dpaine@spokanecity.org</a> , 625-6878
<b>Council Sponsor(s)</b>	<u>CP Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Value blanket renewal for the purchase of High Calcium Quicklime for use at the Waste to Energy Facility.
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>High Calcium Quicklime is required for operation of the Waste to Energy Facility. It is used to reduce acid in the flue gas and control the final pH of the ash. Water is added to the powdered lime to create a slurry which is injected into the flue gas to remove hydrochloric acid and sulfur dioxide to comply with environmental regulations. The slurry also helps to cool the flue gasses to the correct emission temperature.</p> <p>On December 16, 2019 bidding closed for ITB 5210-19 for the purchase and delivery of this High Calcium Quicklime. Two responses were received and Pete Lien and Sons, of Rapid City, SD, was the only responsible bidder and was awarded a two year value blanket from March 1, 2020 through February 28, 2022 with the option of three (3) additional one-year contract periods. This will be the third renewal from Mar. 1, 2024 through Feb. 29, 2025 with an additional cost not to exceed \$1.5M plus tax. The price for lime for this renewal was increased from \$252.93/ton to \$278.94/ton. Fuel surcharges will still be determined monthly.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$1,500,000.00 plus tax</u></p> <p>    Current year cost: \$1,500,000.00 plus tax</p> <p>    Subsequent year(s) cost: 0</p> <p><b>Narrative:</b> <u>This is a required operating expense that was planned for in the 2024 budget.</u></p> <p><b>Funding Source</b>            <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Program revenue</p> <p>Is this funding source sustainable for future years, months, etc? Yes</p> <p><b>Expense Occurrence</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
What impacts would the proposal have on historically excluded communities?	



This work is necessary to maintain the WTE Facility's ability to generate low-cost power supplied to the grid. Low-cost power is imperative to curbing the rise in cost of electricity.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

The contractor is governed by WA L&I.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

The COS Procurement Policies regulate and safeguard this process.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This work supports the continued safe operation the Facility. The expenditure is supportive of the Sustainable Action Plan and the Capital Improvement Program.



CITY OF SPOKANE - WTEF  
 2900 S GEIGER BLVD  
 SPOKANE, WA 99224-5400  
 PHONE 509 625 6527

Value Blanket VB-301132	Two-Year Base Period	1st Option Renewal	2nd Option Renewal	3rd Option Renewal
	VB-301132-000	VB-301132-001	VB-301132-002	VB-301132-003
	Valid 2-1-2021 Through 2-28-2022	Valid 3-1-2022 Through 2-28-2023	Valid 3-1-2023 Through 2-28-2024	Valid 3-1-2024 Through 2-28-2025
High Calcium Quicklime	\$200.09 Per Ton	\$218.87 Per Ton		
Fuel Surcharge Per Deliver	\$762.56 Per Delivery	<p>We are using an industry standard fuel surcharge calculation. Since our bid is based on the Dick Irvin rate structure, we are very familiar with the calculation and can work with you to provide any backup necessary. In addition, Pete Lien &amp; Sons can handle administering the calculation so that the City does not see any costs or problems. The fuel surcharge fee of 1% applies for each \$0.05 fuel increase over \$2.00 per gallon We update the fuel surcharge weekly using Region 4, Rocky Mountain. As of today, the price is \$3.207 and a 25% FSC applies. To illustrate the calculation, the freight rate (\$95.31/ton) is multiplied by the current % rate (25%), therefore we get a fuel surcharge rate of \$23.83/ton. The costs per load is calculated by \$23.83/ton x 32 tons/load = \$762.56/load x 187 loads/year = \$142,599.</p>	<p>The proposed lime price is \$135.00/ton + base freight \$117.93/ton = <del>\$252.93/ton delivered</del> + FSC. Proposed diesel fuel surcharges are to be determined on a monthly basis rather than weekly utilizing the same diesel fuel surcharge chart that is currently being utilized.</p>	<p>The proposed lime price is \$158.65/ton + base freight \$120.29/ton = \$278.94/ton delivered + FSC. Proposed diesel fuel surcharges are to be determined on a monthly basis rather than weekly utilizing the same diesel fuel surcharge chart that is currently being utilized.</p>
Pete Lien	Base Pricing was per Pete Lien's response to ITB 5210-19		NAME	
3401 Univesal Drive, Rapid City, SD 57702				Daryl R. Mecham
Mr. Daryl Mecham, Technical Director - Sales			SIGNATURE	
Cell 605 872 1400 / Office 605 939 2714				
<a href="mailto:dmechan@petelien.com">dmechan@petelien.com</a>			DATE	11/27/2023



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd**

1/16/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

**Submitting Dept**

SOLID WASTE COLLECTION

**Project #**

**Contact Name/Phone**

CHRIS AVERYT 625.6540

**Bid #**

SOURCEWELL

**Contact E-Mail**

CAVERYT@SPOKANECITY.ORG

**Requisition #**

RE 20351

**Agenda Item Type**

Purchase w/o Contract

**Council Sponsor(s)**

JBINGLE

**Agenda Item Name**

4500-PURCHASE OF COMPRESSED NATURAL GAS (CNG) BACKUP GENERATOR

**Agenda Wording**

Purchase of a Compressed Natural Gas (CNG) Backup Generator from West Coast Energy Systems (Auburn, WA) -- \$171,512.00, plus applicable tax.

**Summary (Background)**

Starting in 2015, Solid Waste Collection's diesel trucks have been replaced, as scheduled, with compressed natural gas (CNG) powered trucks. By 2027, the department's fleet will be primarily CNG. Purchasing this generator will ensure that there are enough operational trucks to provide essential solid waste services to customers in the event of a catastrophic power failure.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost

\$ 171,512.00, plus tax

Current Year Cost

\$ 171,512.00, plus tax

Subsequent Year(s) Cost

\$ 220.00/year for monitoring service

**Narrative**

Competitive pricing was obtained by utilizing Sourcewell's contract #092222-GNR.

**Amount**

**Budget Account**

Expense

\$ 171,512.00, plus tax

# 4500-45700-94000-56401-99999

Select

\$

#

Select

\$

#

Select

\$

#

\$

#

\$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

<b><u>Dept Head</u></b>	AVERYT, CHRIS
<b><u>Division Director</u></b>	FEIST, MARLENE
<b><u>Accounting Manager</u></b>	ALBIN-MOORE, ANGELA
<b><u>Legal</u></b>	HARRINGTON,
<b><u>For the Mayor</u></b>	JONES, GARRETT

**Additional Approvals**

<b><u>PURCHASING</u></b>	PRINCE, THEA

**Distribution List**

Kerry Nicolaus; knicolaus@energysystems.com	caveryt@spokanecity.org
rschoonover@spokanecity.org	jsalstrom@spokanecity.org
rhughes@spokaencity.org	tprince@spokanecity.org
rgiddings@spokanecity.org	atrussell@spokanecity.org
Taxes & Licenses	

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	January 29, 2024
<b>Submitting Department</b>	4500 – Solid Waste Collection
<b>Contact Name</b>	Chris Averyt
<b>Contact Email &amp; Phone</b>	<a href="mailto:caveryt@spokanecity.org">caveryt@spokanecity.org</a> / 509.625.6540
<b>Council Sponsor(s)</b>	CM Bingle
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Purchase of a Compressed Natural Gas (CNG) Backup Generator
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>	<p>Solid Waste Collection is requesting the approval to purchase a CNG Backup Generator from West Coast Energy Systems (Auburn, WA). This purchase will allow the department to continue essential operations in the event of a catastrophic power failure. Currently 48% of the department's fleet is CNG. When the department's fleet reaches 100 CNG vehicles in 2027, this generator will have the capability to fuel 62% of the fleet.</p> <p>ITB #6014-23 was issued with four (4) responses received. All vendors had an expected delivery time of 40-56 weeks after receipt of order, so all responses were rejected due to the lead time. West Coast Energy Systems has a comparable unit, ready for delivery this month, which can be purchased through Sourcewell's cooperative purchasing contract #092222-GNR.</p> <p>This purchase will include a remote real-time cloud-based monitoring unit that will send alerts via text and/or email if there is an urgent generator event.</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$171,512.00, plus applicable tax</u></p> <p>Current year cost: \$171,512.00, plus applicable tax (this purchase was part of the CIP and budgeted for 2023; funds were encumbered last year and carried over into 2024).</p> <p>Subsequent year(s) cost: Monitoring costs - \$220.00 per year starting in 2025; 1<sup>st</sup> year is included in cost.</p> <p><b>Narrative:</b> Competitive pricing was obtained by utilizing Sourcewell's contract #092222-GNR.</p> <p><b>Funding Source</b>    <input checked="" type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Program revenue</p> <p>Is this funding source sustainable for future years, months, etc? Yes, funding is from Utility Rates.</p> <p><b>Expense Occurrence</b>    <input checked="" type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.): The installation of this equipment is part of the CIP and budgeted for 2024. A bid will need to be issued for this expense.</p>	

<p><b>Operations Impacts</b> (If N/A, please give a brief description as to why)</p>
<p>What impacts would the proposal have on historically excluded communities?</p> <p>N/A – None identified.</p>
<p>How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?</p> <p>N/A – Data will not be collected.</p>
<p>How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?</p> <p>Thorough research was done prior to selecting this model of backup generator for Solid Waste’s CNG collection vehicles; Facilities Maintenance and Fleet Services were consulted during the processes. Any costs, not covered by the five (5) year comprehensive warranty, will be monitored. In the unfortunate event of a power failure, the department will analyze the overall performance of the backup generator to make any future decisions. The monitoring service has various reports that can be generated and reviewed as needed.</p>
<p>Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?</p> <p>This purchase aligns with the department’s Capital Improvement Plan and was budgeted for accordingly. Having a backup generator meets the goals of the Comprehensive Plan <i>CFU 1.1 Level of Service</i> and <i>CFU 1.2 Operational Efficiency</i> by working to offer excellent and effective service while maintaining fiscal responsibility. It also ensures that customers receive uninterrupted solid waste services as required by <i>Spokane Municipal Code 13.02.0200 Universal Service by the City</i> and <i>13.02.0202 Compulsory Service</i>.</p>

# Expenditure Control Form



1. All requests being made, including those against master agreements, must be accompanied by this form.
2. All requests requiring City Council approval exceeding \$100,000 must be accompanied by this form.
3. Route **ALL** requests to the Division Director first and then the CFO for signature.
4. The CFO will route for signature to the City Administrator.

**Today's Date:**

**Type of expenditure:**

Goods  Services

**Department:**

**Approving Supervisor:**

**Amount of Proposed Expenditure:**

Is this against a master agreement? If yes, please provide the number:

**Funding Source**

**Please verify correct funding sources. Indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

**What are the impacts if expenses are deferred?**

**What alternative resources have been considered?**

**Description of the goods or service and any additional information?**

**Person Submitting Form/Contact:**

**Division Director:**

**CFO Signature:**

**City Administrator Signature:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Additional Comments:**

## Schoonover, Rachel

---

**From:** Averyt, Chris  
**Sent:** Wednesday, October 4, 2023 7:56 AM  
**To:** Schoonover, Rachel  
**Subject:** FW: Generator for the CNG Compressor Expenditure Control Form

Hi Rachel,  
Per the email trail below, the project has been approved by all signers but unfortunately do not have a signed form so would use this trail.

Chris

---

**From:** Jones, Garrett <[gjones@spokanecity.org](mailto:gjones@spokanecity.org)>  
**Sent:** Wednesday, October 4, 2023 7:54 AM  
**To:** Averyt, Chris <[caveryt@spokanecity.org](mailto:caveryt@spokanecity.org)>; Haugen, Erin <[ehaugen@spokanecity.org](mailto:ehaugen@spokanecity.org)>  
**Cc:** Wallace, Tonya <[twallace@spokanecity.org](mailto:twallace@spokanecity.org)>  
**Subject:** RE: Generator for the CNG Compressor Expenditure Control Form

Hi Chris, for some reason these are not getting processed correctly but please use this email as my approval.

Thanks,

**GARRETT JONES** | CITY OF SPOKANE | INTERIM CITY ADMINISTRATOR  
509.363.5462 office | 509.795.9936 cell | [gjones@spokanecity.org](mailto:gjones@spokanecity.org) | [spokanecity.org](http://spokanecity.org)



Emails and attachments sent to or from the City, including personal information, are presumptively public records that are subject to disclosure. - Chapter 42.56 RCW

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**From:** Averyt, Chris <[caveryt@spokanecity.org](mailto:caveryt@spokanecity.org)>  
**Sent:** Tuesday, October 3, 2023 12:25 PM  
**To:** Jones, Garrett <[gjones@spokanecity.org](mailto:gjones@spokanecity.org)>  
**Subject:** FW: Generator for the CNG Compressor Expenditure Control Form

Hi Garrett,  
Sorry to bother you but we can you review when you get a chance if you haven't, this is for a backup generator for the CNG fueling station at Solid Waste Collections. Thank you.

Chris

---

**From:** Wallace, Tonya <[twallace@spokanecity.org](mailto:twallace@spokanecity.org)>  
**Sent:** Tuesday, October 3, 2023 12:22 PM  
**To:** Averyt, Chris <[caveryt@spokanecity.org](mailto:caveryt@spokanecity.org)>; Feist, Marlene <[mfeist@spokanecity.org](mailto:mfeist@spokanecity.org)>; Haugen, Erin <[ehaugen@spokanecity.org](mailto:ehaugen@spokanecity.org)>  
**Subject:** RE: Generator for the CNG Compressor Expenditure Control Form

I signed on 9/27. It might with Garrett.



**Tonya Wallace** | City of Spokane | Chief Financial Officer  
509.844.4456 | fax 509.625.6939 | [twallace@spokanecity.org](mailto:twallace@spokanecity.org) | [spokanecity.org](http://spokanecity.org)



*Emails and attachments sent to or from the City, including personal information, are presumptively public records that are subject to disclosure. - Chapter 42.56 RCW*

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**From:** Averyt, Chris <[caveryt@spokanecity.org](mailto:caveryt@spokanecity.org)>  
**Sent:** Tuesday, October 3, 2023 9:42 AM  
**To:** Feist, Marlene <[mfeist@spokanecity.org](mailto:mfeist@spokanecity.org)>; Haugen, Erin <[ehaugen@spokanecity.org](mailto:ehaugen@spokanecity.org)>; Wallace, Tonya <[twallace@spokanecity.org](mailto:twallace@spokanecity.org)>  
**Subject:** RE: Generator for the CNG Compressor Expenditure Control Form

Good Morning Everyone,  
I was checking on the status of this request to see if it had been approved? Thank you.

Chris

---

**From:** Feist, Marlene <[mfeist@spokanecity.org](mailto:mfeist@spokanecity.org)>  
**Sent:** Tuesday, September 26, 2023 3:42 PM  
**To:** Haugen, Erin <[ehaugen@spokanecity.org](mailto:ehaugen@spokanecity.org)>; Wallace, Tonya <[twallace@spokanecity.org](mailto:twallace@spokanecity.org)>  
**Cc:** Averyt, Chris <[caveryt@spokanecity.org](mailto:caveryt@spokanecity.org)>  
**Subject:** Generator for the CNG Compressor Expenditure Control Form

Hi all,  
Not sure what happened to this one, but here is one for Solid Waste.  
Thanks.  
Marlene



**Marlene Feist** | City of Spokane | Public Works Director  
509.625.6505 | cell 509.710.9214 | [mfeist@spokanecity.org](mailto:mfeist@spokanecity.org) | [spokanecity.org](http://spokanecity.org)





**Date:** November 16, 2023

**To:** City of Spokane

**Attn:** Thea Prince

**Reference:** ITB 6014-23 Natural Gas Generator - Sourcewell

Energy Systems is pleased to offer the following proposal:

**Scope of Supply:**

Quantity 1 - Generac Industrial gaseous engine-driven generator, turbocharged/aftercooled 12 cylinder 21.9L engine, consisting of the following features and accessories:

- Stationary Emergency-Standby rated
- 400 kW Rating, wired for 277/480 VAC three phase, 60 Hz
- Level 2 Acoustic Enclosure, Steel
  - Industrial Grey Baked-On Powder Coat Finish
- UL2200
- Power Zone Digital Control Panel for Single or MPS Generators
  - Meets NFPA 99 and 110 requirements
  - Temp Range -40 to 70 degrees C
  - Humidity 2 – 95% (Non Condensing)
  - UL6200
  - C-ETL-US
  - CE
  - FCC
  - IEC801 (Radiated Emissions, Susceptibility, and Surge Immunity)
  - 7" Resistive Color Touchscreen
    - Built-in Webserver
    - IP65 (front)
    - Auto/Manual/Off key switch, Alarm Indication, Not in Auto Indication, audible alarm, emergency stop switch
  - Dual Core Digital Microprocessor
    - RS485, Ethernet and CANbus ports
  - Sensors: Oil Pressure, optional Oil Temp, Coolant Temp and Level, Fuel Level/Pressure (where applicable), Engine Speed, DC Battery Voltage, Run-time Hours, Generator Voltages, Amps, Frequency, Power, Power Factor
    - Alarm Status: Low or High AC Voltage, Low or High Battery Voltage, Low or High Frequency, Pre-low or Low Oil Pressure, Pre-high or High Oil Temp (optional), Low Water Level and Temp, Pre-high or High Engine Temp, High, Low, and Critical-low Fuel Level/Pressure (where applicable), Overcrank, Over and Under Speed, Unit Not in Automatic
    - Programmable I/O
    - Built-in PLC for special applications
  - Engine function monitoring and control:

- Full range standby operation; programmable auto crank, Emergency Stop, Auto-Off- Manual switch
- Isochronous Governor
  - 0.25% digital frequency regulation with: soft-start ramping - adjustable, gain - adjustable, overshoot limit - adjustable
- 3 Phase RMS Voltage Sensing
  - +/-0.5% digital voltage regulation with: soft-start voltage ramping - adjustable, loss of sensing protection - adjustable, negative power limit - adjustable, Hi/Lo voltage limit - adjustable, V/F slope and gain - adjustable, fault protection
- Service reminders, trending, fault history (alarm log)
- I2T function for full generator protection
- Selectable low-speed exercise
- 2 and 3-wire start controls for any industrial grade transfer switch
- 21 Light Annunciator - Surface
- Remote Emergency Stop Switch, Break-Glass, shipped loose
- 225 AH, 1155 CCA Group 8D Batteries, with rack, installed
- Air Filter Restriction Ind
- Battery Charger, 10 Amp, NFPA 110 compliant, installed
- Coolant Heater, 2500W, 240VAC
- Std set of 3 Manuals
- 120V GFCI and 240V Outlet
- Alternator Tropical Coating
- Engine Run Relay
- Flex Fuel Line
- Flush Mount Annunciator Kit
- Oil Temp Sender
- Optional Fan and Belt Guards
- MLCB, 100% rated, LSI Electronic Trip
  - 700 Amp
- Premium 5-Year Comprehensive Warranty
- SG0400KG30219S18PPLYG

**Pricing:**

<b>Equipment Pricing (Training &amp; Startup Included) .....</b>	<b>\$ 167,312.00</b>
<b>Estimated Freight .....</b>	<b>\$ 3,200.00</b>

**Optional Adders:**

- Generac Industrial Connectivity Monitoring (Installed During Startup) \$ 1000
  - Includes 1<sup>st</sup> Year of Subscription

**Shipping:**

Estimated lead time from factory, excluding transit: ESD 1/16/2024

**Scope Clarifications:**

- Estimated Submittal Lead time: 5-7 business days.
- No equipment will be ordered without written release to proceed – price changes issued by the manufacturer after quotation validity and prior to release will be passed along to the customer.
- Pricing includes freight to site.

- If transfer switch needs to be shipped separately, additional freight charges will apply.
- Pricing for adders purchased separately from equipment will be assessed at time of purchase.
- Installation, fueling and termination of connections not included.
- **Installation of diesel tank extended venting is not included.**
- Installation and mounting of exhaust not included.
- The Energy Systems provided start-up checklist and supporting pictures must be received by Supplier two weeks prior to technician scheduling.
- All industrial products require a formal start up by a Generac factory certified technician.
- Pricing is based on work being completed during regular business hours.
- Load bank (if included) is resistive load.
- Training to be completed same day as start up. Additional charges will apply if a separate trip is required.
- Enclosure color is Generac Industrial grey. Custom colors can be quoted separately.
- Not included unless otherwise noted: equipment offloading, installation, fuel, permits, signage, taxes, exhaust system backpressure test, exhaust emissions test, infrared scanning, NETA testing, harmonic testing, concrete pad, anchoring, fuel pipe, exhaust pipe, pipe insulation, Building communication integration, license fees.

**Other Terms and Conditions:**

1. Offer Validity: 30 days.
2. Payment terms: (select one payment term and delete all other text)

***Customers with credit***

10% deposit due at time of order, balance invoiced at shipment with NET 30.

***Customers without credit***

25% deposit due at time of order, 70% due prior at shipment readiness, 5% due at start-up.

3. Credit is subject to approval by Energy Systems upon receipt of business credit application.
4. Incoterms: ExWorks factory with freight allowed to the jobsite, on a truck, curbside.
5. Manufacturer lead time to be confirmed upon approved release for production letter and receipt of a West Coast Energy Systems approved purchase order.
6. Equipment cannot be held by Energy Systems or its suppliers without prior written agreement.
7. Any sale of goods or services, and any extension of credit, is governed by and subject to West Coast Energy Systems' Terms and Conditions of Sales and Service ("Terms") located at <https://energysystems.com/terms-and-conditions-of-sale-and-service/> which is incorporated by reference. The Terms are subject to change at any time and you are advised to frequently re-review the Terms. Unless pursuant to a written agreement mutually executed by both parties, the Terms shall be binding upon the parties, and any other terms, communications or documents are to be disregarded and hereby expressly rejected.

Sincerely,

Kerry Nicolaus  
West Coast Energy Systems  
(209) 479-0413



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd** 1/17/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

**Submitting Dept** INTEGRATED CAPITAL

**Project #** 2017170

**Contact Name/Phone** MARK PAPICH 625-6310

**Bid #**

**Contact E-Mail** MPAPICH@SPOKANECITY.ORG

**Requisition #**

**Agenda Item Type** Contract Item

**Council Sponsor(s)** BWILKERSON

**Agenda Item Name** 4250 – DEPT OF ECOLOGY LOAN AGREEMENT MARION HAY INTERTIE

**Agenda Wording**

Loan Agreement with the State of Washington Department of Ecology for Marion Hay Sewer - \$5,226,665 Revenue.

**Summary (Background)**

State of Washington Department of Ecology, agreement WQC-2024-Spokane-00109 to include loan funds of \$5,226,665.

Lease? NO Grant related? NO Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 5,226,665.00

Current Year Cost \$ 5,226,665.00

Subsequent Year(s) Cost \$

**Narrative**

The low interest loan allows the City to pay for the construction over a 20 year period. This allows costs to be spread over a longer time period, ease cashflow concerns, and protects the infrastructure by not delay construction.

**Amount**

**Budget Account**

Revenue \$ 5,226,665.00

# 4250 98817 99999 38271 14354

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#



## Continuation of Wording, Summary, Approvals, and Distribution

### Agenda Wording

### Summary (Background)

#### **Approvals**

##### Dept Head

DAVIS, MARCIA

##### Division Director

FEIST, MARLENE

##### Accounting Manager

ALBIN-MOORE, ANGELA

##### Legal

SCHOEDEL, ELIZABETH

##### For the Mayor

PICCOLO, MIKE

#### **Additional Approvals**

#### **Distribution List**

	eraea@spokanecity.org
jrhall@spokanecity.org	icmaccounting@spokanecity.org
mpapich@spokanecity.org	mdavis@spokanecity.org

## Committee Agenda Sheet

### Public Safety & Community Health Committee

<b>Committee Date</b>	1/29/2024
<b>Submitting Department</b>	Integrated Capital Management
<b>Contact Name</b>	Mark Papich
<b>Contact Email &amp; Phone</b>	mpapich@spokanecity.org
<b>Council Sponsor(s)</b>	<u>Council President Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Department of Ecology CWSRF Loan Agreements
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>The Department of Ecology annually awards funding for grants and loans based on competitive process and legislature approval. In October of 2022 the City applied for Clean Water State Revolving Fund (CWSRF) loans through the Washington State Department of Ecology to construct the Marion Hay Sewer Intertie (Holland Sewer) and the Nine Mile Sewer Re-route, both gravity sanitary sewer line construction projects that eliminate maintenance intensive pump stations. These agreements require City Council approval by resolution.</p> <p>Below are the pertinent details of the loan agreements:</p> <ul style="list-style-type: none"> <li>• Marion Hay Intertie (Holland Sewer)               <ul style="list-style-type: none"> <li>▪ Total Loan Amount: \$5,226,665</li> <li>▪ Interest Rate: 2.4%</li> <li>▪ Loan Term: 20-years</li> </ul> </li> <li>• Nine Mile Sewer Re-route               <ul style="list-style-type: none"> <li>▪ Total Loan Amount: \$4,500,000</li> <li>▪ Interest Rate: 2.4%</li> <li>▪ Loan Term: 20-years</li> </ul> </li> </ul>
<b>Fiscal Impact</b> <b>Approved in current year budget?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Total Cost: <u>\$9,726,655</u> Current year cost: <u>\$9,726,665</u> Subsequent year(s) cost:	
<b>Narrative:</b> <u>The low interest loan allows the City to pay for the construction over a 20 year period. This allows costs to be spread over a longer time period, ease cashflow concerns, and protects the infrastructure by not delay construction.</u>	
<b>Funding Source</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A Specify funding source: Select Funding Source* Is this funding source sustainable for future years, months, etc? <a href="#">Click or tap here to enter text.</a>	
<b>Expense Occurrence</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A	
Other budget impacts: (revenue generating, match requirements, etc.)	



<p><b>Operations Impacts</b> (If N/A, please give a brief description as to why)</p>
<p><b>What impacts would the proposal have on historically excluded communities?</b></p> <p>Public Works services and projects are designed to serve all residents and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.</p>
<p><b>How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?</b></p> <p>N/a - This is a public works project and should not impact racial, gender identity, national origin, income level, disability, sexual orientation, or other existing disparity factors.</p>
<p><b>How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?</b></p> <p>Public Works follows the City’s established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.</p>
<p><b>Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?</b></p> <p>This project is consistent with the City’s adopted policies and programs.</p>



## Agreement No. WQC-2024-Spokane-00109

### WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF SPOKANE

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as “ECOLOGY,” and City of Spokane, hereinafter referred to as the “RECIPIENT,” to carry out with the provided funds activities described herein.

#### GENERAL INFORMATION

Project Title:	Marion Hay Intertie
Total Cost:	\$5,700,000.00
Total Eligible Cost:	\$5,226,665.00
Ecology Share:	\$5,226,665.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	01/01/2023
The Expiration Date of this Agreement is no later than:	06/30/2024
Project Type:	Wastewater Facility

#### Project Short Description:

This project improves water quality in the Spokane River through the design and construction of wastewater collection facilities at 9470 N Colton Street in the City of Spokane. This project improves collection capacity and repairs/replaces existing infrastructure. Benefits include more reliable collection and transport of waste.

#### Project Long Description:

This project improves water quality in the Spokane River through the design and construction of wastewater collection facilities at 9470 N Colton Street in the City of Spokane. This project improves collection capacity and repairs/replaces existing infrastructure. Benefits include more reliable collection and transport of waste.

North Pointe Lift Station is one of the 3 lift stations that provides sewer service to the northeast portion of the City of Spokane, north of Francis Avenue and east of Division Street. Located at 9470 N Colton Street, on the southeast

Agreement No: WQC-2024-Spokane-00109  
Project Title: Marion Hay Intertie  
Recipient Name: City of Spokane

corner of Colton and Holland, service is provided to approximately 1200 acres of commercial, multiple family and single-family residential land use. Construction of the lift station concluded in 1979. The lift station is a former package plant originally used at Glenaire Lagoons and reused at North Pointe. Flows are conveyed 12,000 feet through a 16-inch diameter ductile iron force main to Nevada and Lyons, where it connects to the gravity line and the sewer ultimately flows into Interceptor I03 in Jackson Avenue.

The overall project will construct 6,400 feet of 15-inch sanitary sewer in two phases. This agreement covers phase 1. Phase 1 will include the north segment which begins at the intersection of Colton Street and Hoerner Avenue then north to Holland Avenue then west in Holland Avenue to Normandie Street where the new line will connect into Spokane County's sewer system and drain to Spokane County's Marion Hay lift station. This lift station discharges back into the RECIPIENT's sewer system at Rowan Avenue and Cannon Street. Construction of the new conveyance piping will allow the existing lift station to be abandoned with the existing forcemain also being abandoned and filled with sand or controlled density fill (CDF). This will allow for the RECIPIENT to eliminate the problematic Northpointe Lift Station and associated forcemain.

Overall Goal:

The overall goal of the project is to eliminate the Northpointe Lift Station to eliminate the potential of an sanitary sewer overflow which would drain to drywells and potentially the Spokane Valley Rathdrum Prairie (SVRP) and nearby wellhead protection areas (both of which connect to waterbodies). In addition, the existing forcemain would be eliminated which will reduce hydrogen sulfide issues.

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 Project Title: Marion Hay Intertie  
 Recipient Name: City of Spokane

**RECIPIENT INFORMATION**

Organization Name: City of Spokane

Federal Tax ID: 91-6001280  
 UEI Number: PDNCLY8MYJN3

Mailing Address: 808 W Spokane Falls Blvd  
 Spokane, WA 99201

Organization Email: mpapich@spokanecity.org  
 Organization Fax: (509) 343-5760

**Contacts**

<p><b>Project Manager</b></p>	<p>Mark Papich                  Senior Engineer</p> <p>808 W Spokane Falls Blvd                  Spokane, Washington 99201                  Email: mpapich@spokanecity.org                  Phone: (509) 625-6310</p>
<p><b>Billing Contact</b></p>	<p>LaVonne Martelle                  Accountant I</p> <p>44 W Riverside                  Spokane, Washington 99201-3343                  Email: lmartelle@spokanecity.org                  Phone: (509) 625-7000</p>
<p><b>Authorized Signatory</b></p>	<p>Nadine Woodward                  Mayor</p> <p>808 W Spokane Falls Blvd                  Spokane, Washington 99201                  Email: mayor@spokanecity.org                  Phone: (509) 625-6310</p>

Agreement No: WQC-2024-Spokane-00109  
 Project Title: Marion Hay Intertie  
 Recipient Name: City of Spokane

**ECOLOGY INFORMATION**

Mailing Address: Department of Ecology  
 Water Quality  
 PO BOX 47600  
 Olympia, WA 98504-7600

Physical Address: Water Quality  
 300 Desmond Drive SE  
 Lacey, WA 98503

**Contacts**

<p><b>Project Manager</b></p>	<p>Greg Dobb</p> <p>4601 N Monroe Street                  Spokane, Washington 99205-1295                  Email: GDOB461@ecy.wa.gov                  Phone: (509) 329-3440</p>
<p><b>Financial Manager</b></p>	<p>Jeanna Ridner</p> <p>PO Box 47600                  Olympia, Washington 98504-7600                  Email: jmac461@ecy.wa.gov                  Phone: (360) 628-4918</p>
<p><b>Technical Advisor</b></p>	<p>Diana Washington</p> <p>4601 N Monroe Street                  Spokane, Washington 99205-1295                  Email: DWAS461@ecy.wa.gov                  Phone: (509) 329-3519</p>

Agreement No: WQC-2024-Spokane-00109  
 Project Title: Marion Hay Intertie  
 Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 1 **Task Cost:** \$0.00

Task Title: Grant and Loan Administration

### Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: Maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and the EAGL (Ecology Administration of Grants and Loans) recipient closeout report (including photos, if applicable). In the event that the RECIPIENT elects to use a contractor to complete project elements, the RECIPIENT shall retain responsibility for the oversight and management of this funding agreement.

B. The RECIPIENT shall keep documentation that demonstrates the project is in compliance with applicable procurement, contracting, and interlocal agreement requirements; permitting requirements, including application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items. This documentation shall be available upon request.

C. The RECIPIENT shall maintain effective communication with ECOLOGY and maintain up-to-date staff contact information in the EAGL system. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

### Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant or loan administrative requirements.

### Task Expected Outcome:

- \* Timely and complete submittal of requests for reimbursement, quarterly progress reports, Recipient Closeout Report, and two-page outcome summary report.
- \* Properly maintained project documentation.

## Grant and Loan Administration

### Deliverables

Number	Description	Due Date
1.1	Progress Reports that include descriptions of work accomplished, project challenges or changes in the project schedule. Submitted at least quarterly.	
1.2	Recipient Closeout Report (EAGL Form)	

Agreement No: WQC-2024-Spokane-00109  
Project Title: Marion Hay Intertie  
Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 2 **Task Cost:** \$0.00

Task Title: Project Design

### Task Description:

- A. The RECIPIENT will procure engineering services in accordance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT must submit all contracts for engineering services before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will design the Holland Ave Sewer. Plans and specifications developed by the RECIPIENT must be consistent with the requirements of Chapter 173-240 WAC. Elements of the design will include:
1. Approximately 6,400 LF of 15" sewer
  2. Abandonment of XX LF of Forcemain
  3. Abandonment of an Existing Lift Station
  4. Associated roadway repair and area improvements as indicated on the project plans.
- C. The plans and specifications, construction contract documents, and addenda will be approved by the RECIPIENT prior to submittal for ECOLOGY review. All construction plans submitted to ECOLOGY for review and approval will be reduced to no larger than 11" x 17" in size. Plans should note if they are to scale or not. The project manager may request plans be submitted in either PDF or AutoCAD electronic format, and specifications in a searchable PDF or Microsoft Word electronic file. An updated construction cost estimate will be submitted with each plan/specification submittal. The project manager may request a spreadsheet of the estimate in electronic file format.
- D. As a condition of receiving this funding, the RECIPIENT will conduct an Investment Grade Efficiency Audit (IGEA). As a condition of receiving this funding, the RECIPIENT will review their energy use looking for cost-effective energy savings. The recipient may also submit documentation of an energy efficiency review conducted within the last 5 years.
- E. The RECIPIENT will notify Ecology when deliverables are available and have been uploaded to EAGL.

### Task Goal Statement:

Design of the Holland Ave Sewer. Plans and specifications developed by the RECIPIENT must be consistent with the requirements of Chapter 173-240 WAC.

### Task Expected Outcome:

Completed design of the Holland Ave Sewer.

Agreement No: WQC-2024-Spokane-00109

Project Title: Marion Hay Intertie

Recipient Name: City of Spokane

### Project Design

#### Deliverables

Number	Description	Due Date
2.1	Executed contracts for engineering services and documentation of the RECIPIENT's process for procuring engineering services.	
2.2	Copies of the final design.	
2.3	Documentation of an energy efficiency review.	

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Agreement No: WQC-2024-Spokane-00109  
Project Title: Marion Hay Intertie  
Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 3 **Task Cost:** \$5,226,665.00

Task Title: Project Construction

### Task Description:

- A. The RECIPIENT will execute a contract with a contractor selected in compliance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT will submit Bid Tabs, the Notice of Award, and a copy of the executed contract before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will complete the construction in accordance with the approved Plans and Specifications. The construction project will include:
1. Approximately 2600LF of 18" sewer
  2. Road repair including stormwater and drainage
- C. This project includes appropriate and approved mitigation measures necessary to offset clearly identified impacts and allow this water quality project to proceed. No alternative is available. The following specific mitigation work is included in the project scope:
1. Archaeological monitoring plan
- D. The RECIPIENT will conduct a pre-construction conference and will invite ECOLOGY staff to the meeting.
- E. The RECIPIENT will negotiate all change orders to the construction contract necessary for successful completion of the project. The RECIPIENT will submit the change orders to ECOLOGY for approval. Change orders that are a significant deviation from the approved plans/specifications must be submitted for approval, prior to execution. A significant deviation shall be as defined in the Water Quality Program Orange Book, section G1-4.2.6 and mean a change in the selected treatment process, facility size, design criteria, or performance standards that result in changes in expected facility performance or environmental impacts. All other change orders will be submitted to ECOLOGY within 30 days of execution and contain a P.E. stamp if the change order contains engineering content.
- F. The RECIPIENT will submit the minimum requirements as outlined in the EID Guidance, Part A and in the SERP EID at the time plans and specification are submitted to ECOLOGY for approval.
- G. The RECIPIENT will provide an Ecology Cultural Resources Review form as part of the minimum SERP requirements. The RECIPIENT will provide any additional information for ECOLOGY to lead the required cultural resources consultation. Costs incurred for ground disturbing activities that occur before cultural resources review will not be eligible for reimbursement.
- H. The RECIPIENT will complete an Ecology inadvertent discovery plan template for their project.
- I. All mitigation measures committed to in documents developed in the SERP process, such as the environmental mitigation plan, environmental checklist, environmental report, SEPA environmental impact statement (EIS), the finding of no significant impact/environmental assessment, or record of decision/federal EIS will become revolving fund loan agreement conditions. All recipients of funding for water pollution control facility projects must comply with the SERP in accordance with WAC

Agreement No: WQC-2024-Spokane-00109  
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 Recipient Name: City of Spokane

173-98-720.

**Task Goal Statement:**

Complete construction of the Holland Ave Sewer in accordance with the approved Plans and Specifications.

**Task Expected Outcome:**

Completed construction of the Holland Ave Sewer in accordance with the approved Plans and Specifications

**Project Construction**

**Deliverables**

Number	Description	Due Date
3.1	Documentation of the RECIPIENTS procurement process.	
3.2	Bid Tabs, the Notice of Award, and a copy of the executed construction contract.	
3.3	Copy of the notice to proceed.	
3.4	Minutes of the pre-construction meeting.	
3.5	A copy of all change orders.	
3.6	Certification that the asset management program (fiscal sustainability plan) has been developed and is being implemented.	
3.7	Complete SERP EID	
3.8	Ecology Cultural Resources Review Form.	
3.9	Inadvertent Discovery Plan. (IDP)	
3.10	Archaeological Monitoring Plan	

Agreement No: WQC-2024-Spokane-00109  
Project Title: Marion Hay Intertie  
Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 4 **Task Cost:** \$0.00

Task Title: Construction Management

### Task Description:

- A. The RECIPIENT will provide adequate and competent construction management and inspection for the Project. This may involve procuring the professional services. If professional services are procured, the RECIPIENT will procure them in accordance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT must submit all contracts for construction management services before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will develop a detailed Construction Quality Assurance Plan (WAC 173-240-075) and submit it to ECOLOGY for approval prior to any ground disturbing activities. This plan will describe the activities which the RECIPIENT will undertake to achieve adequate and competent oversight of all construction work.
- C. The RECIPIENT will ensure construction progresses according to a timely schedule developed to meet completion dates indicated in the construction contract. The RECIPIENT will revise or update the schedule whenever major changes occur and resubmit to ECOLOGY. A significant change in the scope of work may trigger a SERP review and should be discussed and coordinated with ECOLOGY. In the absence of any major changes, the RECIPIENT will describe progress of the construction in the monthly/quarterly progress reports.
- D. Upon completion of construction, the RECIPIENT will provide ECOLOGY's Project Manager with a set of "as-built" plans by the expiration date of this agreement (i.e., record construction drawings which reflect changes, modifications, or other significant revisions made to the project during construction).
- E. Upon substantial completion, the recipient will notify ECOLOGY and coordinate the project's closeout with ECOLOGY's Project Manager.
- F. Upon project completion, the RECIPIENT will submit the Declaration of Construction Completion form to ECOLOGY in accordance with WAC 173-240-090. The form, when signed by a professional engineer, indicates that the project was completed in accordance with the plans, specifications, and major change orders approved by ECOLOGY, and is accurately shown on the as-built plans.

### Task Goal Statement:

Provide adequate and competent construction management and inspection for the Project.

### Task Expected Outcome:

Provide adequate and competent construction management and inspection for the Project.

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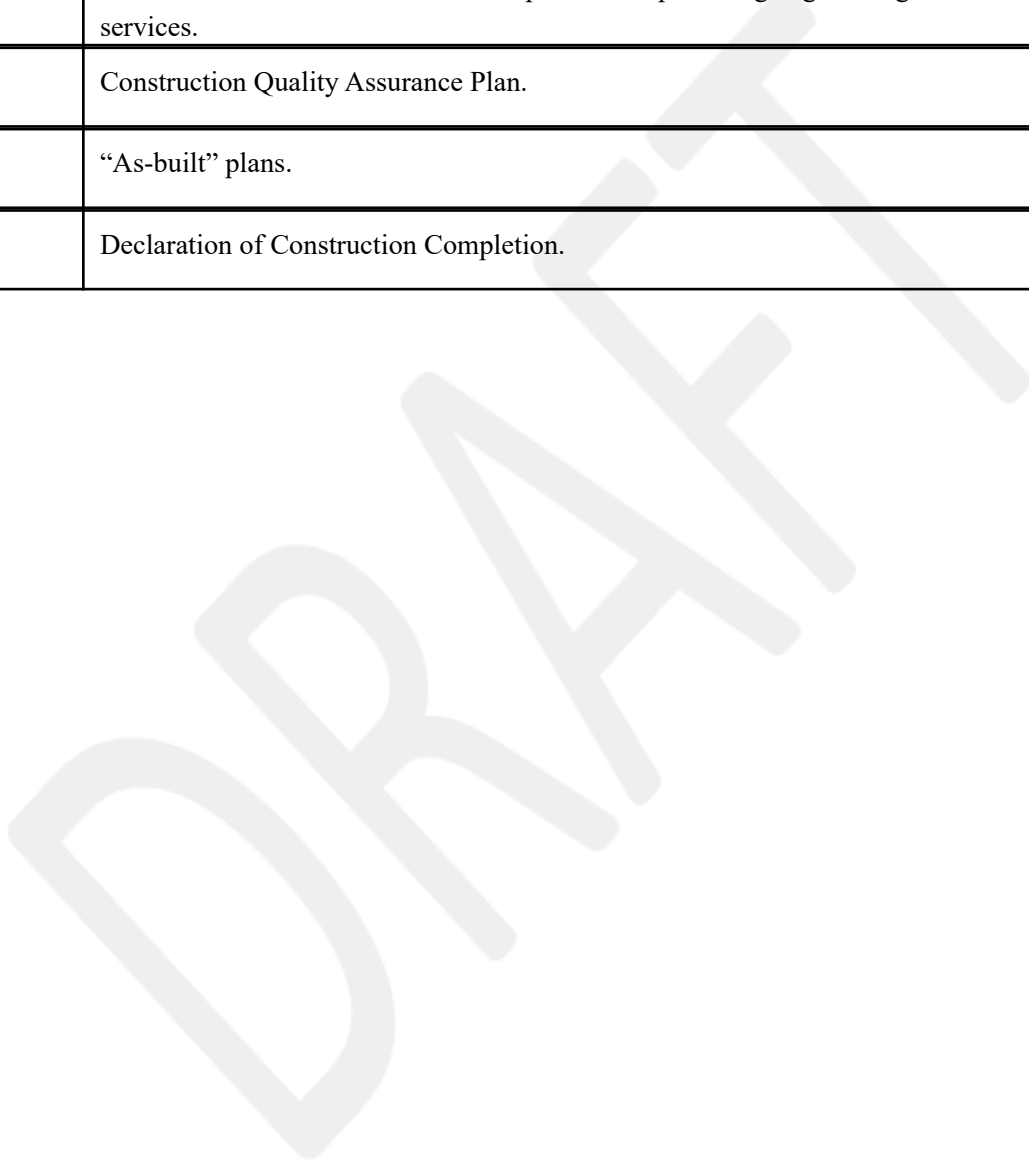
Project Title: Marion Hay Intertie

Recipient Name: City of Spokane

**Construction Management**

**Deliverables**

Number	Description	Due Date
4.1	Executed contract for construction management services.	
4.2	Documentation of the RECIPIENT’s process for procuring engineering services.	
4.3	Construction Quality Assurance Plan.	
4.4	“As-built” plans.	
4.5	Declaration of Construction Completion.	





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Project Title: Marion Hay Intertie

Recipient Name: City of Spokane

<b>SRF Loan</b>	<b>Task Total</b>
Grant and Loan Administration	\$ 0.00
Project Design	\$ 0.00
Project Construction	\$ 5,226,665.00
Construction Management	\$ 0.00

**Total: \$ 5,226,665.00**

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Agreement No: WQC-2024-Spokane-00109  
 Project Title: Marion Hay Intertie  
 Recipient Name: City of Spokane

### **Funding Distribution Summary**

#### **Recipient / Ecology Share**

<b>Funding Distribution Name</b>	<b>Recipient Match %</b>	<b>Recipient Share</b>	<b>Ecology Share</b>	<b>Total</b>
SRF Loan	0.00 %	\$ 0.00	\$ 5,226,665.00	\$ 5,226,665.00
<b>Total</b>		<b>\$ 0.00</b>	<b>\$ 5,226,665.00</b>	<b>\$ 5,226,665.00</b>

#### **AGREEMENT SPECIFIC TERMS AND CONDITIONS**

N/A

#### **SPECIAL TERMS AND CONDITIONS**

WQC-2024—Water Quality Program Special Terms and Conditions (Update June 2023)

##### **SECTION 1: DEFINITIONS**

Unless otherwise provided, the following terms will have the respective meanings for all purposes of this agreement:

“Administration Charge” means a charge established in accordance with Chapter 90.50A RCW and Chapter 173-98 WAC, to be used to pay Ecology’s cost to administer the State Revolving Fund by placing a percentage of the interest earned in an Administrative Charge Account.

“Administrative Requirements” means the effective edition of ECOLOGY's Administrative Requirements for Recipients of Ecology Grants and Loans at the signing of this agreement.

“Annual Debt Service” for any calendar year means for any applicable bonds or loans including the loan, all interest plus all principal due on such bonds or loans in such year.

“Average Annual Debt Service” means, at the time of calculation, the sum of the Annual Debt Service for the remaining years of the loan to the last scheduled maturity of the loan divided by the number of those years.

“Accrued Interest” means the interest incurred as loan funds are disbursed.

“Acquisition” means the purchase or receipt of a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

“Build American Buy American (BABA)” means a portion of the Infrastructure Investment and Jobs Act and establishes a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022.

“Bipartisan Infrastructure Law (BIL)” means funding to improve drinking water, wastewater and stormwater infrastructure.

“Centennial Clean Water Program” means the state program funded from various state sources.

“Contract Documents” means the contract between the RECIPIENT and the construction contractor for construction of the project.

“Construction Materials” means an article, material, or supply (other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; aggregate binding agents or additives; or non-permanent products) that is or consists primarily of, non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), (including optic glass), lumber, and drywall.

“Cost Effective Analysis” means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water quality problem as described in Chapter 173-98-730 WAC.

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“Davis Bacon Prevailing Wage Act” means the federal law mandating on-site workers on public works projects be paid certain wages, benefits, and overtime (also known as “prevailing wage” on all government-funded construction, alteration, and repair projects.

“Defeasance” or “Defeasance” means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

“Effective Date” means the earliest date on which eligible costs may be incurred.

“Effective Interest Rate” means the total interest rate established by Ecology that includes the Administrative Charge.

“Estimated Loan Amount” means the initial amount of funds loaned to the RECIPIENT.

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount and the estimated schedule for completion of the project.

“Equivalency” means the amount of State Revolving Fund (SRF) funding each funding cycle equivalent to the EPA grant to Ecology.

“Equivalency Project” means State Revolving Fund (SRF) funded project(s) designated by ECOLOGY to receive federal funding and meet additional federal requirements.

“Expiration Date” means the latest date on which eligible costs may be incurred.

“Final Accrued Interest” means the interest accrued beginning with the first disbursement of funds to the RECIPIENT through such time as the loan is officially closed out and a final loan repayment schedule is issued.

“Final Loan Amount” means all principal of and accrued interest on the loan from the Project Start Date through the Project Completion Date.

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount and the initiation of operation or completion date, whichever comes first.

“Forgivable Principal” means the portion of a loan that is not required to be paid back by the borrower.

“General Obligation Debt” means an obligation of the RECIPIENT secured by annual ad valorem taxes levied by the RECIPIENT and by the full faith, credit, and resources of the RECIPIENT.

“General Obligation Payable from Special Assessments Debt” means an obligation of the RECIPIENT secured by a valid general obligation of the Recipient payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.

“Gross Revenue” means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to Defeasance or refund Utility obligations or (B) in an obligation redemption fund or account other than the Loan Fund until commingled with other earnings and revenues of the Utility or (C) held in a special account for the purpose of paying a rebate to the United States Government under the Internal Revenue Code.

“Guidelines” means the ECOLOGY’s Funding Guidelines that that correlate to the State Fiscal Year in which the project is funded.

“Initiation of Operation Date” means the actual date the facility financed with proceeds of the loan begins to operate for its intended purpose. (For loans only)

“Iron and Steel Products” means products made primarily of iron or steel including but may not be limited to: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

“Loan” means the Washington State Water Pollution Control Revolving Fund Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this loan agreement.

“Loan Amount” means either an Estimated Loan Amount or a Final Loan Amount, as applicable.



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“Loan Fund” means the special fund created by the RECIPIENT for the repayment of the principal of and interest on the loan.

“Loan Security” means the mechanism by which the RECIPIENT pledges to repay the loan.

“Loan Term” means the repayment period of the loan.

“Maintenance and Operation Expense” means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties, but will not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

“Manufactured Products” means, items and construction materials composed in whole or in part of non-ferrous metals such as aluminum plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

“Produced in the United States” means for iron and steel products, that all manufacturing processes, from the initial melting state through the application of coatings, occurred in the United States.

“Net Revenue” means the Gross Revenue less the Maintenance and Operation Expense.

“Original Engineer’s Estimate” means the engineer’s estimate of construction costs included with bid documents.

“Prevailing Wage” means hourly wage, usual benefits, and overtime paid in the largest city in each county, to the majority of workers, laborers, and mechanics performing the same work. The rate is established separately for each county.

“Principal and Interest Account” means, for a loan that constitutes Revenue-Secured Debt, the account created in the loan fund to be first used to repay the principal of and interest on the loan.

“Project” means the project described in this agreement.

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed and is the last day eligible costs can be incurred. This term is only used in loan agreements.

“Project Schedule” means that schedule for the project specified in the agreement.

“Revenue-Secured Debt” means an obligation of the RECIPIENT secured by a pledge of the revenue of a utility and one not a general obligation of the RECIPIENT.

“Reserve Account” means, for a loan that constitutes a Revenue Secured Debt and if specifically identified as a term and condition of the funding agreement, the account of that name created in the loan fund to secure the payment of the principal of and interest on the loan.

“Risk-Based Determination” means an approach to sub-recipient monitoring and oversight based on risk factors associated to a RECIPIENT or project.

“Scope of Work” means the tasks and activities constituting the project.

“Section 319” means the section of the Clean Water Act that provides funding to address nonpoint sources of water pollution.

“Senior Lien Obligations” means all revenue bonds and other obligations of the RECIPIENT outstanding on the date of execution of this loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or issued after the date of execution of this loan agreement having a claim or lien on the Gross Revenue of the Utility prior and superior to the claim or lien of the loan, subject only to Maintenance and Operation Expense.

“State Water Pollution Control Revolving Fund (Revolving Fund)” means the water pollution control revolving fund established by Chapter 90.50A.020 RCW.

“Termination Date” means the effective date of ECOLOGY’s termination of the agreement.

“Termination Payment Date” means the date on which the RECIPIENT is required to repay to ECOLOGY any outstanding balance of the loan and all accrued interest.

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been determined to be eligible for ECOLOGY grant or loan funding, including any required recipient match.

“Total Project Cost” means the sum of all costs associated with a water quality project, including costs that are not eligible for ECOLOGY grant or loan funding.

“Unique Entity Identity Identifier (UEI)” means a 12-character alphanumeric ID assigned by SAM.gov. to an entity doing

Agreement No: WQC-2024-Spokane-00109  
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business with or receiving funds from the federal government. This number replaces the DUNS number.

“ULID” means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility.

“ULID Assessments” means all assessments levied and collected in any ULID. Such assessments are pledged to be paid into the Loan Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments will include principal installments and any interest or penalties which may be due.

“Utility” means the sewer system, stormwater system, or the combined water and sewer system of the RECIPIENT, the Net Revenue of which is pledged to pay and secure the loan.

## SECTION 2: CONDITIONS APPLY TO ALL RECIPIENTS OF WATER QUALITY COMBINED FINANCIAL ASSISTANCE FUNDING.

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference and are available on ECOLOGY’s Water Quality Program website.

A. Accounting Standards: The RECIPIENT shall maintain accurate records and accounts for the project (PROJECT Records) in accordance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB), including standards related to the reporting of infrastructure assets or in accordance with the standards in Chapter 43.09.200 RCW “Local Government Accounting – Uniform System of Accounting.”

B. Architectural and Engineering Services: The RECIPIENT certifies by signing this agreement that the requirements of Chapter 39.80 RCW, “Contracts for Architectural and Engineering Services,” have been, or shall be, met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final architectural/engineering services contract and submit a copy of the contract to ECOLOGY.

C. Acquisition: The following provisions shall be in force only if the project described in this agreement is an acquisition project:

- a. Evidence of Land Value and Title. The RECIPIENT shall submit documentation of the cost of the property rights and the type of ownership interest that has been acquired.
- b. Legal Description of Real Property Rights Acquired. The legal description of the real property rights purchased with funding assistance provided through this agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the agreement before final payment.
- c. Conveyance of Rights to the State of Washington. Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT shall execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired, and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT shall use language provided by ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

### Documentation Options:

1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. RECIPIENTS shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes. The RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the deed of right.
2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
3. Easements and Leases. The RECIPIENT may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; therefore, the RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing

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the easement or lease.

d. Real Property Acquisition and Relocation Assistance.

1. Federal Acquisition Policies. See Section 4 of this agreement for requirements specific to Section 319 and SRF funded projects.
2. State Acquisition Policies. When state funds are part of this agreement, the RECIPIENT agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.
3. Housing and Relocation. In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the RECIPIENT agrees to provide any housing and relocation assistance required.

e. Hazardous Substances.

1. Certification. The RECIPIENT shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:

- i. No hazardous substances were found on the site, or
  - ii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site is deemed “clean.”
2. Responsibility. Nothing in this provision alters the RECIPIENT's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.

3. Hold Harmless. The RECIPIENT will defend, protect and hold harmless ECOLOGY and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the RECIPIENT is acquiring.

f. Restriction On Conversion Of Real Property And/Or Facilities To Other Uses

The RECIPIENT shall not at any time convert any real property (including any interest therein) or facility acquired, developed, maintained, renovated, and/or restored pursuant to this agreement to uses other than those purposes for which funds were approved without prior approval of ECOLOGY. For acquisition projects that are term limited, such as one involving a lease or a term-limited restoration, renovation or development project or easement, this restriction on conversion shall apply only for the length of the term, unless otherwise provided in written documents or required by applicable state or federal law. In such case, the restriction applies to such projects for the length of the term specified by the lease, easement, deed, or landowner agreement.

D. Best Management Practices (BMP) Implementation: If the RECIPIENT installs BMPs that are not approved by ECOLOGY prior to installation, the RECIPIENT assumes the risk that part or all of the reimbursement for that activity may be delayed or ineligible. For more details regarding BMP Implementation, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY's Water Quality Program funding website.

E. Electronic Fund Transfers: Payment will be issued through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process or electronic fund transfers, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).

F. Equipment Purchase: Equipment purchases over \$5,000 and not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase. All equipment purchases over \$5,000 and not included in a contract for work being completed on the funded project, must also be reported on the Equipment Purchase Report in EAGL.

G. Funding Recognition: The RECIPIENT must inform the public about any ECOLOGY or EPA funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other

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public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Contact your Ecology Project Team to determine the appropriate recognition for your project.

H. Growth Management Planning: The RECIPIENT certifies by signing this agreement that it is in compliance with the requirements of Chapter 36.70A RCW, "Growth Management Planning by Selected Counties and Cities." If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify ECOLOGY in writing of this change within 30 days.

I. Interlocal: The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements necessary for the project are, or shall be, consistent with the terms of this agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the project to ECOLOGY upon request.

J. Lobbying and Litigation: Costs incurred for the purposes of lobbying or litigation are not eligible for funding under this agreement.

K. Post Project Assessment Survey: The RECIPIENT agrees to participate in a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project approximately three years after project completion. A representative from ECOLOGY's Water Quality Program may contact the RECIPIENT to request this data. ECOLOGY may also conduct site interviews and inspections, and may otherwise evaluate the project, as part of this assessment.

L. Project Status Evaluation: ECOLOGY may evaluate the status at any time. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

M. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State and specific requirements outlined in the Water Quality Funding Guidelines. Technical assistance, proposed practices, or project designs that do not meet these standards may be eligible if approved in writing by ECOLOGY.

### SECTION 3: CONDITIONS APPLY TO SECTION 319 AND CENTENNIAL CLEAN WATER FUNDED PROJECTS BEING USED TO MATCH SECTION 319 FUNDS.

The RECIPIENT must submit the following documents to ECOLOGY before this agreement is signed by ECOLOGY:

1. Federal Funding Accountability and Transparency Act (FFATA) Form is available on the Water Quality Program website and must be completed and submitted to Ecology. (This form is used for Section 319 (federal) funds only)
2. "Section 319 Initial Data Reporting" form must be completed in EAGL.

A. Data Reporting: The RECIPIENT must complete the "Section 319 Initial Data Reporting" form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project for EPA.

B. Funding Recognition and Outreach: In addition to Section 2.F. of these Special Terms and Conditions, the RECIPIENT shall provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA logo and follow usage requirements available at <http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. To obtain the appropriate EPA logo or seal graphic file, the RECIPIENT may send a request to their Ecology Financial Manager.

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable. (Applies to both the Section 319 funded projects and the Centennial match projects)

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement: (Applies to Section 319 funded projects only)

"This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute

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endorsement or recommendation for use.”

C. Load Reduction Reporting: The RECIPIENT shall complete the “Section 319 Annual Load Reduction Reporting” form in EAGL by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has completed the form. This form is used to gather information on best management practices (BMPs) installed and associated pollutant load reductions that were funded as a part of this project.

D. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA’s assistance agreement. In the event a time extension is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date. (For Section 319 funded projects only)

#### SECTION 4: CONDITIONS APPLY TO ALL FEDERAL FUNDING AGREEMENTS, INCLUDING SECTION 319, State Revolving Fund (SRF) Equivalency Projects, and SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANT (OSG)

A. Acquisitions: RECIPIENTS shall comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.

B. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse’s Internet Data Entry System available at: <https://facweb.census.gov/>.

C. Archaeological Resources and Historic Properties (Section 106): This requires completion of the Ecology Cultural Resources Review Form, coordination with Ecology Cultural Resources staff, and receipt of the Ecology Final Determination prior to any property acquisition and above and below ground disturbing activities.

D. Architectural and Engineering Services Procurement: The RECIPIENT must procure architectural and engineering services in accordance with the federal requirements in Chapter 11 of Title 40, U.S.C. (see <https://uscode.house.gov/view.xhtml?path=/prelim@title40/subtitle1/chapter11&edition=prelim>).

E Build America, Buy America (BABA – Pub. L. No. 117-58, 70901-52) (Federally funded SRF Equivalency projects only): The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding agrees to comply with all federal requirements applicable to the assistance received (including those imposed by the Infrastructure Investment and Jobs Act (“IIJA”/BIL), Public Law No. 117-58) which the RECIPIENT understands includes, but is not limited to, the following requirements: that all the iron and steel, manufactured products, and construction materials used in the Project are to be produced in the United States (“Build America, Buy America Requirements”) unless (i) the RECIPIENT has requested and obtained a waiver from the cognizant Agency pertaining to the Project or the Project is otherwise covered by a general applicability waiver; or (ii) all of the contributing Agencies have otherwise advised the RECIPIENT in writing that the Build America, Buy America Requirements are not applicable to the project.

RECIPIENT shall comply with all record keeping and reporting requirements under all applicable legal authorities, including any reports required by the funding authority (such as EPA and/or a state), such as performance indicators of program deliverables, information on costs and project progress. The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding, understands that (i) each contract and subcontract related to the project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the applicable legal requirements and this Agreement may result in a default hereunder that results in a repayment of the assistance agreement in advance of termination and/or repayment of assistance, and/or other remedial actions.

EPA has granted an adjustment period waiver of the requirements of Section 70914(a) of the BIL, pursuant to Section

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70914(b)(1) (public interest waiver), for eligible projects financed by SRF projects that have initiated project design planning prior to May 14, 2022, the statutory effective date of the BABA requirements. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. Sections 70917(a) and (b) of BIL provide a savings provision for existing statutory requirements that meet or exceed BABA requirements. The statutory American Iron and Steel (AIS) requirements of Clean Water Act (CWA) Section 608 and Safe Drinking Water Act (SDWA) Section 1452(a)(4) has previously applied to SRF projects and will continue to do so as part of BABA requirements.

Where manufactured products used in the project are required to be produced in the United States, manufactured product shall mean manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation. The manufactured products included cover the majority of potential water infrastructure products, including complex products made up of a variety of material types and components. For water infrastructure projects, commonly manufactured products would include, but not be limited to, pumps, motors, blowers, aerators, generators, instrumentation and control systems, gauges, meters, measurement equipment, treatment equipment, dewatering equipment, actuators, and many other mechanical and electrical items.

F. Disadvantaged Business Enterprise (DBE): General Compliance, 40 CFR, Part 33. The RECIPIENT agrees to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises (MBE/WBE) 40CFR, Part 33 in procurement under this agreement.

Six Good Faith Efforts, 40 CFR, Part 33, Subpart C. The RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under this agreement. Records documenting compliance with the following six good faith efforts shall be retained:

- 1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- 2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- 3) Consider, in the contracting process, whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State, and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- 4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- 5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request. Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin, or sex in the

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performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

This does not preclude the RECIPIENT from enacting broader nondiscrimination protections.

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including but not limited to, Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).

In the event of the RECIPIENT's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this agreement may be rescinded, canceled, or terminated in whole or in part and the RECIPIENT may be declared ineligible for further funding from ECOLOGY. The RECIPIENT shall, however, be given a reasonable time in which to cure this noncompliance.

The RECIPIENT shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

"The Contractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor will carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in termination of this Contract or other legally available remedies."

Bidder List, 40 CFR, Section 33.501(b) and (c). The RECIPIENT agrees to create and maintain a bidders list. The bidders list shall include the following information for all firms that bid or quote on prime contracts, or bid or quote subcontracts, including both MBE/WBEs and non-MBE/WBEs.

1. Entity's name with point of contact
2. Entity's mailing address, telephone number, and e-mail address
3. The procurement on which the entity bid or quoted, and when
4. Entity's status as an MBE/WBE or non-MBE/WBE

G. Electronic and information Technology (EIT) Accessibility: RECIPIENTS shall ensure that loan funds provided under this agreement for costs in the development or purchase of EIT systems or products provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology as per Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7. Systems or products funded under this agreement must be designed to meet the diverse needs of users without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

H. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.

I. Hotel-Motel Fire Safety Act: The RECIPIENT shall ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (15 USC 2225a, PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act. Pursuant to 15 USC 2225a.

J. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

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The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request. Wage determinations and instructions for their use can be found at <https://sam.gov/>.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request. Where conflicts arise between the State prevailing wage rates and Davis-Bacon Act prevailing wage requirements the more stringent requirement shall govern. Washington State prevailing wage rates can be found at <https://www.lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>

K. Trafficking in Persons: The RECIPIENT and RECIPIENT employees that are private entities shall not engage in forms of trafficking in persons. This includes, but is not limited to, the procurement of a commercial sex act or forced labor. The RECIPIENT shall notify ECOLOGY immediately of any information received from any source alleging a violation under this provision.

L. Unique Entity Identity Identifier (UEI): The RECIPIENT agrees to register with and make their registration public in the System for Award Management (SAM.gov). The RECIPIENT will be assigned a UEI and agree to include their UEI Number under their organization’s information in EAGL. The UEI number must be entered into EAGL before a funding agreement is signed.

#### SECTION 5: CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

The RECIPIENT must submit the following documents/forms to ECOLOGY before this agreement is signed by ECOLOGY:

1. Financial Capability Assessment Documentation (upon request)
2. Opinion of RECIPIENT’s Legal Council – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
3. Authorizing Ordinance or Resolution – Must be uploaded to the General Uploads form in EAGL.
4. Federal Funding Accountability and Transparency Act (FFATA) Form (Required for all federally funded SRF Equivalency projects – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
5. CWSRF Federal Reporting Information form – Must be completed in EAGL.
6. Fiscal Sustainability Plan (Asset Management) Certification Form (Only required if the project includes construction of a wastewater or stormwater facility construction) – Must be completed in EAGL.
7. Cost and Effectiveness Analysis Certification Form (Required for all projects receiving SRF Loan funding) – Must be completed in EAGL.
8. State Environmental Review Process (SERP) Documentation (Required for treatment works projects only) – Must be uploaded to the Environmental and Cultural Review form in EAGL.

A. Alteration and Eligibility of Project: During the term of this agreement, the RECIPIENT (1) shall not materially alter the design or structural character of the project without the prior written approval of ECOLOGY and (2) shall take no action which would adversely affect the eligibility of the project as defined by applicable funding program rules and state statutes, or which would cause a violation of any covenant, condition, or provision herein.

B. American Iron and Steel (Buy American – P.L 113-76, Consolidated Appropriations Act 2014, Section 436): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a “treatment works” as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron



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or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

C. Authority of RECIPIENT: This agreement is authorized by the Constitution and laws of the state of Washington, including the RECIPIENT's authority, and by the RECIPIENT pursuant to the authorizing ordinance or resolution. The RECIPIENT shall submit a copy of the authorizing ordinance or resolution to the ECOLOGY Financial Manager before this agreement shall be signed by ECOLOGY.

D. Equivalency Projects: ECOLOGY designated equivalency project and alternative designated equivalency project RECIPIENTS agree to accept federal funds and the federal requirements that accompany the funds. This includes all the requirements in Section 4 and this Section.

E. Fiscal Sustainability Plan Certification: The RECIPIENT shall submit a completed Fiscal Sustainability Plan Certification before this agreement is signed by ECOLOGY. The Fiscal Sustainability Plan Certification is available from the ECOLOGY Financial Manager or on the Water Quality Program website.

F. Funding Recognition and Outreach: The RECIPIENT agrees to comply with the EPA SRF Signage Guidance to enhance public awareness of EPA assistance agreements nationwide. Signage guidance can be found at: <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Water-Quality-grants-and-loans/Facility-project-resources>.

G. Insurance: The RECIPIENT shall at all times carry fire and extended insurance coverage, public liability, and property damage, and such other forms of insurance with responsible insurers and policies payable to the RECIPIENT on such of the buildings, equipment, works, plants, facilities, and properties of the Utility as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, or it shall self-insure or participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

H. Litigation Authority: No litigation is now pending, or to the RECIPIENT's knowledge, threatened, seeking to restrain, or enjoin:

- (i) the execution of this agreement; or
- (ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or
- (iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or
- (iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence, or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

I. Loan Interest Rate and Terms: This loan agreement shall remain in effect until the date of final repayment of the loan, unless terminated earlier according to the provisions herein.

When the Project Completion Date has occurred, ECOLOGY and the RECIPIENT shall execute an amendment to this loan agreement which details the final loan amount (Final Loan Amount), and ECOLOGY shall prepare a final loan repayment schedule. The Final Loan Amount shall be the combined total of actual disbursements made on the loan and all accrued interest to the computation date.

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a

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365-day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments, semiannually, over the term of this loan "Loan Term" as outlined in this agreement.

#### J. Loan Repayment:

##### Sources of Loan Repayment

1. Nature of RECIPIENT's Obligation. The obligation of the RECIPIENT to repay the loan from the sources identified below and to perform and observe all other agreements and obligations on its part, contained herein, shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all the covenants, agreements, and attachments contained herein.

2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.

3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.

4. For Revenue-Secured: Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.

6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

If the RECIPIENT defeases or advance refunds the loan, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay both of the following:

(i) The Loan Amount with interest

(ii) Any other obligations of the RECIPIENT to ECOLOGY under this agreement, unless in its sole discretion ECOLOGY finds that repayment from those additional sources would not be in the public interest.

Failure to repay the Loan Amount plus interest within the time specified in ECOLOGY's notice to make such repayment shall incur Late Charges and shall be treated as a Loan Default.

7. Refinancing or Early Repayment of the Project. So long as ECOLOGY shall hold this loan, the RECIPIENT shall give ECOLOGY thirty days written notice if the RECIPIENT intends to refinance or make early repayment of the loan.

##### Method and Conditions on Repayments

1. Semiannual Payments. Notwithstanding any other provision of this agreement, the first semiannual payment of principal and interest on this loan shall be due and payable no later than one year after the project completion date or initiation of operation date, whichever comes first.

Thereafter, equal payments shall be due every six months.

If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington State agencies, the payment shall be due on the next business day for Washington State agencies.

Payments shall be mailed to:

Department of Ecology

Cashiering Unit

P.O. Box 47611

Olympia WA 98504-7611

In lieu of mailing payments, electronic fund transfers can be arranged by working with ECOLOGY's Financial Manager.

No change to the amount of the semiannual principal and interest payments shall be made without a mutually signed amendment

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to this agreement. The RECIPIENT shall continue to make semiannual payments based on this agreement until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended agreement.

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.

3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.

4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

#### K. Loan Security

Due Regard: For loans secured with a Revenue Obligation: The RECIPIENT shall exercise due regard for Maintenance and Operation Expense and the debt service requirements of the Senior Lien Obligations and any other outstanding obligations pledging the Gross Revenue of the Utility, and it has not obligated itself to set aside and pay into the loan Fund a greater amount of the Gross Revenue of the Utility than, in its judgment, shall be available over and above such Maintenance and Operation Expense and those debt service requirements.

Where collecting adequate gross utility revenue requires connecting additional users, the RECIPIENT shall require the sewer system connections necessary to meet debt obligations and expected operation and maintenance expenses.

Levy and Collection of Taxes (if used to secure the repayment of the loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of its electors on all of the taxable property within the boundaries of the RECIPIENT in an amount sufficient, together with other money legally available and to be used therefore, to pay when due the principal of and interest on the loan, and the full faith, credit and resources of the RECIPIENT are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

Not an Excess Indebtedness: For loans secured with a general obligation pledge or a general obligation pledge on special assessments: The RECIPIENT agrees that this agreement and the loan to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the Loan Fund and used to pay the principal of and interest on the loan.

L. Maintenance and Operation of a Funded Utility: The RECIPIENT shall, at all times, maintain and keep the funded Utility in good repair, working order, and condition.

M. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an "Opinion of Legal Counsel to the RECIPIENT" to ECOLOGY before this agreement will be signed. ECOLOGY will provide the form.

N. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for

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bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request.

O. Progress Reports: RECIPIENTS funded with State Revolving Fund Loan or Forgivable Principal shall include the following verification statement in the “General Comments” text box of each progress report.

“We verified that we are in compliance with all the requirements as outlined in our funding agreement(s) with the Department of Ecology. This includes but is not limited to:

- The Davis-Bacon Act, 29 CFR , prevailing wage requirements, certified weekly payroll, etc.
- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33
- The American Iron and Steel Act (Buy American)
- The Build America Buy America Act (BABA) (equivalency projects only)”

P. Representations and Warranties: The RECIPIENT represents and warrants to ECOLOGY as follows:

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct.

There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT, which has not been disclosed in writing to ECOLOGY.

Existence; Authority. It is a duly formed and legally existing municipal corporation or political subdivision of the state of Washington or a federally recognized Indian Tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this agreement and to undertake the project identified herein.

Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this loan agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the project or to repay the principal of or interest on the loan, have occurred since the date of this loan agreement. Any changes in the RECIPIENT’s financial condition shall be disclosed in writing to ECOLOGY by the RECIPIENT in its request for payment.

Q. Sale or Disposition of Funded Utility: The RECIPIENT shall not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities, or other part of the funded Utility or any real or personal property comprising a part of the funded Utility unless:

1. The facilities or property transferred are not material to the operation of the funded Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the funded Utility or are no longer necessary, material, or useful to the operation of the funded Utility; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the funded Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the funded Utility from the portion of the funded Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the ECOLOGY.

The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.

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R. Sewer-Use Ordinance or Resolution for Funded Wastewater Facility Projects: If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution. Such ordinance or resolution shall be submitted to ECOLOGY upon request.

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater into separated sewer systems.
- 3) Require that new sewers and connections be properly designed and constructed.

S. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient ECOLOGY or RECIPIENT funds.
2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

Procedures for Termination. If this loan agreement is terminated prior to project completion, ECOLOGY shall provide to the RECIPIENT a written notice of termination at least five working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the ECOLOGY shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the loan and all accrued interest (the "Termination Payment Date").

Termination and Default Remedies

No Further Payments. On and after the Termination Date, or in the event of a default event, ECOLOGY may, at its sole discretion, withdraw the loan and make no further payments under this agreement.

Repayment Demand. In response to an ECOLOGY initiated termination event, or in response to a loan default event, ECOLOGY may at its sole discretion demand that the RECIPIENT repay the outstanding balance of the Loan Amount and all accrued interest.

Interest after Repayment Demand. From the time that ECOLOGY demands repayment of funds, amounts owed by the RECIPIENT to ECOLOGY shall accrue additional interest at the rate of one percent per month, or fraction thereof.

Accelerate Repayments. In the event of a default, ECOLOGY may, in its sole discretion, declare the principal of and interest on the loan immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien Obligation upon the Net Revenue. That is, the loan is not subject to acceleration so long as any Senior Lien Obligations are outstanding.

Repayments not made immediately upon such acceleration will incur Late Charges.

Late Charges. All amounts due to ECOLOGY and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur late charges.

Intercept State Funds. In the event of a default event and in accordance with Chapter 90.50A.060 RCW, "Defaults," any state funds otherwise due to the RECIPIENT may, at ECOLOGY's sole discretion, be withheld and applied to the repayment of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings,

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maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due, or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this agreement.

Fees and Expenses. In any action to enforce the provisions of this agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) shall be awarded to the prevailing party as that term is defined in Chapter 4.84.330 RCW.

Damages. Notwithstanding ECOLOGY's exercise of any or all the termination or default remedies provided in this agreement, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and/or the state of Washington because of any breach of this agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

T. User-Charge System for Funded Utilities: The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and shall adopt a system of user-charges to assure that each user of the funded utility shall pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the project. The user-charge system will include provisions for a connection charge.

In addition, the RECIPIENT shall regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the funded utility, to establish reserves to pay for replacement, and to repay the loan.

## **GENERAL FEDERAL CONDITIONS**

**If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.**

### **A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY**

#### **EXCLUSION:**

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

#### B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$30,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required Unique Entity Identifier in [www.sam.gov](http://www.sam.gov) <http://www.sam.gov> within 30 days of agreement signature. The FFATA information will be available to the public at [www.usaspending.gov](http://www.usaspending.gov) <http://www.usaspending.gov>.

For more details on FFATA requirements, see [www.fsrc.gov](http://www.fsrc.gov) <http://www.fsrc.gov>.

#### C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf) <https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or

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services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management \(SAM\)](https://sam.gov/SAM/) <<https://sam.gov/SAM/>> exclusion list.

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## GENERAL TERMS AND CONDITIONS

### Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

#### GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

07/01/2023 Version

#### 1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/2301002.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

#### 2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

#### 3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

#### 4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
  - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.
  - \* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.
  - For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).

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b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
  - Make the IDP readily available to anyone working at the project site.
  - Discuss the IDP with staff, volunteers, and contractors working at the project site.
  - Implement the IDP when Cultural Resources or human remains are found at the project site.
- c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

## 5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

## 6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

## 7. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.
- j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and

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other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

#### 8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

#### 9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

#### 10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

#### 11. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review. The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such

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decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

## 12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at:

<http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at:

<https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

## 13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

## 14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

## 15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

Agreement No: WQC-2024-Spokane-00109  
Project Title: Marion Hay Intertie  
Recipient Name: City of Spokane

#### 16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

#### 17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

#### 18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

#### 19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

#### 20. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to

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ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.

- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

## 21. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
  - 1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
  - 2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

## 22. RECORDS, AUDITS, AND INSPECTIONS

Agreement No: WQC-2024-Spokane-00109  
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RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
  - b) Be kept in a common file to facilitate audits and inspections.
  - c) Clearly indicate total receipts and expenditures related to this Agreement.
  - d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.
- RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

#### 23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

#### 24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

#### 25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

#### 26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

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## 27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing,

<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

## 28. TERMINATION

### a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. 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.

**Failure to Commence Work.** ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

**Non-Performance.** The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

### b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. 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.

**Non-Allocation of Funds.** ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments.



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If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

29. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

30. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

End of General Terms and Conditions



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd**

1/17/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

**Submitting Dept**

INTEGRATED CAPITAL

**Project #**

2021079

**Contact Name/Phone**

MARK PAPICH 625-6310

**Bid #**

**Contact E-Mail**

MPAPICH@SPOKANECITY.ORG

**Requisition #**

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

4250 – DEPT OF ECOLOGY LOAN AGREEMENT NINE MILE SEWER

**Agenda Wording**

Loan Agreements with the State of Washington Department of Ecology for Nine Mile Sewer Reroute - \$4,500,000 Revenue.

**Summary (Background)**

State of Washington Department of Ecology, agreement WQC-2024-Spokane-00122 to include loan funds of \$4,500,000.00.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 4,500,000.00

Current Year Cost \$ 4,500,000.00

Subsequent Year(s) Cost \$

**Narrative**

The low interest loan allows the City to pay for the construction over a 20 year period. This allows costs to be spread over a longer time period, ease cashflow concerns, and protects the infrastructure by not delay construction.

**Amount**

**Budget Account**

Revenue \$ 4,500,000.00

# 4250 98817 99999 38271 10156

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#



## Continuation of Wording, Summary, Approvals, and Distribution

### Agenda Wording

### Summary (Background)

#### **Approvals**

##### Dept Head

DAVIS, MARCIA

##### Division Director

FEIST, MARLENE

##### Accounting Manager

ALBIN-MOORE, ANGELA

##### Legal

SCHOEDEL, ELIZABETH

##### For the Mayor

PICCOLO, MIKE

#### **Additional Approvals**

#### **Distribution List**

eraea@spokanecity.org

jrhall@spokanecity.org

icmaccounting@spokanecity.org

mpapich@spokanecity.org

mdavis@spokanecity.org

## Committee Agenda Sheet

### Public Safety & Community Health Committee

<b>Committee Date</b>	1/29/2024
<b>Submitting Department</b>	Integrated Capital Management
<b>Contact Name</b>	Mark Papich
<b>Contact Email &amp; Phone</b>	mpapich@spokanecity.org
<b>Council Sponsor(s)</b>	<u>Council President Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Department of Ecology CWSRF Loan Agreements
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>The Department of Ecology annually awards funding for grants and loans based on competitive process and legislature approval. In October of 2022 the City applied for Clean Water State Revolving Fund (CWSRF) loans through the Washington State Department of Ecology to construct the Marion Hay Sewer Intertie (Holland Sewer) and the Nine Mile Sewer Re-route, both gravity sanitary sewer line construction projects that eliminate maintenance intensive pump stations. These agreements require City Council approval by resolution.</p> <p>Below are the pertinent details of the loan agreements:</p> <ul style="list-style-type: none"> <li>• Marion Hay Intertie (Holland Sewer)               <ul style="list-style-type: none"> <li>▪ Total Loan Amount: \$5,226,665</li> <li>▪ Interest Rate: 2.4%</li> <li>▪ Loan Term: 20-years</li> </ul> </li> <li>• Nine Mile Sewer Re-route               <ul style="list-style-type: none"> <li>▪ Total Loan Amount: \$4,500,000</li> <li>▪ Interest Rate: 2.4%</li> <li>▪ Loan Term: 20-years</li> </ul> </li> </ul>
<b>Fiscal Impact</b> <b>Approved in current year budget?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Total Cost: <u>\$9,726,655</u> Current year cost: <u>\$9,726,665</u> Subsequent year(s) cost:	
<b>Narrative:</b> <u>The low interest loan allows the City to pay for the construction over a 20 year period. This allows costs to be spread over a longer time period, ease cashflow concerns, and protects the infrastructure by not delay construction.</u>	
<b>Funding Source</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A Specify funding source: Select Funding Source* Is this funding source sustainable for future years, months, etc? <a href="#">Click or tap here to enter text.</a>	
<b>Expense Occurrence</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A	
Other budget impacts: (revenue generating, match requirements, etc.)	

<p><b>Operations Impacts</b> (If N/A, please give a brief description as to why)</p>
<p><b>What impacts would the proposal have on historically excluded communities?</b></p> <p>Public Works services and projects are designed to serve all residents and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.</p>
<p><b>How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?</b></p> <p>N/a - This is a public works project and should not impact racial, gender identity, national origin, income level, disability, sexual orientation, or other existing disparity factors.</p>
<p><b>How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?</b></p> <p>Public Works follows the City’s established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.</p>
<p><b>Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?</b></p> <p>This project is consistent with the City’s adopted policies and programs.</p>



## Agreement No. WQC-2024-Spokane-00122

### WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF SPOKANE

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as “ECOLOGY,” and City of Spokane, hereinafter referred to as the “RECIPIENT,” to carry out with the provided funds activities described herein.

#### GENERAL INFORMATION

Project Title:	Nine Mile Sewer Re-Route
Total Cost:	\$4,500,000.00
Total Eligible Cost:	\$4,500,000.00
Ecology Share:	\$4,500,000.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	07/01/2023
The Expiration Date of this Agreement is no later than:	11/30/2026
Project Type:	Wastewater Facility

#### Project Short Description:

This project improves water quality in the Spokane River through the construction of an 8-inch sewer line which replaces the lift station at Francis Avenue and Assembly Street in the City of Spokane. Approximately 2,700 feet of sewer line will be constructed from Nine Mile Road to Royal Drive. This project will replace a lift station at Francis and Assembly. Benefits include eliminating an additional location for failure and sanitary sewer overflow into the Spokane River.

#### Project Long Description:

This project improves water quality in the Spokane River through the construction of an 8-inch sewer line which replaces the lift station at Francis Avenue and Assembly Street in the City of Spokane. Approximately 2,700 feet of sewer line will be constructed from Nine Mile Road to Royal Drive. Benefits include eliminating an additional location for failure and sanitary sewer overflow into the Spokane River.

Agreement No: WQC-2024-Spokane-00122  
Project Title: Nine Mile Sewer Re-Route  
Recipient Name: City of Spokane

The Francis and Assembly Lift Station is located in northwest Spokane at the southwest corner of Francis Avenue and Assembly Street. This is an older lift station that was constructed in 1961 and is beyond its useful life. In a failure scenario, this lift station drains to an overflow pipe which flows northwest down West Nine Mile Road then southwest down West Rifle Club Road and then discharges to the Spokane River. This project will create a dedicated 8-inch gravity sewer pipe which will connect into downstream gravity piping in Royal Drive and reduce the possibility of a SSO event.

The RECIPIENT wants to remove as many SSO overflow locations as possible. The Francis and Assembly Lift station covers a small sewer service area but provides an additional location in the collection system for failure and overflow. It was deemed redundant due to the proximity to the collection system that runs to the Rifle Club Lift Station nearby. The Nine Mile Sewer Re-Route Project aims to accomplish the goals stated previously in the most efficient and cost-effective manner possible.

Overall Goal:

The goal of the project is to prevent water quality in the Spokane River from untreated discharge.

Agreement No: WQC-2024-Spokane-00122  
 Project Title: Nine Mile Sewer Re-Route  
 Recipient Name: City of Spokane

**RECIPIENT INFORMATION**

Organization Name: City of Spokane

Federal Tax ID: 91-6001280  
 UEI Number: PDNCLY8MYJN3

Mailing Address: 808 W Spokane Falls Blvd  
 Spokane, WA 99201

Organization Email: mpapich@spokanecity.org  
 Organization Fax: (509) 343-5760

**Contacts**

<p><b>Project Manager</b></p>	<p>Mark Papich                  Senior Engineer</p> <p>808 W Spokane Falls Blvd                  Spokane, Washington 99201                  Email: mpapich@spokanecity.org                  Phone: (509) 625-6310</p>
<p><b>Billing Contact</b></p>	<p>LaVonne Martelle                  Accountant I</p> <p>44 W Riverside                  Spokane, Washington 99201-3343                  Email: lmartelle@spokanecity.org                  Phone: (509) 625-7000</p>
<p><b>Authorized Signatory</b></p>	<p>Nadine Woodward                  Mayor</p> <p>808 W Spokane Falls Blvd                  Spokane, Washington 99201                  Email: mayor@spokanecity.org                  Phone: (509) 625-6310</p>



Agreement No: WQC-2024-Spokane-00122  
 Project Title: Nine Mile Sewer Re-Route  
 Recipient Name: City of Spokane

**ECOLOGY INFORMATION**

Mailing Address: Department of Ecology  
 Water Quality  
 PO BOX 47600  
 Olympia, WA 98504-7600

Physical Address: Water Quality  
 300 Desmond Drive SE  
 Lacey, WA 98503

**Contacts**

<p><b>Project Manager</b></p>	<p>Charlotte Daskalopoulos</p> <p>4601 N Monroe Street                  Spokane, Washington 99205-1295                  Email: CDAS461@ecy.wa.gov                  Phone: (509) 863-2186</p>
<p><b>Financial Manager</b></p>	<p>Jeanna Ridner</p> <p>PO Box 47600                  Olympia, Washington 98504-7600                  Email: jmac461@ecy.wa.gov                  Phone: (360) 628-4918</p>
<p><b>Technical Advisor</b></p>	<p>Diana Washington</p> <p>4601 N Monroe Street                  Spokane, Washington 99205-1295                  Email: DWAS461@ecy.wa.gov                  Phone: (509) 329-3519</p>

Agreement No: WQC-2024-Spokane-00122  
 Project Title: Nine Mile Sewer Re-Route  
 Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 1 **Task Cost:** \$0.00

Task Title: Grant and Loan Administration

### Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: Maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and the EAGL (Ecology Administration of Grants and Loans) recipient closeout report (including photos, if applicable). In the event that the RECIPIENT elects to use a contractor to complete project elements, the RECIPIENT shall retain responsibility for the oversight and management of this funding agreement.

B. The RECIPIENT shall keep documentation that demonstrates the project is in compliance with applicable procurement, contracting, and interlocal agreement requirements; permitting requirements, including application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items. This documentation shall be available upon request.

C. The RECIPIENT shall maintain effective communication with ECOLOGY and maintain up-to-date staff contact information in the EAGL system. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

### Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant or loan administrative requirements.

### Task Expected Outcome:

- \* Timely and complete submittal of requests for reimbursement, quarterly progress reports, Recipient Closeout Report, and two-page outcome summary report.
- \* Properly maintained project documentation.

Recipient Task Coordinator: Mark Papich

## Grant and Loan Administration

### Deliverables

Number	Description	Due Date
1.1	Progress Reports that include descriptions of work accomplished, project challenges or changes in the project schedule. Submitted at least quarterly.	
1.2	Recipient Closeout Report (EAGL Form)	

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Project Title: Nine Mile Sewer Re-Route  
Recipient Name: City of Spokane

## SCOPE OF WORK

Task Number: 2 **Task Cost:** \$0.00

Task Title: Project Design

### Task Description:

- A. The RECIPIENT will procure engineering services in accordance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT must submit all contracts for engineering services before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will design the Nine Mile Sewer Re-Route. Plans and specifications developed by the RECIPIENT must be consistent with the requirements of Chapter 173-240 WAC. Elements of the design will include:
- a. Approximately 2,700 LF of 8-inch sanitary sewer line.
  - b. Road repair including stormwater collection and drainage.
- C. The plans and specifications, construction contract documents, and addenda will be approved by the RECIPIENT prior to submittal for ECOLOGY review. All construction plans submitted to ECOLOGY for review and approval will be reduced to no larger than 11" x 17" in size. Plans should note if they are to scale or not. The project manager may request plans be submitted in either PDF or AutoCAD electronic format, and specifications in a searchable PDF or Microsoft Word electronic file. An updated construction cost estimate will be submitted with each plan/specification submittal. The project manager may request a spreadsheet of the estimate in electronic file format.
- D. The RECIPIENT will complete the facility designs within one year of Ecology signing this AGREEMENT.
- E. As a condition of receiving this funding, the RECIPIENT will conduct an Investment Grade Efficiency Audit (IGEA). As a condition of receiving this funding, the RECIPIENT will review their energy use looking for cost-effective energy savings. The RECIPIENT may also submit documentation of an energy efficiency review conducted within the last 5 years.
- F. The RECIPIENT will notify Ecology when deliverables are available and have been uploaded to EAGL.

### Task Goal Statement:

Design the Nine Mile Sewer Re-Route.

### Task Expected Outcome:

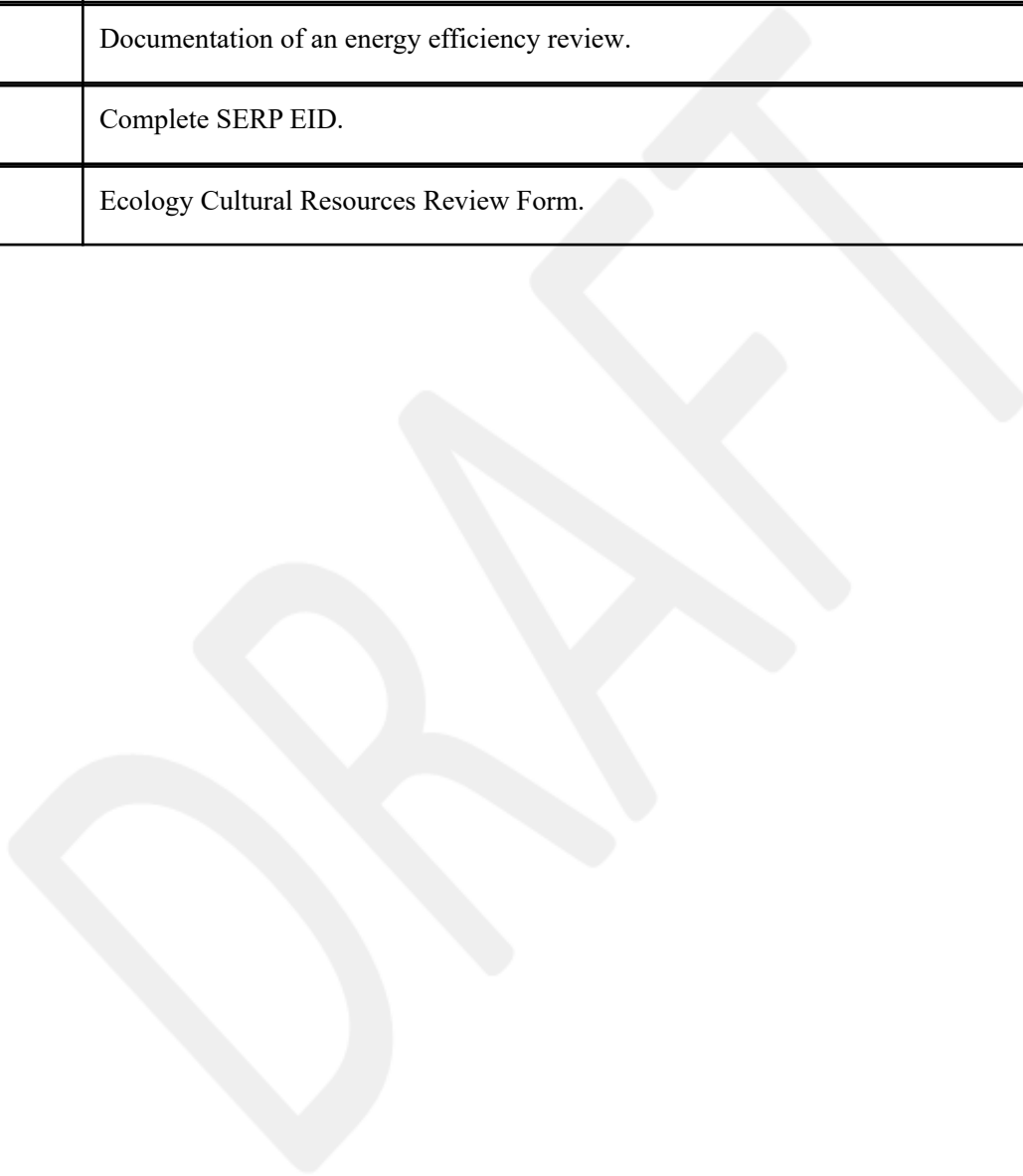
Completed design of the Nine Mile Sewer Re-Route.

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 Recipient Name: City of Spokane

**Project Design**

**Deliverables**

Number	Description	Due Date
2.1	Executed contracts for engineering services and documentation of the RECIPIENT’s process for procuring engineering services.	
2.2	Copy of the final design.	
2.3	Documentation of an energy efficiency review.	
2.4	Complete SERP EID.	
2.5	Ecology Cultural Resources Review Form.	



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## SCOPE OF WORK

Task Number: 3 **Task Cost:** \$3,900,000.00

Task Title: Project Construction

### Task Description:

- A. The RECIPIENT will execute a contract with a contractor selected in compliance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT will submit Bid Tabs, the Notice of Award, and a copy of the executed contract before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will complete the construction in accordance with the approved Plans and Specifications. The construction project will include:
- Approximately 2,600LF of 8-inch sanitary sewer line.
  - Road repair including stormwater and drainage.
- C. The RECIPIENT will conduct a pre-construction conference and will invite ECOLOGY staff to the meeting.
- D. The RECIPIENT will negotiate all change orders to the construction contract necessary for successful completion of the project. The RECIPIENT will submit the change orders to ECOLOGY for approval. Change orders that are a significant deviation from the approved plans/specifications must be submitted for approval, prior to execution. A significant deviation shall be as defined in the Water Quality Program Orange Book, section G1-4.2.6 and mean a change in the selected treatment process, facility size, design criteria, or performance standards that result in changes in expected facility performance or environmental impacts. All other change orders will be submitted to ECOLOGY within 30 days of execution and contain a P.E. stamp if the change order contains engineering content.
- E. All mitigation measures committed to in documents developed in the SERP process, such as the environmental mitigation plan, environmental checklist, environmental report, SEPA environmental impact statement (EIS), the finding of no significant impact/environmental assessment, or record of decision/federal EIS will become revolving fund loan agreement conditions. All recipients of funding for water pollution control facility projects must comply with the SERP in accordance with WAC 173-98-720.

### Task Goal Statement:

Complete construction of Nine Mile Sewer Re-Route in accordance with the approved Plans and Specifications.

### Task Expected Outcome:

Completed construction of Nine Mile Sewer Re-Route in accordance with the approved Plans and Specifications.

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**Project Construction**

**Deliverables**

Number	Description	Due Date
3.1	Documentation of the RECIPIENTS procurement process.	
3.2	Bid Tabs, the Notice of Award, and a copy of the executed construction contract.	
3.3	Copy of the notice to proceed.	
3.4	Minutes of the pre-construction meeting.	
3.5	A copy of all change orders.	
3.6	Certification that the asset management program (fiscal sustainability plan) has been developed and is being implemented.	
3.7	Inadvertent Discovery Plan. (IDP)	
3.8	Environmental Mitigation Plan.	

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## SCOPE OF WORK

Task Number: 4 **Task Cost:** \$600,000.00

Task Title: Construction Management

### Task Description:

- A. The RECIPIENT will provide adequate and competent construction management and inspection for the Project. This may involve procuring the professional services. If professional services are procured, the RECIPIENT will procure them in accordance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT must submit all contracts for construction management services before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will develop a detailed Construction Quality Assurance Plan (WAC 173-240-075) and submit it to ECOLOGY for approval prior to any ground disturbing activities. This plan will describe the activities which the RECIPIENT will undertake to achieve adequate and competent oversight of all construction work.
- C. The RECIPIENT will ensure construction progresses according to a timely schedule developed to meet completion dates indicated in the construction contract. The RECIPIENT will revise or update the schedule whenever major changes occur and resubmit to ECOLOGY. A significant change in the scope of work may trigger a SERP review and should be discussed and coordinated with ECOLOGY. In the absence of any major changes, the RECIPIENT will describe progress of the construction in the monthly/quarterly progress reports.
- D. Upon completion of construction, the RECIPIENT will provide ECOLOGY's Project Manager with a set of "as-built" plans by the expiration date of this agreement (i.e., record construction drawings which reflect changes, modifications, or other significant revisions made to the project during construction).
- E. Upon substantial completion, the recipient will notify ECOLOGY and coordinate the project's closeout with ECOLOGY's Project Manager.
- F. Upon project completion, the RECIPIENT will submit the Declaration of Construction Completion form to ECOLOGY in accordance with WAC 173-240-090. The form, when signed by a professional engineer, indicates that the project was completed in accordance with the plans, specifications, and major change orders approved by ECOLOGY, and is accurately shown on the as-built plans.

### Task Goal Statement:

Provide adequate and competent construction management and inspection for the Project.

### Task Expected Outcome:

Adequate and competent construction management and inspection provided for the Project.

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**Construction Management**

**Deliverables**

<b>Number</b>	<b>Description</b>	<b>Due Date</b>
4.1	Executed contract for construction management services.	
4.2	Documentation of the RECIPIENT’s process for procuring engineering services.	
4.3	Construction Quality Assurance Plan.	
4.4	“As-built” plans.	
4.5	Declaration of Construction Completion.	

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**BUDGET**

**Funding Distribution EL240513**

**NOTE:** *The above funding distribution number is used to identify this specific agreement and budget on payment remittances and may be referenced on other communications from ECOLOGY. Your agreement may have multiple funding distribution numbers to identify each budget.*

Funding Title: SRF Loan Funding Type: Loan  
Funding Effective Date: 07/01/2023 Funding Expiration Date: 11/30/2026

Funding Source:

Title: CWSRF-SFY24 (State)

Fund: FD0727

Type: State

Funding Source %: 100%

Description: The Clean Water Act (CWA) (33 U.S.C 1251-1387) established the State Revolving Fund (SRF) low interest loans program (40. C.F.R. Part 31, 35 Sub Part K). Washington State administers the program under Chapter 173-98 WAC. The portion of this project funded with this funding distribution comes from non-federal source and are not subject to Federal Funding Accountability and Transparency Act (FFATA) and Single Audit Act (SAA). However, this project is subject to the federal requirements outlined in Section 4 and 5 of agreement terms and conditions.

Approved Indirect Costs Rate: Approved State Indirect Rate: 30%

Recipient Match %: 0%

InKind Interlocal Allowed: No

InKind Other Allowed: No

Is this Funding Distribution used to match a federal grant? No

Effective Interest Rate: 1.2% Interest Rate: 0.9% Admin Charge: 0.3%

Terms: 20 years

Project Start Date: 07/01/2023 Project Completion Date: 11/30/2025

Estimated Initiation of Operation date: 11/30/2026

Loan Security: Revenue Secure Lien Obligation of the Recipient

Final Accrued Interest: \$

Final Loan Amount: \$

Repayment Schedule Number:

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<b>SRF Loan</b>	<b>Task Total</b>
Grant and Loan Administration	\$ 0.00
Project Design	\$ 0.00
Project Construction	\$ 3,900,000.00
Construction Management	\$ 600,000.00

**Total: \$ 4,500,000.00**

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## **Funding Distribution Summary**

### **Recipient / Ecology Share**

<b>Funding Distribution Name</b>	<b>Recipient Match %</b>	<b>Recipient Share</b>	<b>Ecology Share</b>	<b>Total</b>
SRF Loan	0.00 %	\$ 0.00	\$ 4,500,000.00	\$ 4,500,000.00
<b>Total</b>		<b>\$ 0.00</b>	<b>\$ 4,500,000.00</b>	<b>\$ 4,500,000.00</b>

### **AGREEMENT SPECIFIC TERMS AND CONDITIONS**

N/A

### **SPECIAL TERMS AND CONDITIONS**

WQC-2024—Water Quality Program Special Terms and Conditions (Update June 2023)

#### **SECTION 1: DEFINITIONS**

Unless otherwise provided, the following terms will have the respective meanings for all purposes of this agreement:

“Administration Charge” means a charge established in accordance with Chapter 90.50A RCW and Chapter 173-98 WAC, to be used to pay Ecology’s cost to administer the State Revolving Fund by placing a percentage of the interest earned in an Administrative Charge Account.

“Administrative Requirements” means the effective edition of ECOLOGY's Administrative Requirements for Recipients of Ecology Grants and Loans at the signing of this agreement.

“Annual Debt Service” for any calendar year means for any applicable bonds or loans including the loan, all interest plus all principal due on such bonds or loans in such year.

“Average Annual Debt Service” means, at the time of calculation, the sum of the Annual Debt Service for the remaining years of the loan to the last scheduled maturity of the loan divided by the number of those years.

“Accrued Interest” means the interest incurred as loan funds are disbursed.

“Acquisition” means the purchase or receipt of a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

“Build American Buy American (BABA)” means a portion of the Infrastructure Investment and Jobs Act and establishes a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022.

“Bipartisan Infrastructure Law (BIL)” means funding to improve drinking water, wastewater and stormwater infrastructure.

“Centennial Clean Water Program” means the state program funded from various state sources.

“Contract Documents” means the contract between the RECIPIENT and the construction contractor for construction of the project.

“Construction Materials” means an article, material, or supply (other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; aggregate binding agents or additives; or non-permanent products) that is or consists primarily of, non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), (including optic glass), lumber, and drywall.

“Cost Effective Analysis” means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water quality problem as described in Chapter 173-98-730 WAC.

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“Davis Bacon Prevailing Wage Act” means the federal law mandating on-site workers on public works projects be paid certain wages, benefits, and overtime (also known as “prevailing wage” on all government-funded construction, alteration, and repair projects.

“Defeasement” or “Defeasance” means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

“Effective Date” means the earliest date on which eligible costs may be incurred.

“Effective Interest Rate” means the total interest rate established by Ecology that includes the Administrative Charge.

“Estimated Loan Amount” means the initial amount of funds loaned to the RECIPIENT.

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount and the estimated schedule for completion of the project.

“Equivalency” means the amount of State Revolving Fund (SRF) funding each funding cycle equivalent to the EPA grant to Ecology.

“Equivalency Project” means State Revolving Fund (SRF) funded project(s) designated by ECOLOGY to receive federal funding and meet additional federal requirements.

“Expiration Date” means the latest date on which eligible costs may be incurred.

“Final Accrued Interest” means the interest accrued beginning with the first disbursement of funds to the RECIPIENT through such time as the loan is officially closed out and a final loan repayment schedule is issued.

“Final Loan Amount” means all principal of and accrued interest on the loan from the Project Start Date through the Project Completion Date.

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount and the initiation of operation or completion date, whichever comes first.

“Forgivable Principal” means the portion of a loan that is not required to be paid back by the borrower.

“General Obligation Debt” means an obligation of the RECIPIENT secured by annual ad valorem taxes levied by the RECIPIENT and by the full faith, credit, and resources of the RECIPIENT.

“General Obligation Payable from Special Assessments Debt” means an obligation of the RECIPIENT secured by a valid general obligation of the Recipient payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.

“Gross Revenue” means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to Defeasement or refund Utility obligations or (B) in an obligation redemption fund or account other than the Loan Fund until commingled with other earnings and revenues of the Utility or (C) held in a special account for the purpose of paying a rebate to the United States Government under the Internal Revenue Code.

“Guidelines” means the ECOLOGY’s Funding Guidelines that that correlate to the State Fiscal Year in which the project is funded.

“Initiation of Operation Date” means the actual date the facility financed with proceeds of the loan begins to operate for its intended purpose. (For loans only)

“Iron and Steel Products” means products made primarily of iron or steel including but may not be limited to: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

“Loan” means the Washington State Water Pollution Control Revolving Fund Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this loan agreement.

“Loan Amount” means either an Estimated Loan Amount or a Final Loan Amount, as applicable.

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“Loan Fund” means the special fund created by the RECIPIENT for the repayment of the principal of and interest on the loan.

“Loan Security” means the mechanism by which the RECIPIENT pledges to repay the loan.

“Loan Term” means the repayment period of the loan.

“Maintenance and Operation Expense” means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties, but will not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

“Manufactured Products” means, items and construction materials composed in whole or in part of non-ferrous metals such as aluminum plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

“Produced in the United States” means for iron and steel products, that all manufacturing processes, from the initial melting state through the application of coatings, occurred in the United States.

“Net Revenue” means the Gross Revenue less the Maintenance and Operation Expense.

“Original Engineer’s Estimate” means the engineer’s estimate of construction costs included with bid documents.

“Prevailing Wage” means hourly wage, usual benefits, and overtime paid in the largest city in each county, to the majority of workers, laborers, and mechanics performing the same work. The rate is established separately for each county.

“Principal and Interest Account” means, for a loan that constitutes Revenue-Secured Debt, the account created in the loan fund to be first used to repay the principal of and interest on the loan.

“Project” means the project described in this agreement.

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed and is the last day eligible costs can be incurred. This term is only used in loan agreements.

“Project Schedule” means that schedule for the project specified in the agreement.

“Revenue-Secured Debt” means an obligation of the RECIPIENT secured by a pledge of the revenue of a utility and one not a general obligation of the RECIPIENT.

“Reserve Account” means, for a loan that constitutes a Revenue Secured Debt and if specifically identified as a term and condition of the funding agreement, the account of that name created in the loan fund to secure the payment of the principal of and interest on the loan.

“Risk-Based Determination” means an approach to sub-recipient monitoring and oversight based on risk factors associated to a RECIPIENT or project.

“Scope of Work” means the tasks and activities constituting the project.

“Section 319” means the section of the Clean Water Act that provides funding to address nonpoint sources of water pollution.

“Senior Lien Obligations” means all revenue bonds and other obligations of the RECIPIENT outstanding on the date of execution of this loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or issued after the date of execution of this loan agreement having a claim or lien on the Gross Revenue of the Utility prior and superior to the claim or lien of the loan, subject only to Maintenance and Operation Expense.

“State Water Pollution Control Revolving Fund (Revolving Fund)” means the water pollution control revolving fund established by Chapter 90.50A.020 RCW.

“Termination Date” means the effective date of ECOLOGY’s termination of the agreement.

“Termination Payment Date” means the date on which the RECIPIENT is required to repay to ECOLOGY any outstanding balance of the loan and all accrued interest.

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been determined to be eligible for ECOLOGY grant or loan funding, including any required recipient match.

“Total Project Cost” means the sum of all costs associated with a water quality project, including costs that are not eligible for ECOLOGY grant or loan funding.

“Unique Entity Identity Identifier (UEI)” means a 12-character alphanumeric ID assigned by SAM.gov. to an entity doing

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business with or receiving funds from the federal government. This number replaces the DUNS number.

“ULID” means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility.

“ULID Assessments” means all assessments levied and collected in any ULID. Such assessments are pledged to be paid into the Loan Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments will include principal installments and any interest or penalties which may be due.

“Utility” means the sewer system, stormwater system, or the combined water and sewer system of the RECIPIENT, the Net Revenue of which is pledged to pay and secure the loan.

## SECTION 2: CONDITIONS APPLY TO ALL RECIPIENTS OF WATER QUALITY COMBINED FINANCIAL ASSISTANCE FUNDING.

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference and are available on ECOLOGY’s Water Quality Program website.

A. Accounting Standards: The RECIPIENT shall maintain accurate records and accounts for the project (PROJECT Records) in accordance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB), including standards related to the reporting of infrastructure assets or in accordance with the standards in Chapter 43.09.200 RCW “Local Government Accounting – Uniform System of Accounting.”

B. Architectural and Engineering Services: The RECIPIENT certifies by signing this agreement that the requirements of Chapter 39.80 RCW, “Contracts for Architectural and Engineering Services,” have been, or shall be, met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final architectural/engineering services contract and submit a copy of the contract to ECOLOGY.

C. Acquisition: The following provisions shall be in force only if the project described in this agreement is an acquisition project:

- a. Evidence of Land Value and Title. The RECIPIENT shall submit documentation of the cost of the property rights and the type of ownership interest that has been acquired.
- b. Legal Description of Real Property Rights Acquired. The legal description of the real property rights purchased with funding assistance provided through this agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the agreement before final payment.
- c. Conveyance of Rights to the State of Washington. Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT shall execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired, and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT shall use language provided by ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

### Documentation Options:

1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. RECIPIENTS shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes. The RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the deed of right.
2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
3. Easements and Leases. The RECIPIENT may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; therefore, the RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing

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the easement or lease.

d. Real Property Acquisition and Relocation Assistance.

1. Federal Acquisition Policies. See Section 4 of this agreement for requirements specific to Section 319 and SRF funded projects.
2. State Acquisition Policies. When state funds are part of this agreement, the RECIPIENT agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.
3. Housing and Relocation. In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the RECIPIENT agrees to provide any housing and relocation assistance required.

e. Hazardous Substances.

1. Certification. The RECIPIENT shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:

- i. No hazardous substances were found on the site, or
- ii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site is deemed “clean.”

2. Responsibility. Nothing in this provision alters the RECIPIENT's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.

3. Hold Harmless. The RECIPIENT will defend, protect and hold harmless ECOLOGY and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the RECIPIENT is acquiring.

f. Restriction On Conversion Of Real Property And/Or Facilities To Other Uses

The RECIPIENT shall not at any time convert any real property (including any interest therein) or facility acquired, developed, maintained, renovated, and/or restored pursuant to this agreement to uses other than those purposes for which funds were approved without prior approval of ECOLOGY. For acquisition projects that are term limited, such as one involving a lease or a term-limited restoration, renovation or development project or easement, this restriction on conversion shall apply only for the length of the term, unless otherwise provided in written documents or required by applicable state or federal law. In such case, the restriction applies to such projects for the length of the term specified by the lease, easement, deed, or landowner agreement.

D. Best Management Practices (BMP) Implementation: If the RECIPIENT installs BMPs that are not approved by ECOLOGY prior to installation, the RECIPIENT assumes the risk that part or all of the reimbursement for that activity may be delayed or ineligible. For more details regarding BMP Implementation, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY's Water Quality Program funding website.

E. Electronic Fund Transfers: Payment will be issued through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process or electronic fund transfers, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).

F. Equipment Purchase: Equipment purchases over \$5,000 and not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase. All equipment purchases over \$5,000 and not included in a contract for work being completed on the funded project, must also be reported on the Equipment Purchase Report in EAGL.

G. Funding Recognition: The RECIPIENT must inform the public about any ECOLOGY or EPA funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other

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public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Contact your Ecology Project Team to determine the appropriate recognition for your project.

H. Growth Management Planning: The RECIPIENT certifies by signing this agreement that it is in compliance with the requirements of Chapter 36.70A RCW, "Growth Management Planning by Selected Counties and Cities." If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify ECOLOGY in writing of this change within 30 days.

I. Interlocal: The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements necessary for the project are, or shall be, consistent with the terms of this agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the project to ECOLOGY upon request.

J. Lobbying and Litigation: Costs incurred for the purposes of lobbying or litigation are not eligible for funding under this agreement.

K. Post Project Assessment Survey: The RECIPIENT agrees to participate in a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project approximately three years after project completion. A representative from ECOLOGY's Water Quality Program may contact the RECIPIENT to request this data. ECOLOGY may also conduct site interviews and inspections, and may otherwise evaluate the project, as part of this assessment.

L. Project Status Evaluation: ECOLOGY may evaluate the status at any time. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

M. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State and specific requirements outlined in the Water Quality Funding Guidelines. Technical assistance, proposed practices, or project designs that do not meet these standards may be eligible if approved in writing by ECOLOGY.

### SECTION 3: CONDITIONS APPLY TO SECTION 319 AND CENTENNIAL CLEAN WATER FUNDED PROJECTS BEING USED TO MATCH SECTION 319 FUNDS.

The RECIPIENT must submit the following documents to ECOLOGY before this agreement is signed by ECOLOGY:

1. Federal Funding Accountability and Transparency Act (FFATA) Form is available on the Water Quality Program website and must be completed and submitted to Ecology. (This form is used for Section 319 (federal) funds only)
2. "Section 319 Initial Data Reporting" form must be completed in EAGL.

A. Data Reporting: The RECIPIENT must complete the "Section 319 Initial Data Reporting" form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project for EPA.

B. Funding Recognition and Outreach: In addition to Section 2.F. of these Special Terms and Conditions, the RECIPIENT shall provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA logo and follow usage requirements available at <http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. To obtain the appropriate EPA logo or seal graphic file, the RECIPIENT may send a request to their Ecology Financial Manager.

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable. (Applies to both the Section 319 funded projects and the Centennial match projects)

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement: (Applies to Section 319 funded projects only)

"This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute



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endorsement or recommendation for use.”

C. Load Reduction Reporting: The RECIPIENT shall complete the “Section 319 Annual Load Reduction Reporting” form in EAGL by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has completed the form. This form is used to gather information on best management practices (BMPs) installed and associated pollutant load reductions that were funded as a part of this project.

D. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA’s assistance agreement. In the event a time extension is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date. (For Section 319 funded projects only)

#### SECTION 4: CONDITIONS APPLY TO ALL FEDERAL FUNDING AGREEMENTS, INCLUDING SECTION 319, State Revolving Fund (SRF) Equivalency Projects, and SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANT (OSG)

A. Acquisitions: RECIPIENTS shall comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.

B. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse’s Internet Data Entry System available at: <https://facweb.census.gov/>.

C. Archaeological Resources and Historic Properties (Section 106): This requires completion of the Ecology Cultural Resources Review Form, coordination with Ecology Cultural Resources staff, and receipt of the Ecology Final Determination prior to any property acquisition and above and below ground disturbing activities.

D. Architectural and Engineering Services Procurement: The RECIPIENT must procure architectural and engineering services in accordance with the federal requirements in Chapter 11 of Title 40, U.S.C. (see <https://uscode.house.gov/view.xhtml?path=/prelim@title40/subtitle1/chapter11&edition=prelim>).

E Build America, Buy America (BABA – Pub. L. No. 117-58, 70901-52) (Federally funded SRF Equivalency projects only): The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding agrees to comply with all federal requirements applicable to the assistance received (including those imposed by the Infrastructure Investment and Jobs Act (“IIJA”/BIL), Public Law No. 117-58) which the RECIPIENT understands includes, but is not limited to, the following requirements: that all the iron and steel, manufactured products, and construction materials used in the Project are to be produced in the United States (“Build America, Buy America Requirements”) unless (i) the RECIPIENT has requested and obtained a waiver from the cognizant Agency pertaining to the Project or the Project is otherwise covered by a general applicability waiver; or (ii) all of the contributing Agencies have otherwise advised the RECIPIENT in writing that the Build America, Buy America Requirements are not applicable to the project.

RECIPIENT shall comply with all record keeping and reporting requirements under all applicable legal authorities, including any reports required by the funding authority (such as EPA and/or a state), such as performance indicators of program deliverables, information on costs and project progress. The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding, understands that (i) each contract and subcontract related to the project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the applicable legal requirements and this Agreement may result in a default hereunder that results in a repayment of the assistance agreement in advance of termination and/or repayment of assistance, and/or other remedial actions.

EPA has granted an adjustment period waiver of the requirements of Section 70914(a) of the BIL, pursuant to Section

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70914(b)(1) (public interest waiver), for eligible projects financed by SRF projects that have initiated project design planning prior to May 14, 2022, the statutory effective date of the BABA requirements. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. Sections 70917(a) and (b) of BIL provide a savings provision for existing statutory requirements that meet or exceed BABA requirements. The statutory American Iron and Steel (AIS) requirements of Clean Water Act (CWA) Section 608 and Safe Drinking Water Act (SDWA) Section 1452(a)(4) has previously applied to SRF projects and will continue to do so as part of BABA requirements.

Where manufactured products used in the project are required to be produced in the United States, manufactured product shall mean manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation. The manufactured products included cover the majority of potential water infrastructure products, including complex products made up of a variety of material types and components. For water infrastructure projects, commonly manufactured products would include, but not be limited to, pumps, motors, blowers, aerators, generators, instrumentation and control systems, gauges, meters, measurement equipment, treatment equipment, dewatering equipment, actuators, and many other mechanical and electrical items.

F. Disadvantaged Business Enterprise (DBE): General Compliance, 40 CFR, Part 33. The RECIPIENT agrees to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises (MBE/WBE) 40CFR, Part 33 in procurement under this agreement.

Six Good Faith Efforts, 40 CFR, Part 33, Subpart C. The RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under this agreement. Records documenting compliance with the following six good faith efforts shall be retained:

- 1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- 2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- 3) Consider, in the contracting process, whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State, and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- 4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- 5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request. Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin, or sex in the

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performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

This does not preclude the RECIPIENT from enacting broader nondiscrimination protections.

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including but not limited to, Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).

In the event of the RECIPIENT's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this agreement may be rescinded, canceled, or terminated in whole or in part and the RECIPIENT may be declared ineligible for further funding from ECOLOGY. The RECIPIENT shall, however, be given a reasonable time in which to cure this noncompliance.

The RECIPIENT shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

"The Contractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor will carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in termination of this Contract or other legally available remedies."

Bidder List, 40 CFR, Section 33.501(b) and (c). The RECIPIENT agrees to create and maintain a bidders list. The bidders list shall include the following information for all firms that bid or quote on prime contracts, or bid or quote subcontracts, including both MBE/WBEs and non-MBE/WBEs.

1. Entity's name with point of contact
2. Entity's mailing address, telephone number, and e-mail address
3. The procurement on which the entity bid or quoted, and when
4. Entity's status as an MBE/WBE or non-MBE/WBE

G. Electronic and information Technology (EIT) Accessibility: RECIPIENTS shall ensure that loan funds provided under this agreement for costs in the development or purchase of EIT systems or products provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology as per Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7. Systems or products funded under this agreement must be designed to meet the diverse needs of users without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

H. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.

I. Hotel-Motel Fire Safety Act: The RECIPIENT shall ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (15 USC 2225a, PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act. Pursuant to 15 USC 2225a.

J. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

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The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request. Wage determinations and instructions for their use can be found at <https://sam.gov/>.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request. Where conflicts arise between the State prevailing wage rates and Davis-Bacon Act prevailing wage requirements the more stringent requirement shall govern. Washington State prevailing wage rates can be found at <https://www.lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>

K. Trafficking in Persons: The RECIPIENT and RECIPIENT employees that are private entities shall not engage in forms of trafficking in persons. This includes, but is not limited to, the procurement of a commercial sex act or forced labor. The RECIPIENT shall notify ECOLOGY immediately of any information received from any source alleging a violation under this provision.

L. Unique Entity Identity Identifier (UEI): The RECIPIENT agrees to register with and make their registration public in the System for Award Management (SAM.gov). The RECIPIENT will be assigned a UEI and agree to include their UEI Number under their organization’s information in EAGL. The UEI number must be entered into EAGL before a funding agreement is signed.

#### SECTION 5: CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

The RECIPIENT must submit the following documents/forms to ECOLOGY before this agreement is signed by ECOLOGY:

1. Financial Capability Assessment Documentation (upon request)
2. Opinion of RECIPIENT’s Legal Council – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
3. Authorizing Ordinance or Resolution – Must be uploaded to the General Uploads form in EAGL.
4. Federal Funding Accountability and Transparency Act (FFATA) Form (Required for all federally funded SRF Equivalency projects – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
5. CWSRF Federal Reporting Information form – Must be completed in EAGL.
6. Fiscal Sustainability Plan (Asset Management) Certification Form (Only required if the project includes construction of a wastewater or stormwater facility construction) – Must be completed in EAGL.
7. Cost and Effectiveness Analysis Certification Form (Required for all projects receiving SRF Loan funding) – Must be completed in EAGL.
8. State Environmental Review Process (SERP) Documentation (Required for treatment works projects only) – Must be uploaded to the Environmental and Cultural Review form in EAGL.

A. Alteration and Eligibility of Project: During the term of this agreement, the RECIPIENT (1) shall not materially alter the design or structural character of the project without the prior written approval of ECOLOGY and (2) shall take no action which would adversely affect the eligibility of the project as defined by applicable funding program rules and state statutes, or which would cause a violation of any covenant, condition, or provision herein.

B. American Iron and Steel (Buy American – P.L 113-76, Consolidated Appropriations Act 2014, Section 436): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a “treatment works” as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron

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or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

C. Authority of RECIPIENT: This agreement is authorized by the Constitution and laws of the state of Washington, including the RECIPIENT's authority, and by the RECIPIENT pursuant to the authorizing ordinance or resolution. The RECIPIENT shall submit a copy of the authorizing ordinance or resolution to the ECOLOGY Financial Manager before this agreement shall be signed by ECOLOGY.

D. Equivalency Projects: ECOLOGY designated equivalency project and alternative designated equivalency project RECIPIENTS agree to accept federal funds and the federal requirements that accompany the funds. This includes all the requirements in Section 4 and this Section.

E. Fiscal Sustainability Plan Certification: The RECIPIENT shall submit a completed Fiscal Sustainability Plan Certification before this agreement is signed by ECOLOGY. The Fiscal Sustainability Plan Certification is available from the ECOLOGY Financial Manager or on the Water Quality Program website.

F. Funding Recognition and Outreach: The RECIPIENT agrees to comply with the EPA SRF Signage Guidance to enhance public awareness of EPA assistance agreements nationwide. Signage guidance can be found at: <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Water-Quality-grants-and-loans/Facility-project-resources>.

G. Insurance: The RECIPIENT shall at all times carry fire and extended insurance coverage, public liability, and property damage, and such other forms of insurance with responsible insurers and policies payable to the RECIPIENT on such of the buildings, equipment, works, plants, facilities, and properties of the Utility as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, or it shall self-insure or participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

H. Litigation Authority: No litigation is now pending, or to the RECIPIENT's knowledge, threatened, seeking to restrain, or enjoin:

- (i) the execution of this agreement; or
- (ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or
- (iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or
- (iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence, or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

I. Loan Interest Rate and Terms: This loan agreement shall remain in effect until the date of final repayment of the loan, unless terminated earlier according to the provisions herein.

When the Project Completion Date has occurred, ECOLOGY and the RECIPIENT shall execute an amendment to this loan agreement which details the final loan amount (Final Loan Amount), and ECOLOGY shall prepare a final loan repayment schedule. The Final Loan Amount shall be the combined total of actual disbursements made on the loan and all accrued interest to the computation date.

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a

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365-day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments, semiannually, over the term of this loan "Loan Term" as outlined in this agreement.

#### J. Loan Repayment:

##### Sources of Loan Repayment

1. Nature of RECIPIENT's Obligation. The obligation of the RECIPIENT to repay the loan from the sources identified below and to perform and observe all other agreements and obligations on its part, contained herein, shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all the covenants, agreements, and attachments contained herein.

2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.

3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.

4. For Revenue-Secured: Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.

6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

If the RECIPIENT defeases or advance refunds the loan, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay both of the following:

(i) The Loan Amount with interest

(ii) Any other obligations of the RECIPIENT to ECOLOGY under this agreement, unless in its sole discretion ECOLOGY finds that repayment from those additional sources would not be in the public interest.

Failure to repay the Loan Amount plus interest within the time specified in ECOLOGY's notice to make such repayment shall incur Late Charges and shall be treated as a Loan Default.

7. Refinancing or Early Repayment of the Project. So long as ECOLOGY shall hold this loan, the RECIPIENT shall give ECOLOGY thirty days written notice if the RECIPIENT intends to refinance or make early repayment of the loan.

##### Method and Conditions on Repayments

1. Semiannual Payments. Notwithstanding any other provision of this agreement, the first semiannual payment of principal and interest on this loan shall be due and payable no later than one year after the project completion date or initiation of operation date, whichever comes first.

Thereafter, equal payments shall be due every six months.

If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington State agencies, the payment shall be due on the next business day for Washington State agencies.

Payments shall be mailed to:

Department of Ecology

Cashiering Unit

P.O. Box 47611

Olympia WA 98504-7611

In lieu of mailing payments, electronic fund transfers can be arranged by working with ECOLOGY's Financial Manager.

No change to the amount of the semiannual principal and interest payments shall be made without a mutually signed amendment

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to this agreement. The RECIPIENT shall continue to make semiannual payments based on this agreement until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended agreement.

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.

3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.

4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

#### K. Loan Security

Due Regard: For loans secured with a Revenue Obligation: The RECIPIENT shall exercise due regard for Maintenance and Operation Expense and the debt service requirements of the Senior Lien Obligations and any other outstanding obligations pledging the Gross Revenue of the Utility, and it has not obligated itself to set aside and pay into the loan Fund a greater amount of the Gross Revenue of the Utility than, in its judgment, shall be available over and above such Maintenance and Operation Expense and those debt service requirements.

Where collecting adequate gross utility revenue requires connecting additional users, the RECIPIENT shall require the sewer system connections necessary to meet debt obligations and expected operation and maintenance expenses.

Levy and Collection of Taxes (if used to secure the repayment of the loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of its electors on all of the taxable property within the boundaries of the RECIPIENT in an amount sufficient, together with other money legally available and to be used therefore, to pay when due the principal of and interest on the loan, and the full faith, credit and resources of the RECIPIENT are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

Not an Excess Indebtedness: For loans secured with a general obligation pledge or a general obligation pledge on special assessments: The RECIPIENT agrees that this agreement and the loan to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the Loan Fund and used to pay the principal of and interest on the loan.

L. Maintenance and Operation of a Funded Utility: The RECIPIENT shall, at all times, maintain and keep the funded Utility in good repair, working order, and condition.

M. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an "Opinion of Legal Counsel to the RECIPIENT" to ECOLOGY before this agreement will be signed. ECOLOGY will provide the form.

N. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for

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bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request.

O. Progress Reports: RECIPIENTS funded with State Revolving Fund Loan or Forgivable Principal shall include the following verification statement in the “General Comments” text box of each progress report.

“We verified that we are in compliance with all the requirements as outlined in our funding agreement(s) with the Department of Ecology. This includes but is not limited to:

- The Davis-Bacon Act, 29 CFR , prevailing wage requirements, certified weekly payroll, etc.
- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33
- The American Iron and Steel Act (Buy American)
- The Build America Buy America Act (BABA) (equivalency projects only)”

P. Representations and Warranties: The RECIPIENT represents and warrants to ECOLOGY as follows:

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct.

There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT, which has not been disclosed in writing to ECOLOGY.

Existence; Authority. It is a duly formed and legally existing municipal corporation or political subdivision of the state of Washington or a federally recognized Indian Tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this agreement and to undertake the project identified herein.

Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this loan agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the project or to repay the principal of or interest on the loan, have occurred since the date of this loan agreement. Any changes in the RECIPIENT’s financial condition shall be disclosed in writing to ECOLOGY by the RECIPIENT in its request for payment.

Q. Sale or Disposition of Funded Utility: The RECIPIENT shall not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities, or other part of the funded Utility or any real or personal property comprising a part of the funded Utility unless:

1. The facilities or property transferred are not material to the operation of the funded Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the funded Utility or are no longer necessary, material, or useful to the operation of the funded Utility; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the funded Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the funded Utility from the portion of the funded Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the ECOLOGY.

The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.



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R. Sewer-Use Ordinance or Resolution for Funded Wastewater Facility Projects: If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution. Such ordinance or resolution shall be submitted to ECOLOGY upon request.

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater into separated sewer systems.
- 3) Require that new sewers and connections be properly designed and constructed.

S. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient ECOLOGY or RECIPIENT funds.
2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

Procedures for Termination. If this loan agreement is terminated prior to project completion, ECOLOGY shall provide to the RECIPIENT a written notice of termination at least five working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the ECOLOGY shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the loan and all accrued interest (the "Termination Payment Date").

Termination and Default Remedies

No Further Payments. On and after the Termination Date, or in the event of a default event, ECOLOGY may, at its sole discretion, withdraw the loan and make no further payments under this agreement.

Repayment Demand. In response to an ECOLOGY initiated termination event, or in response to a loan default event, ECOLOGY may at its sole discretion demand that the RECIPIENT repay the outstanding balance of the Loan Amount and all accrued interest.

Interest after Repayment Demand. From the time that ECOLOGY demands repayment of funds, amounts owed by the RECIPIENT to ECOLOGY shall accrue additional interest at the rate of one percent per month, or fraction thereof.

Accelerate Repayments. In the event of a default, ECOLOGY may, in its sole discretion, declare the principal of and interest on the loan immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien Obligation upon the Net Revenue. That is, the loan is not subject to acceleration so long as any Senior Lien Obligations are outstanding.

Repayments not made immediately upon such acceleration will incur Late Charges.

Late Charges. All amounts due to ECOLOGY and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur late charges.

Intercept State Funds. In the event of a default event and in accordance with Chapter 90.50A.060 RCW, "Defaults," any state funds otherwise due to the RECIPIENT may, at ECOLOGY's sole discretion, be withheld and applied to the repayment of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings,

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maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due, or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this agreement.

Fees and Expenses. In any action to enforce the provisions of this agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) shall be awarded to the prevailing party as that term is defined in Chapter 4.84.330 RCW.

Damages. Notwithstanding ECOLOGY's exercise of any or all the termination or default remedies provided in this agreement, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and/or the state of Washington because of any breach of this agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

T. User-Charge System for Funded Utilities: The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and shall adopt a system of user-charges to assure that each user of the funded utility shall pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the project. The user-charge system will include provisions for a connection charge.

In addition, the RECIPIENT shall regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the funded utility, to establish reserves to pay for replacement, and to repay the loan.

## GENERAL FEDERAL CONDITIONS

**If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.**

### A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY

#### EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

#### B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$30,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required Unique Entity Identifier in [www.sam.gov](http://www.sam.gov) <http://www.sam.gov> within 30 days of agreement signature. The FFATA information will be available to the public at [www.usaspending.gov](http://www.usaspending.gov) <http://www.usaspending.gov>.

For more details on FFATA requirements, see [www.fsrc.gov](http://www.fsrc.gov) <http://www.fsrc.gov>.

#### C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf) <https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or

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services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management \(SAM\)](https://sam.gov/SAM/) <<https://sam.gov/SAM/>> exclusion list.

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## GENERAL TERMS AND CONDITIONS

### Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

#### GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

07/01/2023 Version

#### 1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/2301002.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

#### 2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

#### 3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

#### 4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
  - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.
  - \* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.
  - For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).

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b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
  - Make the IDP readily available to anyone working at the project site.
  - Discuss the IDP with staff, volunteers, and contractors working at the project site.
  - Implement the IDP when Cultural Resources or human remains are found at the project site.
- c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

## 5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

## 6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

## 7. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.
- j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and

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other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

#### 8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

#### 9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

#### 10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

#### 11. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review. The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such

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decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

## 12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at:

<http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at:

<https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

## 13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

## 14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

## 15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.



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#### 16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

#### 17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

#### 18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

#### 19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

#### 20. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to

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ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.

- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

## 21. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
  - 1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
  - 2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

## 22. RECORDS, AUDITS, AND INSPECTIONS

Agreement No: WQC-2024-Spokane-00122  
Project Title: Nine Mile Sewer Re-Route  
Recipient Name: City of Spokane

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
  - b) Be kept in a common file to facilitate audits and inspections.
  - c) Clearly indicate total receipts and expenditures related to this Agreement.
  - d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.
- RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

#### 23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

#### 24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

#### 25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

#### 26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

Agreement No: WQC-2024-Spokane-00122  
Project Title: Nine Mile Sewer Re-Route  
Recipient Name: City of Spokane

## 27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing,

<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

## 28. TERMINATION

### a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. 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.

**Failure to Commence Work.** ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

**Non-Performance.** The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

### b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. 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.

**Non-Allocation of Funds.** ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments.

Agreement No: WQC-2024-Spokane-00122  
Project Title: Nine Mile Sewer Re-Route  
Recipient Name: City of Spokane

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

29. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

30. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

End of General Terms and Conditions



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd**

1/17/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

**Submitting Dept**

INTEGRATED CAPITAL

**Project #**

2017081

**Contact Name/Phone**

MARK PAPICH 625-6310

**Bid #**

**Contact E-Mail**

MPAPICH@SPOKANECITY.ORG

**Requisition #**

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

4250 – PUBLIC WORKS BOARD LOAN AGREEMENT FREYA STREET

**Agenda Wording**

Loan agreement with the Public Works Board for Freya Street waterline and street improvements - \$2,295,000.00 Revenue.

**Summary (Background)**

Loan agreement for construction of Freya Street Improvements - Garland to Wellesley. The total project cost is estimated to be \$4,200,000.00. The loan is for \$2,295,000.00 with an additional \$405,000.00 in grant funding.

Lease? NO

Grant related? YES

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 2,700,000.00

Current Year Cost \$ 2,700,000.00

Subsequent Year(s) Cost \$

**Narrative**

The NEPDA has also received \$1.5M dollars in ARP grant funds for this project. The funding between these two sources will fully fund the project to include not only waterline replacement but also new pavement, a pathway and stormwater improvements.

**Amount**

**Budget Account**

Revenue \$ 2,295,000

# 4250 98866 99999 38271 11078

Revenue \$ 405,000

# 4250 98866 99999 33442 11078

Select \$

#

Select \$

#

\$

#

\$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

<b><u>Dept Head</u></b>	DAVIS, MARCIA
<b><u>Division Director</u></b>	FEIST, MARLENE
<b><u>Accounting Manager</u></b>	ALBIN-MOORE, ANGELA
<b><u>Legal</u></b>	HARRINGTON,
<b><u>For the Mayor</u></b>	JONES, GARRETT

**Additional Approvals**

<b><u>ACCOUNTING -</u></b>	MURRAY, MICHELLE

**Distribution List**

	eraea@spokanecity.org
icmacounting@spokanecity.org	jrhall@spokanecity.org
mpapich@spokanecity.org	mdavis@spokanecity.org

## Committee Agenda Sheet

### Public Safety & Community Health Committee

<b>Committee Date</b>	1/29/2024
<b>Submitting Department</b>	Integrated Capital Management
<b>Contact Name</b>	Mark Papich
<b>Contact Email &amp; Phone</b>	mpapich@spokanecity.org
<b>Council Sponsor(s)</b>	<u>Council President Betsy Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Public Works Board Loan
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>The City has also been awarded loan and grant funds through the Public Works Board for dollars that were applied for in 2023. These funds are for the Freya (Garland to Wellesley) waterline and street improvement project.</p> <p>Below are the pertinent details of the funding agreements:</p> <ul style="list-style-type: none"> <li>• Freya Waterline and Street Improvement Project (PWB Loan) <ul style="list-style-type: none"> <li>▪ Loan Funding Amount: \$2,295,000</li> <li>▪ Interest Rate: 1.38%</li> <li>▪ Loan term: 20-years</li> <li>▪ Total Grant Amount: \$405,000</li> <li>▪ Grant match: 0%</li> </ul> </li> </ul>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$2,700,000</u></p> <p>    Current year cost: \$2,700,000</p> <p>    Subsequent year(s) cost:</p> <p><b>Narrative:</b> <u>In addition to this PWB grant and loan funding, the NEPDA has also received \$1.5M dollars in ARP grant funds for this project. The funding between these two sources will fully fund the project to include not only waterline replacement but also new pavement, a pedestrian pathway and stormwater improvements. In addition to replacing the outdated water line, the project will improve the safety and connectivity within this corridor for both pedestrians and vehicles.</u></p> <p><b>Funding Source</b>    <input checked="" type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Select Funding Source*</p> <p>Is this funding source sustainable for future years, months, etc? <a href="#">Click or tap here to enter text.</a></p> <p><b>Expense Occurrence</b>    <input checked="" type="checkbox"/> One-time    <input type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
<b>What impacts would the proposal have on historically excluded communities?</b>	
Public Works services and projects are designed to serve all residents and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to	



gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.

**How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?**

N/a - This is a public works project and should not impact racial, gender identity, national origin, income level, disability, sexual orientation, or other existing disparity factors.

**How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?**

Public Works follows the City's established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

**Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?**

This project is consistent with the City's adopted policies and programs.

**CONTRACT FACE SHEET****Contract Number:** PC24-96103-042**PUBLIC WORKS BOARD  
CONSTRUCTION FUNDING CONTRACT**

<b>1. Contractor</b> City of Spokane 808 W Spokane Falls Blvd Spokane, WA 99201		<b>2. Contractor Doing Business As (optional)</b> N/A	
<b>3. Contractor Representative</b>		<b>4. Public Works Board Representative</b> Alison Mitchell	
<b>5. Contract Amount</b> \$2,700,000.00	<b>6. Funding Source</b> Federal: <input type="checkbox"/> State: <input checked="" type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>	<b>7. Contract Start Date</b> Contract Execution Date	<b>8. Contract End Date</b> June 1, 2044
<b>9. Federal Funds (as applicable)</b> N/A	<b>Federal Agency</b> N/A	<b>CFDA Number</b> N/A	
<b>10. Tax ID #</b> N/A	<b>11. SWV #</b> SWV0003387-03	<b>12. UBI #</b> 328-013-877	<b>13. UEI #</b> N/A
<b>14. Contract Purpose</b> Fund a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets, roads, bridges, drinking water systems, stormwater systems, sanitary sewage systems, or solid waste facilities, including recycling facilities.			
The BOARD, defined as the Washington State Public Works Board and Contractor acknowledge and accept the terms of this Contract and attachments and have executed this Contract on the date below to start as of the date and year last written below. The rights and obligations of both parties to this Contract are governed by this Contract and the following other documents that are incorporated by reference: Contract Terms and Conditions including Declarations Page; and Attachment I: Attorney's Certification; and the Public Works Board's Traditional Program Policy Handbook, found on the PWB website.			
<b>FOR THE CONTRACTOR</b>		<b>FOR PUBLIC WORKS BOARD</b>	
_____ Signature		_____ Kathryn A. Gardow, Public Works Board Chair	
_____ Print Name		_____ Date	
_____ Title		<b>APPROVED AS TO FORM ONLY</b>	
_____ Date		_____ Signature on File Dawn C. Cortez Assistant Attorney General	



# DECLARATIONS

## CLIENT INFORMATION

Legal Name: City of Spokane  
 Contract Number: PC24-96103-042

## PROJECT INFORMATION

Project Title: Freya Waterline and Street Improvements  
 Project City: City of Spokane  
 Project State: **Washington**  
 Project Zip Code: 99217

## FUNDING INFORMATION

### LOAN FUNDING:

Loan Amount: **\$2,295,000.00**  
 Loan Term: **20 years**  
 Interest Rate: **1.38%**  
 Payment Month: June 1<sup>st</sup>

### GRANT FUNDING:

Grant Amount: \$405,000.00  
 % of Funding as Grant: 15%

### PROJECT TOTALS:

Total Estimated Cost: **\$4,200,000.00**  
 Total Project Funding: **\$2,700,000.00**  
 Earliest Date for Cost Reimbursement: **September 8, 2023**  
 Time of Performance: 60 months from Execution Date of this Contract to Project Completion.

## ADDITIONAL SPECIAL TERMS AND CONDITIONS GOVERNING THIS CONTRACT

N/A

## LOAN SECURITY CONDITION GOVERNING THIS CONTRACT

This loan is a general obligation of the CONTRACTOR.

## SCOPE OF WORK

This project will replace the water transmission main on Freya Street between Garland Avenue and Wellesley Avenue with a new 30-inch ductile iron pipe (approximately 2,300 linear feet), and includes additional elements such as repaving the road (approximately 7,500 square yards of hot mix asphalt), installing new curbs (approximately 4,100 linear feet), constructing stormwater treatment swales (approximately 3,200 square yards), and implementing a shared-use path (approximately 1,900 square yards of hot mix asphalt) along the east side of the alignment.

The project costs may include but are not limited to: engineering, cultural and historical resources, environmental documentation, review, permits, public involvement, bid documents and construction. The project needs to meet all applicable Local, State, and/or Federal standards.



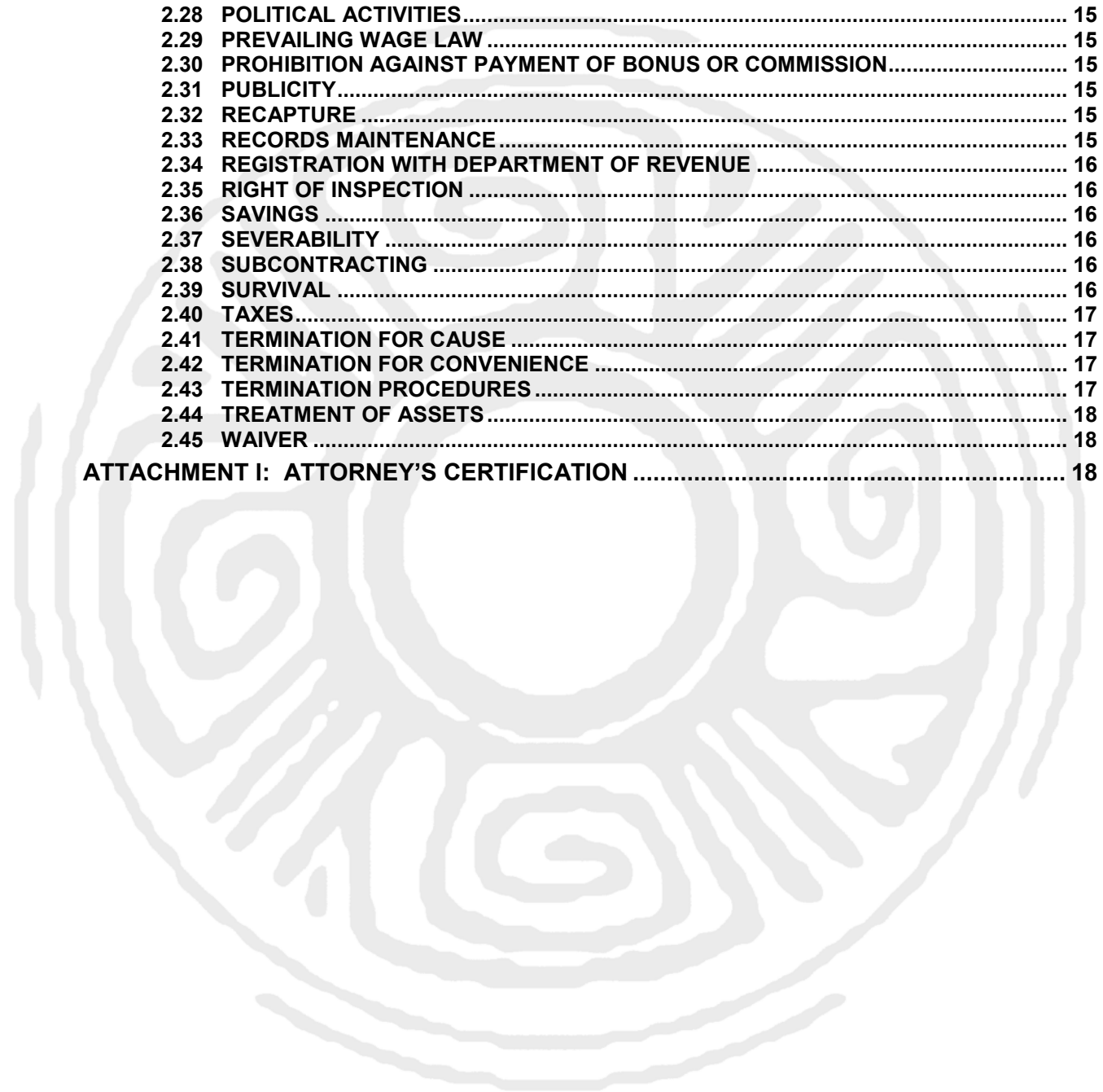
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# CONTRACT TERMS AND CONDITIONS

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## PUBLIC WORKS BOARD CONSTRUCTION FUNDING PROGRAM

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### SPECIAL TERMS AND CONDITIONS

#### 1.1 Definitions

As used throughout this Construction Funding Contract the following terms shall have the meaning set forth below:

- A. "The BOARD" shall mean the Washington State Public Works Board created in Revised Code of Washington (RCW) 43.155.030, and who is a Party to the Contract
- B. "Contract" shall mean this Construction Funding Contract.
- C. "Contractor" shall mean the local government identified on the Contract Face Sheet receiving funding to complete the project described in the SCOPE OF WORK described in this Contract and who is a Party to the Contract, and shall include all employees and agents of the Contractor.
- D. "Declarations " and "Declared" shall refer to the project information, loan terms and conditions as stated on the Declarations Page of this Funding Contract, displayed within the Contract in **THIS STYLE** for easier identification.
- E. The Traditional Program Policy Handbook shall mean the handbook found at the [PWB Traditional Financing Webpage](#) and available upon request as PDF.

#### 1.2 Authority

Acting under the authority of RCW 43.155, the BOARD has awarded the Contractor Public Works Board construction funding for an approved public works project.

#### 1.3 Purpose

The BOARD and the Contractor have entered into this Contract to provide funds to enable the Contractor to undertake a local public works project that furthers the goals and objectives of the Washington State Public Works Program. The project will be undertaken by the Contractor and will include the activities described in the **SCOPE OF WORK** shown on the Declarations page. The project must be undertaken in accordance with the contract terms and conditions, and all applicable federal, state and local laws and ordinances, which are incorporated by reference.

#### 1.4 Order of Precedence

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:



- A. Applicable federal and state of Washington statutes and regulations.
- B. Special Terms and Conditions including attachments.
- C. General Terms and Conditions.

**1.5 5- year deferral for start-up systems**

If the project financed by this Contract is to develop a system to deliver previously unavailable services, and revenue from those services is to repay the loan, the new system is eligible for a deferral of loan payments for sixty (60) months after the Contract execution date. The Contractor may provide a written request to the BOARD requesting a 5-year deferral for an eligible system. The BOARD may approve the deferral request.

Interest accrues for the aforementioned sixty (60) months. The accrued interest only payment is due June 1 of the 6th year of the loan term. Interest and principal payments are due on June 1 of the 7th year of the loan term.

**1.6 Competitive Bidding Requirements**

The Contractor shall comply with the provisions of RCW 43.155.060 regarding competitive bidding requirements for projects assisted in whole or in part with money from the Public Works Program.

**1.7 Default in Repayment**

If the funding under this Contract constitutes a loan, repayments shall be made on the loan in accordance with Section 1.18 of this Contract. A payment not received within thirty (30) days of the due date shall be declared delinquent. Delinquent payments shall be assessed a monthly penalty beginning on the first (1st) day past the due date. The penalty will be assessed on the entire payment amount. The penalty will be one percent (1%) per month or twelve percent (12%) per annum. The same penalty terms shall apply at project completion if the repayment of loan funds in excess of eligible costs are not repaid at the time of the Project Completion Amendment is submitted, as provided for in Section 1.13.

The Contractor acknowledges and agrees to the BOARD's right, upon delinquency in the payment of any annual installment, to notify any other entity, creditors, or potential creditors of the Contractor of such delinquency.

The Contractor shall be responsible for all legal fees incurred by the BOARD in any action undertaken to enforce its rights under this section.

**1.8 Investment Grade Audit**

For projects involving repair, replacement, or improvement of a wastewater treatment plant, or other public works facility for which an investment grade audit is obtainable, Contractor must undertake an investment grade audit. Costs incurred as part of the investment grade audit are eligible project costs.

**1.9 Sub-Contractor Data Collection**

Contractor will submit reports, in a form and format to be provided by the BOARD and at intervals as agreed by the parties, regarding work under this Contract performed by sub-contractors and the portion of the Contract funds expended for work performed by sub-contractors, including but not necessarily limited to minority-owned, women-owned, and veteran-owned business sub-contractors. "Sub-Contractors" shall mean sub-contractors of any tier.

### **1.10 Eligible Project Costs**

The Eligible project costs must consist of expenditures eligible under Washington Administrative Code (WAC) 399-30-030 and be related only to project activities described in the declared **SCOPE OF WORK**. Eligible costs for reimbursement shall be construed to mean expenditures incurred and paid, or incurred and payable within thirty (30) days of the reimbursement request. Only costs that have been incurred on or after **EARLIEST DATE FOR COST REIMBURSEMENT** shown in the Declarations are eligible for reimbursement under this Contract. Eligible costs will be paid according to an approved budget up to the maximum amount stated on the Contract Award or Amendment Face Sheet.

The Contractor assures compliance with WAC 399-30-030, which identifies eligible costs for projects assisted with BOARD funding.

These terms supersede the terms in Section 2.2. Allowable Costs.

### **1.11 Historical and Cultural Resources**

Prior to approval and disbursement of any funds awarded under this Contract, the Contractor shall cooperate with the BOARD to complete the requirements of Governor's Executive Order 21-02 or the Contractor shall complete a review under Section 106 of the National Historic Preservation Act, if applicable. Contractor agrees that the Contractor is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural resources and agrees to hold harmless the BOARD and the state of Washington in relation to any claim related to such historical or cultural resources discovered, disturbed, or damaged as a result of the project funded by this Contract.

In addition to the requirements set forth in this Contract, the Contractor shall, in accordance with Governor's Executive Order 21-02 as applicable, coordinate with the BOARD and the Washington State Department of Archaeology and Historic Preservation ("DAHP"), including any recommendation consultation with any affected tribe(s), during Project design and prior to construction to determine the existence of any tribal cultural resources affected by the Project. Contractor agrees to avoid, minimize, or mitigate impacts to the cultural resource as a continuing prerequisite to receipt of funds under this Contract.

The Contractor agrees that, unless the Contractor is proceeding under an approved historical and cultural monitoring plan or other memoranda of agreement, if historical or cultural artifacts found during the construction, the Contractor shall immediately stop construction and notify the local historical preservation officer and the state's historical preservation officer at DAHP, and the BOARD Representative identified on the Face Sheet. If human remains are uncovered, the Contractor shall report the presence and location of the remains to the coroner and local enforcement immediately, then contact DAHP and the concerned tribe's cultural staff or committee.

The Contract shall require this provision to be contained in all subcontracts for work or services related to the Scope of Work attached hereto.

In addition to the requirements set forth in the Contract, the Contractor agrees to comply with RCW 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and WAC 25-48 regarding Archaeological Excavation and Removal Permits.

Completion of the requirements of Section 106 of the National Historic Preservation Act shall substitute for completion of Governor's Executive Order 21-02.

In the event that the Contractor finds it necessary to amend the Scope of Work the Contract may be required to re-comply with Governor's Executive Order 21-02 or Section 106 of the National Historic Preservation Act.

### **1.12 Performance Incentives**

The Contractor shall complete the project no later than sixty (60) months after the date of Contract execution.

Should the Contractor submit the Certified Project Completion Report within forty-eight (48) months of the date of Contract execution, the Contractor may choose one of the two following incentives upon project completion:

Option A: The repayment period will be increased by twenty-four (24) months, not to exceed the life of the asset, OR:

Option B: The interest rate will be decreased by one-quarter of one percent (0.25%).

Should the Contractor submit the Certified Project Completion Report within thirty-six (36) months of the date of Contract execution, the Contractor may choose one of the following two incentives upon project completion:

Option C: The repayment period will be increased by sixty (60) months, not to exceed the life of the asset, OR;

Option D: The interest rate will be decreased by up to one-half of one percent (0.50%).

Once an option is selected, the Contract shall be modified to note the appropriate change and no further adjustment to the Contract for Performance Incentives shall be authorized. Irrespective of the performance incentive chosen, at no point in time shall the minimum loan interest rate be less than 0.25%.

The calculation of interest rate and term adjustments will apply to the remaining payments beginning from the date the Project Completion report is certified.

### **1.13 Project Completion Amendment and Certified Project Completion Report**

The Contractor shall complete a Certified Project Completion Report when all activities identified in the **SCOPE OF WORK** are complete. The BOARD will supply the Contractor with the Certified Project Completion Report form, which shall include:

- A. A certified statement that the project, as described in the declared **SCOPE OF WORK**, is complete and, if applicable, meets required standards.
- B. A certified statement of the actual dollar amounts spent, from all funding sources, in completing the project as described in the **SCOPE OF WORK**.
- C. Certification that all costs associated with the project have been incurred and have been accounted for. Costs are incurred when goods and services are received and/or Contract work is performed.
- D. A final voucher for the remaining eligible funds.
- E. Pictures of Completed Project.

The Contractor will submit the Certified Project Completion Report together with the last Invoice Voucher for a sum not to exceed the balance of the loan amount. The final Invoice Voucher payment shall not occur prior to the completion of all project activities identified in the **SCOPE OF WORK** and the BOARD's receipt and acceptance of the Certified Project Completion Report.

The Project Completion Amendment shall serve as an amendment to this Contract determining the final loan amount, local share, term, and interest rate.

#### **1.14 Project Signs**

If the Contractor displays, during the period covered by this Contract, signs or markers identifying those agencies participating financially in the approved project, the sign or marker must identify the Washington State Public Works Board as a participant in the project.

#### **1.15 Rate and Term of Loan**

If the Contractor is awarded a loan, the BOARD shall fund the Contractor a sum not to exceed the **LOAN AMOUNT** shown on the Contract Face Sheet and declared on the Contract Declarations Page. The interest rate shall be the declared **INTEREST RATE** per annum on the outstanding principal balance. The length of the loan shall not exceed the declared **LOAN TERM** in years, with the final payment due by the **CONTRACT END DATE** as shown on the Contract Face Sheet.

The loan forgiveness shall be applied at project completion and shall apply to the lesser of the loan amount or the actual eligible costs and that declared percent on any accrued interest. The percent of loan forgiveness and interest rate shall not be changed, regardless of the actual cost of the project and the Affordability Index at project completion.

#### **1.16 Recapture**

In addition to the recapture provisions in Section 2.32, the right to recapture shall exist for a period not to exceed six (6) years following Contract termination. In the event that the Board is required to institute legal proceedings to enforce the recapture provision, the BOARD shall be entitled to its costs, including attorney's fees.

#### **1.17 Reimbursement Procedures and Payment**

If funding or appropriation is not available at the time the invoice is submitted, or when this Contract is executed, the issuance of warrants will be delayed or suspended until such time as funds or appropriation become available. Therefore, subject to the availability of funds, warrants shall be issued to the Contractor for reimbursement of allowable expenses incurred by the Contractor while undertaking and administering approved project activities in accordance with the declared **SCOPE OF WORK**.

The CONTRACTOR shall submit all Invoice Vouchers and all required documentation per guidance in the BOARD Traditional Program Policy Handbook, which is incorporated by reference.

The BOARD shall reimburse the Contractor for eligible project expenditures up to the maximum loan amount under this Contract, as identified in Section 1.10. When requesting reimbursement for costs incurred, the Contractor shall submit all Invoice Vouchers and any required documentation electronically through the Department of Commerce's (COMMERCE) Contracts Management System (CMS), which is available through the Secure Access Washington (SAW) portal. If the Contractor has constraints preventing access to COMMERCE's online A-19 portal, a hard copy A-19 form may be provided by the BOARD Project Manager upon request.

Requests for reimbursements for costs related to **construction** activities will not be accepted until the Contractor provides:

- Proof of compliance with Governor's Executive Order 21-02 or Section 106 of the National Historic Preservation Act, as described in Section 1.11, and
- Signed Public Works Board Notice of Contract Award and Notice to Proceed, which follows the formal award of a construction contract.

If the Contractor receives funding in the form of both a grant and a loan, the Contractor shall bill to the loan and grant proportionally until and if funds are exhausted.

The BOARD will pay the Contractor upon acceptance of the work performed and receipt of properly completed invoices. Invoices shall be submitted to the BOARD monthly or at least quarterly, as appropriate.

Payment shall be considered timely if made by the BOARD within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

The BOARD may, at its sole discretion, terminate the Contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

No payments in advance or in anticipation of services or supplies to be provided under this Contract shall be made by the BOARD.

BOARD shall not release the final five (5) percent of the total loan amount until acceptance by BOARD of project completion report.

Duplication of Billed Costs. If the Contractor is entitled to payment or has been or will be paid by another source for an eligible project cost, then the Contractor shall not be reimbursed by the BOARD for that cost.

Disallowed Costs. The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

In no event shall the total Public Works funding exceed 100% of the eligible actual project costs. At the time of project completion, the Contractor shall submit to the BOARD a Project Completion Amendment certifying the total actual project costs, other funding, and local share. The final BOARD funding disbursement shall bring the total funding to the lesser of 100% of the eligible project costs or the total declared **funding under this Contract**. The Project Completion Amendment shall serve as an amendment to this Contract determining the final funding amount, local share, and any applicable interest rate.

In the event that the final costs identified in the Project Completion Amendment indicate that the Contractor has received BOARD monies in excess of 100.00% of eligible costs, all funds in excess of 100.00% shall be repaid to the BOARD by payment to the Department of Commerce, or its successor, together with the submission of the Project Completion Amendment.

### **1.18 Repayment**

If the contract includes loan funding, loan repayment installments are due on the day and month identified under the term: **PAYMENT MONTH** on the Declarations Page. Payments are due each year during the term of the loan beginning one year from the date of Contract execution. Interest only will be charged for this payment if a warrant is issued prior to this date. All subsequent payments shall consist of principal and accrued interest due on the specified **PAYMENT MONTH** date of each year during the remaining term of the loan.

Repayment of a loan under this Contract shall include the declared **INTEREST RATE** per annum based on a three hundred and sixty (360) day year of twelve (12) thirty (30) day months. Interest will begin to accrue from the date each warrant is issued to the Contractor. The final payment shall be on or before the **CONTRACT END DATE** shown on the Declarations page, of an amount sufficient to bring the loan balance to zero.

In the event that the BOARD approves the Contractor's request for a deferral as outlined in Section 1.5, then the first loan repayment is due sixty (60) months after Contract execution. Interest accrues for the sixty (60) months after Contract execution. The accrued interest only will be charged for this payment if a warrant is issued prior to this date. Interest and principal payments are due on the declared **PAYMENT MONTH** date of each year during the remaining term of the loan. The Contractor has the right to repay the unpaid balance of the loan in full at any time or make accelerated payments without penalty.

The Contractor will repay the loan in accordance with the preceding conditions through the use of a check, money order, or equivalent means made payable to the Washington State Department of Commerce, or its successor.

### **1.19 Reports**

The Contractor shall furnish the BOARD with:

- A. Project progress reports per guidance in the BOARD Traditional Program Policy Handbook;
- B. Quarterly Expenditure Projection Reports;
- C. Certified Project Completion Report at project completion (as described in Section 1.13);
- D. Pictures and short videos of various stages of the project, and
- E. Other reports as the BOARD may require.

### **1.20 Termination for Cause**

If the Contractor fails to comply with the terms of this Contract, or fails to use the funds only for those activities identified in the **SCOPE OF WORK**, the BOARD may terminate the Contract in whole or in part at any time. The BOARD shall notify the Contractor in writing of its determination to terminate, the reason for such termination, and the effective date of the termination. Nothing in this section shall affect the Contractor's obligation to repay the unpaid balance of a loan.

These terms supersede the terms in Section 2.41 Termination for Cause/Suspension.

### **1.21 Termination for Convenience**

Notwithstanding anything in Section 2.42 Termination for Convenience, the BOARD may suspend or terminate this Contract in the event that funds are no longer available to the BOARD, or are not appropriated for the purpose of meeting the BOARD's obligations under this Contract. Termination will be effective when the BOARD sends written notice of termination to the Contractor. Nothing in this section shall affect the Contractor's obligation to repay the unpaid balance of the loan.

### **1.22 Time of Performance**

No later than sixty (60) months after the date of Contract execution the Contractor must reach project completion.

Failure to meet Time of Performance shall constitute default of this Contract. In the event of extenuating circumstances, the Contractor may request, in writing, that the BOARD extend the deadline for project completion. The BOARD may extend the deadline.

The term of this Contract shall be for the entire term of any loan provided under this contract, regardless of actual project completion, unless terminated sooner as provided herein.

**1.23 Contract Suspension**

In the event that the Washington State Legislature fails to pass and the Governor does not authorize a Capital Budget by June 30 of each biennium, the Washington State Constitution Article 8 and RCW 43.88.130 and RCW 43.88.290 prohibit expenditures or commitments of state funds in the absence of appropriation.

In such event, all work under this Contract will be suspended effective July 1. The Contractor shall immediately suspend work under this Contract and take all reasonable steps necessary to minimize the cost of performance directly attributable to such suspension until the suspension is cancelled.

The BOARD shall notify the Contractor immediately upon lifting of the Contract suspension.

**1.24 Special Conditions**

If ADDITIONAL SPECIAL CONDITIONS are listed on the Contract Declarations Page then these conditions are herein incorporated as part of the terms and requirements of this Contract.

**1.25 Loan Security**

Loan Security payments shall be made as stated on the attached Declarations Page, and identified as LOAN SECURITY.

# GENERAL TERMS AND CONDITIONS

## 2.1 DEFINITIONS

As used throughout this Contract, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Public Works Board Chair and/or the designee authorized in writing to act on the Chair's behalf.
- B. "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- C. "BOARD" shall mean the Washington State Public Works Board created in Revised Code of Washington (RCW) 43.155.030, and which is a Party to the Contract
- D. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- E. "State" shall mean the state of Washington.
- F. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

## 2.2 Allowable Costs

Costs allowable under this Contract are actual expenditures according to an approved budget up to the maximum amount stated on the Contract Award or Amendment Face Sheet.

## 2.3 ALL WRITINGS CONTAINED HEREIN

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

## 2.4 AMENDMENTS

This Contract 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.

## 2.5 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

## 2.6 APPROVAL

This contract shall be subject to the written approval of the BOARD's Authorized Representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.



## **2.7 ASSIGNMENT**

Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of the BOARD.

## **2.8 ATTORNEYS' FEES**

Unless expressly permitted under another provision of the Contract, in the event of litigation or other action brought to enforce Contract terms, each party agrees to bear its own attorney's fees and costs.

## **2.9 AUDIT**

### **A. General Requirements**

- If requested by the Board at any time during the contract period and six (6) years following termination of the Contract, Contractor will obtain an audit, at its own expense.
- Contractors are to procure audit services based on the following guidelines.
- The Contractor shall maintain its records and accounts so as to facilitate the audit requirement and shall ensure that Subcontractors also maintain auditable records.
- The Contractor is responsible for any audit exceptions incurred by its own organization or that of its Subcontractors.
- The BOARD reserves the right to recover from the Contractor all disallowed costs resulting from the audit.
- Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Contractor must respond to the BOARD's request for information or corrective action concerning audit issues within thirty (30) days of the date of request.

### **B. State Funds Requirements**

- In the event an audit is required, if the Contractor is a local government entity, the Office of the State Auditor shall conduct the audit.
- Audits of non-profit organizations are to be conducted by a certified public accountant selected by the Contractor.
- The Contractor shall include the above audit requirements in any subcontracts.
- In any case, the Contractor's financial records must be available for review by the BOARD.

## **2.10 CODE REQUIREMENTS**

All construction and rehabilitation projects must satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990 28 C.F.R. Part 35 will be required, as specified by the local building Department.

## **2.11 CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

**A.** "Confidential Information" as used in this section includes:

1. All material provided to the Contractor by the BOARD that is designated as "confidential" by the BOARD;
2. All material produced by the Contractor that is designated as "confidential" by the BOARD; and
3. All personal information in the possession of the Contractor that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's

name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

- B.** The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of the BOARD or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide the BOARD with its policies and procedures on confidentiality. The BOARD may require changes to such policies and procedures as they apply to this Contract whenever the BOARD reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by the BOARD. Upon request, the Contractor shall immediately return to the BOARD any Confidential Information that the BOARD reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.
- C.** Unauthorized Use or Disclosure. The Contractor shall notify the BOARD within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

## **2.12 CONFORMANCE**

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

## **2.13 COPYRIGHT PROVISIONS**

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the BOARD. The BOARD shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to the BOARD effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, the Contractor hereby grants to the BOARD a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the BOARD.

The Contractor shall exert all reasonable effort to advise the BOARD, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor shall provide the BOARD with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Contract. The BOARD shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

## **2.14 DISALLOWED COSTS**

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

## **2.15 DISPUTES**

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Chair of the BOARD, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Contractor's name, address, and Contract number; and
- be mailed to the BOARD Chair and the other party's (respondent's) Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Chair or the Chair's designee and the requestor within five (5) working days.

The Chair or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Chair or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

## **2.16 DUPLICATE PAYMENT**

The Contractor certifies that work to be performed under this contract does not duplicate any work to be charged against any other contract, subcontract, or other source.

## **2.17 ETHICS/CONFLICTS OF INTEREST**

In performing under this Contract, the Contractor shall assure compliance with the Ethics in Public Service Act, RCW 42.52 and any other applicable local, state or federal law related to ethics or conflicts of interests.

## **2.18 GOVERNING LAW AND VENUE**

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

## **2.19 INDEMNIFICATION**

To the fullest extent permitted by law, the GRANTEE shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. "Claim" as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorneys' fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The GRANTEE's obligation to indemnify, defend, and hold harmless includes any claim by GRANTEE's agents, employees, representatives, or any subgrantee/subcontractor or its employees.

The Contractor's obligation shall not include such claims that may be caused by the sole negligence of the State and its agencies, officials, agents, and employees. If the claims or damages are caused by or result from the concurrent negligence of (a) the State, its agents or employees and (b) the Contractor, its subcontractors, agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Contractor or its subcontractors, agents, or employees.

The GRANTEE waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

## **2.20 INDEPENDENT CAPACITY OF THE CONTRACTOR**

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and its employees or agents performing under this Contract are not employees or agents of the state of Washington or the BOARD. The Contractor will not hold itself out as or claim to be an officer or employee of the BOARD or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

## **2.21 INDUSTRIAL INSURANCE COVERAGE**

The Contractor shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the BOARD may collect from the Contractor the full amount payable to the Industrial Insurance Accident Fund. The BOARD may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by the BOARD under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

## **2.21 LAWS**

The Contractor shall comply with all applicable laws, ordinances, codes, regulations and policies of local and state and federal governments, as now or hereafter amended including, but not limited to:

### Washington State Laws and Regulations

- A. Affirmative Action, RCW 41.06.020 (11).
- B. Boards of Directors or Officers of Non-profit Corporations – Liability – Limitations, RCW 4.24.264.
- C. Contracts for Architectural and Engineering Services. RCW 39.80
- D. Disclosure-Campaign Finances-Lobbying, RCW 42.17.
- E. Discrimination-Human Rights Commission, RCW 49.60.
- F. Ethics in Public Service, RCW 42.52
- G. Growth Management, RCW 36.70A
- H. Housing Assistance Program, RCW 43.185.
- I. Interlocal Cooperation Act, RCW 39.34.
- J. Noise Control, RCW 70.107.
- K. Office of Minority and Women's Business Enterprises, RCW 39.19 and WAC 326-02.
- L. Open Public Meetings Act, RCW 42.30.
- M. Prevailing Wages on Public Works, RCW 39.12.
- N. Public Records Act. RCW 42.56.
- O. Public Works Projects, RCW 43.155
- P. Relocation Assistance – Real Property Acquisition Policy, RCW 8.26.
- Q. Shoreline Management Act of 1971, RCW 90.58.
- R. State Budgeting, Accounting, and Reporting System, RCW 43.88

- S. State Building Code, RCW 19.27 and Energy-related building standards, RCW 19.27A, and Provisions in buildings for aged and handicapped persons, RCW 70.92.
- T. State Coastal Zone Management Program, Publication 01-06-003, Shorelands and Environmental Assistance Program, Washington State Department of Ecology.
- U. State Environmental Policy, RCW 43.21C.
- V. State Executive Order 21-02 Archeological and Cultural Resources.

### **2.23 LICENSING, ACCREDITATION AND REGISTRATION**

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

### **2.24 LIMITATION OF AUTHORITY**

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract.

### **2.25 Local Public Transportation Coordination**

Where applicable, Contractor shall participate in local public transportation forums and implement strategies designed to ensure access to services.

### **2.26 NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this Contract, the Contractor shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with the Board. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

### **2.27 PAY EQUITY**

The Contractor agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- B. Contractor may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
  - 1. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
  - 2. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
  - 3. A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Contract may be terminated by the BOARD, if the BOARD, the Department of Commerce, or the Department of Enterprise Services determines that the Contractor is not in compliance with this provision.

### **2.28 POLITICAL ACTIVITIES**

Political activity of Contractor employees and officers are limited by the State Campaign Finances and Lobbying provisions of RCW 42.17 and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

### **2.29 PREVAILING WAGE LAW**

The Contractor certifies that all contractors and subcontractors performing work on the Project shall comply with state Prevailing Wages on Public Works, RCW 39.12, as applicable to the Project funded by this contract, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Contractor shall maintain records sufficient to evidence compliance with RCW 39.12, and shall make such records available for the BOARDS review upon request.

### **2.30 PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION**

The funds provided under this Contract shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Contract provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

### **2.31 PUBLICITY**

The Contractor agrees not to publish or use any advertising or publicity materials in which the state of Washington or the BOARD's name is mentioned, or language used from which the connection with the state of Washington's or the BOARD's name may reasonably be inferred or implied, without the prior written consent of the BOARD.

### **2.32 RECAPTURE**

In the event that the Contractor fails to perform this contract in accordance with state laws, federal laws, and/or the provisions of this contract, the BOARD reserves the right to recapture funds in an amount to compensate the BOARD for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by the BOARD. In the alternative, the BOARD may recapture such funds from payments due under this contract.

### **2.33 RECORDS MAINTENANCE**

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Contractor shall retain such records for a period of six years following the date of final payment.

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 finally resolved.

### **2.34 REGISTRATION WITH DEPARTMENT OF REVENUE**

If required by law, the Contractor shall complete registration with the Washington State Department of Revenue.

### **2.35 RIGHT OF INSPECTION**

At no additional cost all records relating to the Contractor's performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by the BOARD, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. The Contractor shall provide access to its facilities for this purpose.

### **2.36 SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, the BOARD may terminate the Contract under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

### **2.37 SEVERABILITY**

If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract that can be given effect without the invalid provision, if such remainder conforms to the requirements of law and the fundamental purpose of this Contract and to this end the provisions of this Contract are declared to be severable.

### **2.38 SUBCONTRACTING**

The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of the BOARD.

If the BOARD approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, the BOARD in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Contractor is responsible to the BOARD if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to the BOARD for any breach in the performance of the Contractor's duties.

Every subcontract shall include a term that the BOARD and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

### **2.39 SURVIVAL**

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

## **2.40 TAXES**

All payments accrued on account of payroll taxes, unemployment contributions, the Contractor's income or gross receipts, any other taxes, insurance or expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

## **2.41 TERMINATION FOR CAUSE**

In the event the BOARD determines the Contractor has failed to comply with the conditions of this contract in a timely manner, the BOARD has the right to suspend or terminate this contract. Before suspending or terminating the contract, the BOARD shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law.

The BOARD reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by the BOARD to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of the BOARD provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

## **2.42 TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Contract the BOARD may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, the BOARD shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

## **2.43 TERMINATION PROCEDURES**

Upon termination of this contract, the BOARD, in addition to any other rights provided in this contract.

The rights and remedies of the BOARD provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Contractor shall:

- A.** Stop work under the Contract on the date, and to the extent specified, in the notice;
- B.** Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
- C.** Assign to the BOARD, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the BOARD has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D.** Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;



- E. Transfer title to the BOARD and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to the BOARD;
- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which the BOARD has or may acquire an interest.

**2.44 TREATMENT OF ASSETS**

Title to all property furnished by the BOARD shall remain with the BOARD. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Contractor.

**2.45 WAIVER**

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 Contract unless stated to be such in writing and signed by Authorized Representative of the Board.

# ATTACHMENT I: ATTORNEY’S CERTIFICATION

## PUBLIC WORKS BOARD CONSTRUCTION FUNDING PROGRAM

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**CONTRACTOR: City of Spokane**  
**CONTRACT Number: PC24-96103-042**

I, \_\_\_\_\_, hereby certify:

I am an attorney at law admitted to practice in the State of Washington and the duly appointed attorney of the City of Spokane (the CONTRACTOR); and

I have also examined any and all documents and records which are pertinent to the CONTRACT, including the application requesting this financial assistance.

Based on the foregoing, it is my opinion that:

1. The CONTRACTOR is a public body, properly constituted and operating under the laws of the state of Washington, empowered to receive and expend federal, state and local funds, to CONTRACT with the state of Washington, and to receive and expend the funds involved to accomplish the objectives set forth in their application.
2. The CONTRACTOR is empowered to accept the BOARD’s financial assistance and to provide for repayment of the loan as set forth in the CONTRACT.
3. There is currently no litigation in existence seeking to enjoin the commencement or completion of the above-described public facilities project or to enjoin the CONTRACTOR from repaying the loan extended by the BOARD with respect to such project. The CONTRACTOR is not a party to litigation which will materially affect its ability to repay such loan on the terms contained in the CONTRACT.
4. Assumption of this obligation would not exceed statutory and administrative rule debt limitations applicable to the CONTRACTOR.

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

**Certificate Of Completion**

Envelope Id: B52D881A0E2048778EBDF867A620BB6F	Status: Sent
Subject: Complete with DocuSign: PC24-96103-042_FY24PWB ConstructionContract.pdf	
Division:	
Local Government	
Program: Public Works Board	
ContractNumber: PC24-96103-042	
DocumentType: Contract	
Source Envelope:	
Document Pages: 25	Signatures: 0
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	
Envelopeld Stamping: Enabled	
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	
	Envelope Originator:
	Alison Mitchell
	1011 Plum Street SE
	MS 42525
	Olympia, WA 98504-2525
	alison.mitchell@commerce.wa.gov
	IP Address: 198.239.10.241

**Record Tracking**

Status: Original	Holder: Alison Mitchell	Location: DocuSign
1/11/2024 11:16:35 AM	alison.mitchell@commerce.wa.gov	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: Washington State Department of Commerce	Location: DocuSign

**Signer Events**

Signature	Timestamp
Elizabeth Schoedel eschoedel@spokanecity.org Security Level: Email, Account Authentication (None)	Sent: 1/11/2024 11:36:59 AM

**Electronic Record and Signature Disclosure:**  
Accepted: 12/1/2022 10:01:14 AM  
ID: 2ba6afd5-2fad-4b4e-b035-c10636ba0589

Lisa Brown lbrown@spokanecity.org City of Spokane Security Level: Email, Account Authentication (None)	Sent: 1/11/2024 11:37:00 AM
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**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Kathryn Gardow  
pwbgardowk@gmail.com  
Security Level: Email, Account Authentication (None)

**Electronic Record and Signature Disclosure:**  
Accepted: 1/10/2024 3:41:55 PM  
ID: b474fa5f-0890-48f7-b923-aaddad19b87d

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
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Alison Mitchell  
alison.mitchell@commerce.wa.gov  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**COPIED**

Sent: 1/11/2024 11:36:58 AM

Mark Papich  
mpapich@spokanecity.org  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

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Sent: 1/11/2024 11:36:58 AM  
Viewed: 1/11/2024 11:47:35 AM

Alison Mitchell  
alison.mitchell@commerce.wa.gov  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Mark Papich  
mpapich@spokanecity.org  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	1/11/2024 11:36:58 AM
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Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, Washington State Department of Commerce (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.15 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

### **How to contact Washington State Department of Commerce:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [docusign@commerce.wa.gov](mailto:docusign@commerce.wa.gov)

### **To advise Washington State Department of Commerce of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [docusign@commerce.wa.gov](mailto:docusign@commerce.wa.gov) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

### **To request paper copies from Washington State Department of Commerce**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [docusign@commerce.wa.gov](mailto:docusign@commerce.wa.gov) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

### **To withdraw your consent with Washington State Department of Commerce**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to [docusign@commerce.wa.gov](mailto:docusign@commerce.wa.gov) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

### **Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Washington State Department of Commerce as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Washington State Department of Commerce during the course of your relationship with Washington State Department of Commerce.



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd**

1/18/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/26/2024

**Submitting Dept**

INTEGRATED CAPITAL

**Project #**

2018052

**Contact Name/Phone**

MARK PAPICH 625-6310

**Bid #**

**Contact E-Mail**

MPAPICH@SPOKANECITY.ORG

**Requisition #**

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

4250 – DEPT OF ECOLOGY GRANT CSO BASIN 34

**Agenda Wording**

Grant agreement number WQC-2024-Spokane-00137 with the Washington State Department of Ecology for CSO Basin 34 (I-90) Stormwater Mitigation/Separation - \$5,015,000 Revenue.

**Summary (Background)**

The Department of Ecology has awarded the City of Spokane a grant to improve water quality in the Spokane River through installation of subsurface water quality treatment and infiltration facilities. The City will have a 25% match on the grant. The revenue and expenses are budgeted and consistent with the 6-year Capital Program.

Lease? NO

Grant related? YES

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 5,015,000.00

Current Year Cost \$ 5,015,000.00

Subsequent Year(s) Cost \$

**Narrative**

There is a 25% match requirement for this grant. These grant dollars provide a substantial amount of funding toward important public works projects in the City's 6-year CIP. Without these dollars, the City would be unable to implement these projects with

**Amount**

**Budget Account**

Revenue \$ 5,015,000.00

# 4250 98817 99999 33431 14428

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#





**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

**Dept Head**

DAVIS, MARCIA

**Division Director**

FEIST, MARLENE

**Accounting Manager**

ALBIN-MOORE, ANGELA

**Legal**

SCHOEDEL, ELIZABETH

**For the Mayor**

PICCOLO, MIKE

**Additional Approvals**

**ACCOUNTING -**

MURRAY, MICHELLE

**Distribution List**

eraea@spokanecity.org

jrhall@spokanecity.org

icmaccounting@spokanecity.org

mdavis@spokanecity.org

mpapich@spokanecity.org

kkeck@spokanecity.org


## Committee Agenda Sheet

### Public Safety & Community Health Committee

<b>Committee Date</b>	1/29/2024
<b>Submitting Department</b>	Integrated Capital Management
<b>Contact Name</b>	Mark Papich
<b>Contact Email &amp; Phone</b>	mpapich@spokanecity.org
<b>Council Sponsor(s)</b>	<u>Council President Betsy Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Department of Ecology SFAP and Capacity Grant Agreements
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>The Department of Ecology annually awards funding for grants and loans based on competitive process and legislature approval. In October of 2021 and October of 2022, the City applied for SFAP grant funds through the Washington State Department of Ecology. The City of Spokane has been awarded grant funds for five projects. In addition, the City has been awarded a Capacity Grant through the Department of Ecology. This grant funding can be applied to any activities associated with managing our Phase II Municipal Stormwater Permit.</p> <p>Below are the pertinent details of the funding agreements:</p> <ul style="list-style-type: none"> <li>• Francis/Assembly/Nine Mile Stormwater Facility             <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$127,500</li> <li>▪ City Match=15% (\$22,500)</li> <li>▪ Project Phase: Design</li> </ul> </li> <li>• Five Mile Regional Infiltration Facility Rehab             <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$150,000</li> <li>▪ City Match=25% (\$50,000)</li> <li>▪ Project Phase: Design</li> </ul> </li> <li>• CSO Basin 34 (I-90) Stormwater Mitigation/Separation             <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$5,015,000</li> <li>▪ City Match=15% (\$885,000)</li> <li>▪ Project Phase: Construction</li> </ul> </li> <li>• Washington Basin Stormwater Study             <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$262,500</li> <li>▪ City Match=25% (\$87,500)</li> <li>▪ Project Phase: Planning</li> </ul> </li> <li>• Drywell Rehab in Well-head Protection Zones             <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$262,500</li> <li>▪ City Match=25% (\$87,500)</li> <li>▪ Project Phase: Planning</li> </ul> </li> <li>• Capacity Grant             <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$130,000</li> <li>▪ City Match=0%</li> <li>▪ Project Phase: Any permit management activity</li> </ul> </li> </ul>
<b>Fiscal Impact</b>	

**Approved in current year budget?**     Yes     No     N/A

Total Cost: \$1,914,500

Current year cost: \$1,914,500

Subsequent year(s) cost:

**Narrative:** These grant dollars provide a substantial amount of funding toward important public works projects in the City's 6-year CIP. Without these dollars, the City would be unable to implement these projects within the proposed timeline. These projects enhance our ability to protect the water quality of the Spokane River and continue to provide a significant asset to our community.

**Funding Source**             One-time     Recurring     N/A

Specify funding source: Select Funding Source\*

Is this funding source sustainable for future years, months, etc? [Click or tap here to enter text.](#)

**Expense Occurrence**     One-time     Recurring     N/A

Other budget impacts: (revenue generating, match requirements, etc.)

**Operations Impacts** (If N/A, please give a brief description as to why)

**What impacts would the proposal have on historically excluded communities?**

Public Works services and projects are designed to serve all residents and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.

**How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?**

N/a - This is a public works project and should not impact racial, gender identity, national origin, income level, disability, sexual orientation, or other existing disparity factors.

**How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?**

Public Works follows the City's established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

**Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?**

This project is consistent with the City's adopted policies and programs.



## Agreement WQC-2024-Spokane-00137

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

City of Spokane

This is a binding Agreement entered into by and between the State of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY" and the City of Spokane, hereinafter referred to as the "RECIPIENT" to carry out with the provided funds, the activities described herein.

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### GENERAL INFORMATION

Project Title:	CSO Basin 34 (I-90) Stormwater Mitigation/Separation Facility
Total Cost:	\$
Total Eligible Cost:	\$ 5,900,000
Ecology Share:	\$ 5,015,000
Recipient Share:	\$ 885,000
The Effective Date of this Agreement is:	7/1/2023
The Expiration Date of this Agreement is no later than:	6/30/2027
Project Type:	Stormwater (Facility)

#### Project Short Description: (500-character limit, includes spaces)

This project will improve water quality in the Spokane River through installation of subsurface water quality treatment and infiltration facilities to separate and treat runoff generated along a segment of mainline Interstate 90 at I-90 and S. Ray St. in the City of Spokane. This project will provide treatment for total suspended solids (TSS), oil (total petroleum hydrocarbons), dissolved copper, dissolved zinc, and total phosphorus and will also reduce flows to the Spokane River by increasing stormwater infiltration.

#### Project Long Description: (4,000-character limit, includes spaces)

The Spokane River runs for approximately 111 miles from Lake Coeur d' Alene in Idaho to the Columbia River at Franklin D. Roosevelt Lake and flows through the cities of Post Falls, ID, Spokane Valley, WA, and the heart of downtown Spokane, WA. Historically, the Spokane River supported populations of salmon and currently, it supports salmonid spawning grounds; it is also a popular resource for fishing and recreation. The Spokane River is a Category 5 (303(d))list impaired waterbody for pH, PCBs, metals, and dissolved oxygen DO.

The project will construct stormwater treatment and infiltration facilities for a portion of I-90 within the Spokane City limits near the intersection of S. Ray and I-90. The land use in the area is interstate, light industrial and residential. Ecology has accepted the 90% design for this construction project (Grant WQSWPC-2016-Spokane-00012). This project will divert water from 8.54 acres of I-90 PGIS that currently discharges to the City's combined sewer system, thus reducing the potential for CSOs. This project will install Modular Linear Wetlands and a large infiltration gallery reducing the volume of stormwater and the load of pollutants in the Spokane River. The infiltration facility includes storm chambers and must be registered with Ecology as an UIC. The project is designed to treat the Water Quality Design Storm event and infiltrate runoff up to the 10-year, 24-hour storm. The bypass facility can handle storms up to the 100-year storm.

Overall Goal: (1,000-character limit, includes spaces)

This project will help protect and restore water quality in Washington state by reducing stormwater impacts from existing infrastructure and development.

## RECIPIENT INFORMATION

Organization Name: CITY OF SPOKANE

Mailing Address: 808 W Spokane Falls Blvd Spokane, WA 99201

Physical Address: 808 W Spokane Falls Blvd Spokane, WA 99201

Organization Email: [mpapich@spokanecity.org](mailto:mpapich@spokanecity.org)

### Contacts

<b>Project Manager</b>	Mark Papich Senior Engineer  808 W Spokane Falls Blvd Spokane, Washington 99201 Email: <a href="mailto:mpapich@spokanecity.org">mpapich@spokanecity.org</a> Phone: (509) 625-6310
<b>Authorized Signatory</b>	Nadine Woodward Mayor  808 W Spokane Falls Blvd Spokane, Washington 99201 Email: <a href="mailto:mayor@spokanecity.org">mayor@spokanecity.org</a> Phone: (509) 625-6310 (509) 343-5760
<b>Billing Contact</b>	LaVonne Martelle Accountant I  44 W Riverside Spokane, Washington Email: <a href="mailto:lmartelle@spokanecity.org">lmartelle@spokanecity.org</a> Phone: (509) 625-7000 (509) 343-5760

## ECOLOGY INFORMATION

Mailing Address: Department of Ecology  
Water Quality  
PO BOX 47600  
Olympia, WA 98504-7600

Physical Address: Department of Ecology  
300 Desmond Drive SE  
Lacey, WA 98503

### Contacts

<b>Project Manager</b>	Shilo Sprouse  4601 N. Monroe Spokane, Washington 99205 shilo.sprouse@ecy.wa.gov 509-862-8584
<b>Financial Manager</b>	Joe Kinerk  300 Desmond Dr SE Lacey, Washington 98503 joek461@ECY.WA.GOV (360) 742-2875
<b>Technical Advisor</b>	Doug Howie  PO Box 47600 Olympia, Washington 98504-7600 <a href="mailto:doho461@ecy.wa.gov">doho461@ecy.wa.gov</a> (360) 870-0983

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

RECIPIENT agrees to read, understand, and accept all information contained within this entire Agreement. Furthermore, RECIPIENT acknowledges that they have reviewed the terms and conditions of this Agreement, Scope of Work, attachments, all incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement.

**Washington State Department of Ecology**

**Recipient Name**

\_\_\_\_\_  
Vincent McGowan                      Date  
Water Quality  
Program Manager

\_\_\_\_\_  
**SIGNATORY NAME**                      Date  
**TITLE**

\_\_\_\_\_  
**Additional City/County Signatories**      Date  
Email Address:



## SCOPE OF WORK

Task Number: 1

Task Cost:

Task Title: Grant and Loan Administration

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; an EAGL (Ecology Administration of Grants and Loans) and Recipient Close Out Report. In the event that the RECIPIENT elects to use a contractor to complete project elements, the RECIPIENT shall retain responsibility for the oversight and management of this funding agreement.

B. The RECIPIENT shall keep documentation that demonstrates the project is in compliance with applicable procurement, contracting, and interlocal agreement requirements; permitting requirements, including application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items. This documentation shall be made available to ECOLOGY upon request.

C. The RECIPIENT shall maintain effective communication with ECOLOGY and maintain up-to-date staff contact information in the EAGL system. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant and loan administrative requirements.

Task Expected Outcome:

\* Timely and complete submittal of requests for reimbursement, quarterly progress reports, and Recipient Close Out Report.

\* Properly maintained project documentation.

### Grant and Loan Administration Deliverables

Number	Description	Due Date
1.1	Progress Reports that include descriptions of work accomplished, project challenges, and changes in the project schedule. Submitted at least quarterly.	
1.2	Recipient Close Out Report (EAGL Form).	

## SCOPE OF WORK

Task Number: 2

Task Cost:

Task Title: Cultural and Environmental Review, and Permitting

### Task Description:

The RECIPIENT must ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

- A. The RECIPIENT will submit the documents listed below to initiate ECOLOGY's cultural resources review. Property acquisition and above and below ground activities proposed at any project site must be reviewed by ECOLOGY for potential affects to cultural resources.

The RECIPIENT must receive written notice from ECOLOGY prior to proceeding with work. Examples of work may include (but are not limited to) geotechnical work, acquisition, site prep work, and BMP installations. Work done prior to written notice to proceed shall not be eligible for reimbursement.

To initiate cultural resources review:

1. The RECIPIENT will submit the Cultural Resources Review Form to ECOLOGY, using the ECOLOGY template. Any supporting materials must conform to the Department of Archeology and Historic Preservation's (DAHP) Washington State Standards for Cultural Resource Reporting. The Cultural Resources Review Form template may be found on the ECOLOGY website.
  2. The RECIPIENT will submit an Inadvertent Discovery Plan (IDP) to ECOLOGY, using the ECOLOGY template. The RECIPIENT will ensure that all contractors and subcontractors have a copy of the completed IDP prior to and while working on-site. The IDP template may be found on the ECOLOGY website.
- B. The RECIPIENT will submit the State Environmental Policy Act (SEPA) checklist for ECOLOGY project manager review and notify the ECOLOGY project manager when the official comment period begins. The RECIPIENT will also upload the final SEPA determination.
- C. The RECIPIENT is responsible for application of, receipt of, and compliance with all required local, state, tribal, and federal permits, licenses, easements, or property rights necessary for the project.

### Task Goal Statement:

The RECIPIENT will complete all cultural and environmental reviews and permitting tasks in a timely manner.

### Task Expected Outcome:

The project will meet the requirements set forth by the cultural resource protection requirements, State Environmental Policy Act, and all other applicable federal, state, and local laws, and regulations.

### **Cultural and Environmental Review, and Permitting Deliverables**

Number	Description	Due Date
2.1	ECOLOGY Cultural Resources Review Form. Email the form and any supplemental cultural resources documentation directly to the ECOLOGY Project Manager. DO NOT upload the cultural resources form or documentation to EAGL.	
2.2	ECOLOGY Inadvertent Discovery Plan (IDP). Email the form directly to the ECOLOGY Project Manager for review. Upload to EAGL once review is complete.	

2.3	SEPA Checklist. Upload the checklist, or other documentation for projects considered exempt from SEPA review, to EAGL and notify ECOLOGY when official comment period begins.	
2.4	Final SEPA Determination. Upload to EAGL and notify ECOLOGY.	

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## SCOPE OF WORK

Task Number: 3

Task Cost:

Task Title: Design Plans and Specifications

### Task Description:

The RECIPIENT must ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

The RECIPIENT will develop a stormwater project design. The design submittals must conform to the Deliverables for Stormwater Projects with Ecology Funding Document. Projects must be designed in accordance with the Stormwater Management Manual for Eastern Washington, Stormwater Management Manual for Western Washington, or equivalent manual. Refer to the ECOLOGY website for specific guidance. Project must be reviewed and accepted in writing by ECOLOGY to be eligible for reimbursement.

The RECIPIENT will upload the design submittals listed below to EAGL for ECOLOGY review. Reduce design figures to 11x17 inches in size and ensure they are legible.

- A. The RECIPIENT will upload the previously accepted Design Report, 90% package and responses to Ecology comments.
- B. The RECIPIENT will submit a Final Bid Package to ECOLOGY for review and acceptance prior to advertising the project. The Final Bid Package includes: project plans, specifications, engineer's opinion of cost including a schedule of eligible costs, and project construction schedule. Allow 15 calendar days for ECOLOGY review.

The RECIPIENT agrees to respond to ECOLOGY comments. The RECIPIENT must receive an Ecology Final Bid Package Acceptance Letter prior to advertising the project.

### Task Goal Statement:

The RECIPIENT will complete all design tasks and respond to ECOLOGY comments in a timely manner.

### Task Expected Outcome:

The project will meet the requirements set forth by ECOLOGY water quality facility design standards and all other applicable federal, state, and local laws, and regulations.

### **Design Plans and Specifications Deliverables**

<b>Number</b>	<b>Description</b>	<b>Due Date</b>
3.1	Contract documents, if procuring services for design. The contract must include ECOLOGY's standard contract clauses and/or specification insert. Upload to EAGL and notify ECOLOGY.	
3.2	Design Report. Upload to EAGL and notify ECOLOGY.	
3.3	Responses to ECOLOGY Design Report comments. Upload to EAGL and notify ECOLOGY.	
3.4	ECOLOGY Design Report Acceptance Letter. Upload to EAGL and notify ECOLOGY.	
3.5	90 Percent Design Package. Upload to EAGL and notify ECOLOGY.	

3.6	Responses to ECOLOGY 90 Percent Design Package comments. Upload to EAGL and notify ECOLOGY.	
3.7	ECOLOGY 90 Percent Design Acceptance Letter. Upload to EAGL and notify ECOLOGY.	
3.8	Final Bid Package. Upload to EAGL and notify ECOLOGY.	
3.9	Responses to ECOLOGY Final Bid Package comments. Upload to EAGL and notify ECOLOGY.	
3.10	Ecology Final Bid Package Acceptance Letter. Upload to EAGL and notify ECOLOGY.	
3.11	Bid Documents (e.g. bid announcement, bid tabulations, and bid award). Upload to EAGL and notify ECOLOGY.	

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## SCOPE OF WORK

Task Number: 4

Task Cost:

Task Title: Construction Management

### Task Description:

The RECIPIENT must ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

- A. The RECIPIENT will provide construction oversight and management of the project.
- B. The RECIPIENT will submit a detailed Construction Quality Assurance Plan (CQAP) to ECOLOGY for review and acceptance before the start of construction. This plan must describe how the RECIPIENT will perform adequate and competent construction oversight. Guidance for CQAP development is located in the Design Deliverables Document available on the ECOLOGY website. Allow 15 calendar days for ECOLOGY review.
- C. The RECIPIENT will conduct a pre-construction conference meeting and invite ECOLOGY to attend.
- D. The RECIPIENT will submit a project schedule prior to the start of construction and whenever major changes occur.
- E. Prior to execution, the RECIPIENT will submit to ECOLOGY any eligible change orders that deviate from ECOLOGY-accepted plans and specifications. ECOLOGY must review and accept all change orders that affect grant eligible activities prior to implementation. Allow 10 calendar days for ECOLOGY review.

### Task Goal Statement:

The RECIPIENT will oversee and manage construction, communicate with ECOLOGY in a timely fashion, and provide ECOLOGY with all requested project documentation.

### Task Expected Outcome:

The project will be constructed on schedule and in accordance with accepted plans.

### **Construction Management Deliverables**

<b>Number</b>	<b>Description</b>	<b>Due Date</b>
4.1	Construction Quality Assurance Plan. Upload to EAGL and notify ECOLOGY. Upload ECOLOGY acceptance documentation.	
4.2	Pre-Construction Conference Meeting Minutes. Upload to EAGL and notify ECOLOGY.	
4.3	Project Schedule. Submit prior to construction and when changes occur. Upload to EAGL and notify ECOLOGY.	
4.4	Change Order(s). Upload to EAGL and notify ECOLOGY. Upload ECOLOGY acceptance documentation.	

## SCOPE OF WORK

Task Number: 5

Task Cost:

Task Title: Construction

Task Description:

The RECIPIENT must ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

- A. The RECIPIENT will complete construction of the project in accordance with ECOLOGY-accepted plans and specifications. The construction project will include installation of Modular Linear Wetlands and a large infiltration gallery to mitigate runoff from approximately 8.54 acres of pollution-generating impervious surfaces (PGIS).
- B. Stormwater Construction Completion Form signed by a professional engineer indicating that the project was completed in accordance with the plans and specifications, and major change orders approved by ECOLOGY's Project Engineer and shown on the Record Drawings. The Stormwater Construction Completion Form can be found on the ECOLOGY website.

Task Goal Statement:

Construction of the project in accordance with ECOLOGY-accepted plans and specifications.

Task Expected Outcome:

Constructed project will provide water quality benefits including reductions in total suspended solids (TSS), oil (total petroleum hydrocarbons), dissolved copper, dissolved zinc, and total phosphorus and will also reduce flows to the Spokane River by increasing stormwater infiltration.

### Construction Deliverables

Number	Description	Due Date
5.1	Signed and dated construction contract. Upload to EAGL and notify ECOLOGY.	
5.2	Stormwater Construction Completion Form. Upload to EAGL and notify ECOLOGY.	

## SCOPE OF WORK

Task Number: 6

Task Cost:

Task Title: Project Close Out

### Task Description:

The RECIPIENT must ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

- A. The RECIPIENT will operate and maintain the constructed facility for the design life of the facility. The RECIPIENT will develop and submit an Operations and Maintenance (O&M) plan for all facilities constructed with ECOLOGY funding to ECOLOGY for review. The O&M plan must address long-term activities to assure ongoing pollutant removal and flow-control capability of the project in accordance with the design manual. O&M plan development guidance is located in the Deliverables Document available on the ECOLOGY website. Allow 15 calendar days for ECOLOGY review.
- B. The RECIPIENT will submit a final GIS compatible project area as a shapefile, geodatabase file, or ECOLOGY-accepted equivalent. The project area should include polygon features for stormwater facilities and contributing areas.
- C. The RECIPIENT will submit the Recipient Close Out Report (RCOR) in EAGL in accordance with Task 1.
- D. The RECIPIENT will submit an Outcomes Summary using the ECOLOGY template.
- E. The RECIPIENT will calculate and submit a final equivalent new/re-development area for the completed retrofit project(s) using the methods outlined in the Stormwater Deliverables Document. Include a table showing the final equivalent new/re-development area compared to the area provided in the ECOLOGY-accepted Design Report.

### Task Goal Statement:

The RECIPIENT will complete all close out submittals in a timely manner.

### Task Expected Outcome:

\* Timely and complete submittal of O&M plan, equivalent area calculation, GIS, Recipient Closeout Report, and Outcomes Summary.

\* Proper maintenance of the constructed facility to maintain water quality benefits.

### **Project Closeout Deliverables**

<b>Number</b>	<b>Description</b>	<b>Due Date</b>
6.1	Facility Operation and Maintenance Plan. Upload to EAGL and notify ECOLOGY. Upload ECOLOGY acceptance documentation.	
6.2	Project area shapefile, geodatabase file, or ECOLOGY-accepted equivalent. Upload to EAGL and notify ECOLOGY. Upload ECOLOGY acceptance documentation.	
6.3	Outcomes Summary. Upload to EAGL and notify ECOLOGY.	
6.4	Final, as constructed, equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY.	



**BUDGET** (EAGL WILL GENERATE THIS SECTION BASED ON PROJECT TYPE/PARAMETERS, ETC. IT MIGHT BE HELPFUL FOR THE RECIPIENT TO USE THE BUDGET TABLE TO PLAN OUT THEIR BUDGET).

**Funding Distribution**

Funding Title: SFAP  
 Funding Type: Grant  
 Funding Effective Date: 7/1/2023  
 Funding Expiration Date: 6/30/2027  
 Funding Source: State – Stormwater Financial Assistance Program

Recipient Match %: 15%  
 InKind Interlocal Allowed: No  
 InKind Other Allowed: No  
 Is this Funding Distribution used to match a federal grant? No

Indirect Rate: max 30%  
 Supporting documentation must be uploaded to EAGL.  
 Rate will be indicated in your agreement.

Stormwater Financial Assistance Program	Task Total	Recipient Amount	ECY Amount
1. Grant and Loan Administration			
2. Cultural and Environmental Review, and Permitting			
3. Design Plans and Specifications			
4. Construction Management			
5. Construction			
6. Project Close Out			
Total	\$5,900,000	\$5,015,000	\$885,000

Funding Distribution Name	Recipient Match	Recipient Share	Ecology Share	Total
SFAP	15%	\$885,000	\$5,015,000	\$5,900,000
Total		\$885,000	\$5,015,000	\$5,900,000

Application Budget Worksheet (not for EAGL, but do not delete from this draft document)

**Funding Offer:**

SFAP Grant Offer	SRF Standard Loan Offer	SRF Forgivable Principal Loan Offer	[Other WQC Funding] Offer	Total Funding Offer
\$5,015,000	\$0	\$0	\$0	\$5,015,000

**Does the funding offer amount shown in the following forms all match?**

Offer Letter uploaded in EAGL: Yes EAGL Offer Form: Yes Published Offer List: Yes
---

**Was the funding offer less than the amount requested because of ineligible items? Please describe.**

No
----

**Application Budget (copy tasks and amounts from EAGL)**

Task	Budget in App	Notes
1. Grant and Loan Administration	\$0	<b>Application SOW does not follow standard template</b>
2. Construction Management	\$800,000	
3. Construction	\$5,100,000	
4. Project Close Out	\$0	
5. Cultural and Environmental Reviews, and Permitting	\$0	
<b>Total</b>	<b>\$5,900,000</b>	

**Agreement Budget**

Task	Revised Budget	Notes
1. Grant and Loan Administration		
2. Cultural, Environmental Review, and Permitting		
3. Design Plans and Specifications		
4. Construction Management		
5. Construction		
6. Project Close Out		
<b>Total</b>	<b>\$5,900,000</b>	

## AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

## SPECIAL TERMS AND CONDITIONS

### SECTION 1: DEFINITIONS

Unless otherwise provided, the following terms will have the respective meanings for all purposes of this agreement:

“Administration Charge” means a charge established in accordance with Chapter 90.50A RCW and Chapter 173-98 WAC, to be used to pay Ecology’s cost to administer the State Revolving Fund by placing a percentage of the interest earned in an Administrative Charge Account.

“Administrative Requirements” means the effective edition of ECOLOGY’s Administrative Requirements for Recipients of Ecology Grants and Loans at the signing of this agreement.

“Annual Debt Service” for any calendar year means for any applicable bonds or loans including the loan, all interest plus all principal due on such bonds or loans in such year.

“Average Annual Debt Service” means, at the time of calculation, the sum of the Annual Debt Service for the remaining years of the loan to the last scheduled maturity of the loan divided by the number of those years.

“Acquisition” means the purchase or receipt of a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

“Centennial Clean Water Program” means the state program funded from various state sources.

“Contract Documents” means the contract between the RECIPIENT and the construction contractor for construction of the project.

“Cost Effective Analysis” means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water quality problem as described in Chapter 173-98-730 WAC.

“Defeasance” or “Defeasance” means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

“Effective Date” means the earliest date on which eligible costs may be incurred.

“Effective Interest Rate” means the total interest rate established by Ecology that includes the Administrative Charge.

“Estimated Loan Amount” means the initial amount of funds loaned to the RECIPIENT.

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount.

“Equivalency” means projects designated by ECOLOGY to meet additional federal requirements.

“Expiration Date” means the latest date on which eligible costs may be incurred.

“Final Accrued Interest” means the interest accrued beginning with the first disbursement of funds to the RECIPIENT through such time as the loan is officially closed out and a final loan repayment schedule is issued.

“Final Loan Amount” means all principal of and interest on the loan from the Project Start Date through the Project Completion Date.

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount.

“Forgivable Principal” means the portion of a loan that is not required to be paid back by the borrower.

“General Obligation Debt” means an obligation of the RECIPIENT secured by annual ad valorem taxes levied by the RECIPIENT and by the full faith, credit, and resources of the RECIPIENT.

“General Obligation Payable from Special Assessments Debt” means an obligation of the RECIPIENT secured by a valid general obligation of the Recipient payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.

“Gross Revenue” means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to Defeasance or refund Utility obligations or (B) in an obligation redemption fund or account other than the Loan Fund until commingled with other earnings and revenues of the Utility or (C) held in a special account for the purpose of paying a rebate to the United States Government under the Internal Revenue Code.

“Guidelines” means the ECOLOGY's Funding Guidelines that correlate to the State Fiscal Year in which the project is funded.

“Initiation of Operation Date” means the actual date the Water Pollution Control Facility financed with proceeds of the loan begins to operate for its intended purpose.

“Loan” means the Washington State Water Pollution Control Revolving Fund Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this loan agreement.

“Loan Amount” means either an Estimated Loan Amount or a Final Loan Amount, as applicable.

“Loan Fund” means the special fund created by the RECIPIENT for the repayment of the principal of and interest on the loan.

“Loan Security” means the mechanism by which the RECIPIENT pledges to repay the loan.

“Loan Term” means the repayment period of the loan.

“Maintenance and Operation Expense” means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties, but will not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

“Net Revenue” means the Gross Revenue less the Maintenance and Operation Expense.

“Original Engineer’s Estimate” means the engineer’s estimate of construction costs included with bid documents.

“Principal and Interest Account” means, for a loan that constitutes Revenue-Secured Debt, the account created in the loan fund to be first used to repay the principal of and interest on the loan.

“Project” means the project described in this agreement.

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed. This term is only used in loan agreements.

“Project Schedule” means that schedule for the project specified in the agreement.

“Revenue-Secured Debt” means an obligation of the RECIPIENT secured by a pledge of the revenue of a utility and one not a general obligation of the RECIPIENT.

“Reserve Account” means, for a loan that constitutes a Revenue Secured Debt and if specifically identified as a term and condition of the funding agreement, the account of that name created in the loan fund to secure the payment of the principal of and interest on the loan.

“Risk-Based Determination” means an approach to sub-recipient monitoring and oversight based on risk factors associated to a RECIPIENT or project.

“Scope of Work” means the tasks and activities constituting the project.

“Section 319” means the section of the Clean Water Act that provides funding to address nonpoint sources of water pollution.

“Senior Lien Obligations” means all revenue bonds and other obligations of the RECIPIENT outstanding on the date of execution of this loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or issued after the date of execution of this loan agreement having a claim or lien on the Gross Revenue of the Utility prior and superior to the claim or lien of the loan, subject only to Maintenance and Operation Expense.

“State Water Pollution Control Revolving Fund (Revolving Fund)” means the water pollution control revolving fund established by Chapter 90.50A.020 RCW.

“Termination Date” means the effective date of ECOLOGY’s termination of the agreement.

“Termination Payment Date” means the date on which the RECIPIENT is required to repay to ECOLOGY any outstanding balance of the loan and all accrued interest.

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been determined to be eligible for ECOLOGY grant or loan funding, including any required recipient match.

“Total Project Cost” means the sum of all costs associated with a water quality project, including costs that are not eligible for ECOLOGY grant or loan funding.

“ULID” means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility.

“ULID Assessments” means all assessments levied and collected in any ULID. Such assessments are pledged to be paid into the Loan Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments will include principal installments and any interest or penalties which may be due.

“Utility” means the sewer system, stormwater system, or the combined water and sewer system of the RECIPIENT, the Net Revenue of which is pledged to pay and secure the loan.

## **SECTION 2: THE FOLLOWING CONDITIONS APPLY TO ALL RECIPIENTS OF WATER QUALITY COMBINED FINANCIAL ASSISTANCE FUNDING.**

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference and are available on ECOLOGY's Water Quality Program website.

A. Architectural and Engineering Services: The RECIPIENT certifies by signing this agreement that the requirements of Chapter 39.80 RCW, "Contracts for Architectural and Engineering Services," have been, or shall be, met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final architectural/engineering services contract and submit a copy of the contract to ECOLOGY.

B. Acquisition: The following provisions shall be in force only if the project described in this agreement is an acquisition project:

a. Evidence of Land Value and Title. The RECIPIENT shall submit documentation of the cost of the property rights and the type of ownership interest that has been acquired.

b. Legal Description of Real Property Rights Acquired. The legal description of the real property rights purchased with funding assistance provided through this agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the agreement before final payment.

c. Conveyance of Rights to the State of Washington. Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT shall execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired, and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT shall use language provided by ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

### **Documentation Options:**

1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. RECIPIENTS shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes. The RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the deed of right.

2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.

3. Easements and Leases. The RECIPIENT may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; therefore, the RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the easement or lease.

d. Real Property Acquisition and Relocation Assistance.

1. Federal Acquisition Policies. See Section 4 of this agreement for requirements specific to Section 319 and SRF funded projects.

2. State Acquisition Policies. When state funds are part of this agreement, the RECIPIENT agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.

3. Housing and Relocation. In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the RECIPIENT agrees to provide any housing and relocation assistance required.

e. Hazardous Substances.

1. Certification. The RECIPIENT shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:

i. No hazardous substances were found on the site, or

ii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site is deemed "clean."

2. Responsibility. Nothing in this provision alters the RECIPIENT's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.

3. Hold Harmless. The RECIPIENT will defend, protect and hold harmless ECOLOGY and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the RECIPIENT is acquiring.

f. Restriction On Conversion Of Real Property And/Or Facilities To Other Uses

The RECIPIENT shall not at any time convert any real property (including any interest therein) or facility acquired, developed, maintained, renovated, and/or restored pursuant to this agreement to uses other than those purposes for which funds were approved without prior approval of ECOLOGY. For acquisition projects that are term limited, such as one involving a lease or a term-limited restoration, renovation or development project or easement, this restriction on conversion shall apply only for the length of the term, unless otherwise provided in written documents or required by applicable state or federal law. In such case, the restriction applies to such projects for the length of the term specified by the lease, easement, deed, or landowner agreement.

C. Best Management Practices (BMP) Implementation: If the RECIPIENT installs BMPs that are not approved by ECOLOGY prior to installation, the RECIPIENT assumes the risk that part or all of the reimbursement for that activity may be delayed or ineligible. For more details regarding BMP Implementation, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY's Water Quality Program funding website.

D. Electronic Fund Transfers: Payment will be issued through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process or electronic fund transfers, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).

E. Equipment Purchase: Equipment purchases over \$5,000 and not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase. All equipment purchases over \$5,000 and not included in a contract for work being completed on the funded project, must also be reported on the Equipment Purchase Report in EAGL.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3.B for Section 319 funded or Section 5.E for SRF funded projects) funding participation in this project through the use of project signs,

acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

G. Growth Management Planning: The RECIPIENT certifies by signing this agreement that it is in compliance with the requirements of Chapter 36.70A RCW, "Growth Management Planning by Selected Counties and Cities." If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify ECOLOGY in writing of this change within 30 days.

H. Interlocal: The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements necessary for the project are, or shall be, consistent with the terms of this agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the project to ECOLOGY upon request.

I. Lobbying and Litigation: Costs incurred for the purposes of lobbying or litigation are not eligible for funding under this agreement.

J. Post Project Assessment Survey: The RECIPIENT agrees to participate in a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project approximately three years after project completion. A representative from ECOLOGY's Water Quality Program may contact the RECIPIENT to request this data. ECOLOGY may also conduct site interviews and inspections, and may otherwise evaluate the project, as part of this assessment.

K. Project Status Evaluation: ECOLOGY may evaluate the status at any time. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

L. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State and specific requirements outlined in the Water Quality Funding Guidelines. Technical assistance, proposed practices, or project designs that do not meet these standards may be eligible if approved in writing by ECOLOGY.

### **SECTION 3: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND CENTENNIAL CLEAN WATER FUNDED PROJECTS BEING USED TO MATCH SECTION 319 FUNDS.**

The RECIPIENT must submit the following documents to ECOLOGY before this agreement is signed by ECOLOGY:

1. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website. (This form is used for Section 319 funds only)

2. "Section 319 Initial Data Reporting" form in EAGL.

A. Data Reporting: The RECIPIENT must complete the "Section 319 Initial Data Reporting" form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project for EPA.

B. Funding Recognition and Outreach: In addition to Section 2.F. of these Special Terms and Conditions, the RECIPIENT shall provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA logo and follow usage requirements available at <http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. To obtain the appropriate EPA logo or seal graphic file, the RECIPIENT may send a request to their Ecology Financial Manager.



To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable. (Applies to both the Section 319 funded projects and the Centennial match projects)

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement: (Applies to Section 319 funded projects only)

“This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute endorsement or recommendation for use.”

C. Load Reduction Reporting: The RECIPIENT shall complete the “Section 319 Annual Load Reduction Reporting” form in EAGL by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has completed the form. This form is used to gather information on best management practices (BMPs) installed and associated pollutant load reductions that were funded as a part of this project.

D. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA’s assistance agreement. In the event a time extension is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date. (For Section 319 funded projects only)

#### **SECTION 4: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.**

A. Accounting Standards: The RECIPIENT shall maintain accurate records and accounts for the project (PROJECT Records) in accordance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB), including standards related to the reporting of infrastructure assets or in accordance with the standards in Chapter 43.09.200 RCW “Local Government Accounting – Uniform System of Accounting.”

B. Acquisitions: Section 319 and SRF Equivalency project RECIPIENTS shall comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.

C. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse’s Internet Data Entry System available at: <https://facweb.census.gov/>.

D. Archaeological Resources and Historic Properties (Section 106): The RECIPIENT shall comply with the additional requirements under section 106 of the National Historic Preservation Act (NHPA, 36 CFR 800).

E. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that their organization’s information in the System for Award Management (SAM), <https://www.sam.gov>, is kept current through project closeout. This requires that the RECIPIENT reviews and updates the information at least annually after the initial registration, and more frequently if information changes.

F. Disadvantaged Business Enterprise (DBE): General Compliance, 40 CFR, Part 33. The RECIPIENT agrees to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises (MBE/WBE) 40CFR, Part 33 in procurement under this agreement.

Six Good Faith Efforts, 40 CFR, Part 33, Subpart C. The RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under this agreement. Records documenting compliance with the following six good faith efforts shall be retained:

- 1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- 2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- 3) Consider, in the contracting process, whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State, and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- 4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- 5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request.

Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

This does not preclude the RECIPIENT from enacting broader nondiscrimination protections.

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including but not limited to, Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq., the Americans with Disabilities Act (ADA).

In the event of the RECIPIENT's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this agreement may be rescinded, canceled, or terminated in whole or in part and the RECIPIENT

may be declared ineligible for further funding from ECOLOGY. The RECIPIENT shall, however, be given a reasonable time in which to cure this noncompliance.

The RECIPIENT shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

“The Contractor will not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor will carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in termination of this Contract or other legally available remedies.”

Bidder List, 40 CFR, Section 33.501(b) and (c). The RECIPIENT agrees to create and maintain a bidders list. The bidders list shall include the following information for all firms that bid or quote on prime contracts, or bid or quote subcontracts, including both MBE/WBEs and non-MBE/WBEs.

1. Entity's name with point of contact
2. Entity's mailing address, telephone number, and e-mail address
3. The procurement on which the entity bid or quoted, and when
4. Entity's status as an MBE/WBE or non-MBE/WBE

G. Electronic and information Technology (EIT) Accessibility: RECIPIENTS shall ensure that loan funds provided under this agreement for costs in the development or purchase of EIT systems or products provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology as per Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7. Systems or products funded under this agreement must be designed to meet the diverse needs of users without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

H. Hotel-Motel Fire Safety Act: The RECIPIENT shall ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (15 USC 2225a, PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act. Pursuant to 15 USC 2225a.

I. Trafficking In Persons: The RECIPIENT and RECIPIENT employees that are private entities shall not engage in forms of trafficking in persons during the period of time this agreement is effective. This includes, but is not limited to, the procurement of a commercial sex act or forced labor. The RECIPIENT shall notify ECOLOGY immediately of any information received from any source alleging a violation under this provision.

#### **SECTION 5: THE FOLLOWING CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.**

The RECIPIENT must submit the following documents/forms to ECOLOGY before this agreement is signed by ECOLOGY:

1. Financial Capability Assessment Documentation
2. Opinion of RECIPIENT's Legal Council
3. Authorizing Ordinance or Resolution

4. Federal Funding Accountability and Transparency Act (FFATA) Form (Required for SRF Equivalency projects only)

5. CWSRF Federal Reporting Information form available in EAGL

6. Fiscal Sustainability Plan (Asset Management) Certification Form in EAGL (Only required if the project includes construction of a wastewater or stormwater facility construction)

7. Cost and Effectiveness Analysis Certification Form in EAGL (Required for all projects receiving SRF Loan funding)

8. State Environmental Review Process (SERP) Documentation (Required for facility projects only)

A. Alteration and Eligibility of Project: During the term of this agreement, the RECIPIENT (1) shall not materially alter the design or structural character of the project without the prior written approval of ECOLOGY and (2) shall take no action which would adversely affect the eligibility of the project as defined by applicable funding program rules and state statutes, or which would cause a violation of any covenant, condition, or provision herein.

B. American Iron and Steel (Buy American): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a "treatment works" as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

C. Authority of RECIPIENT: This agreement is authorized by the Constitution and laws of the state of Washington, including the RECIPIENT'S authority, and by the RECIPIENT pursuant to the authorizing ordinance or resolution. The RECIPIENT shall submit a copy of the authorizing ordinance or resolution to the ECOLOGY Financial Manager before this agreement shall be signed by ECOLOGY.

D. Equivalency Projects: (For designated equivalency projects only)

1. The RECIPIENT must procure architectural and engineering services in accordance with the federal requirements in Chapter 11 of Title 40, U.S.C. (see [www.gpo.gov/fdsys/pkg/USCODE-2011-title40/pdf/USCODE-2011-title40-subtitle-chap11.pdf](http://www.gpo.gov/fdsys/pkg/USCODE-2011-title40/pdf/USCODE-2011-title40-subtitle-chap11.pdf)).

E. Fiscal Sustainability Plan Certification: The RECIPIENT shall submit a completed Fiscal Sustainability Plan Certification before this agreement is signed by ECOLOGY. The Fiscal Sustainability Plan Certification is available from the ECOLOGY Financial Manager or on the Water Quality Program website.

F. Funding Recognition and Outreach: In addition to Section 2.F of these Terms and Conditions, the RECIPIENT agrees to comply with the EPA SRF Signage Guidance in order to enhance public awareness of EPA assistance agreements nationwide. The signage guidance can be found at: <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Water-Quality-grants-and-loans/Facility-project-resources>.

G. Insurance: The RECIPIENT shall at all times carry fire and extended insurance coverage, public liability, and property damage, and such other forms of insurance with responsible insurers and policies payable to the RECIPIENT on such of the buildings, equipment, works, plants, facilities, and properties of the Utility as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, or it shall self-insure or participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

H. Litigation Authority: No litigation is now pending, or to the RECIPIENT's knowledge, threatened, seeking to restrain, or enjoin:

(i) the execution of this agreement; or

(ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or

(iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or

(iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence, or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

I. Loan Interest Rate and Terms: This loan agreement shall remain in effect until the date of final repayment of the loan, unless terminated earlier according to the provisions herein.

When the Project Completion Date has occurred, ECOLOGY and the RECIPIENT shall execute an amendment to this loan agreement which details the final loan amount (Final Loan Amount), and ECOLOGY shall prepare a final loan repayment schedule. The Final Loan Amount shall be the combined total of actual disbursements made on the loan and all accrued interest to the computation date.

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a 365 day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments, semiannually, over the term of this loan "Loan Term" as outlined in this agreement.

#### J. Loan Repayment:

##### Sources of Loan Repayment

1. Nature of RECIPIENT's Obligation. The obligation of the RECIPIENT to repay the loan from the sources identified below and to perform and observe all other agreements and obligations on its part, contained herein, shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all of the covenants, agreements, and attachments contained herein.

2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.

3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.

4. For Revenue-Secured: Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.

6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

If the RECIPIENT defeases or advance refunds the loan, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay both of the following:

(i) The Loan Amount with interest

(ii) Any other obligations of the RECIPIENT to ECOLOGY under this agreement, unless in its sole discretion ECOLOGY finds that repayment from those additional sources would not be in the public interest.

Failure to repay the Loan Amount plus interest within the time specified in ECOLOGY's notice to make such repayment shall incur Late Charges and shall be treated as a Loan Default.

7. Refinancing or Early Repayment of the Project. So long as ECOLOGY shall hold this loan, the RECIPIENT shall give ECOLOGY thirty days written notice if the RECIPIENT intends to refinance or make early repayment of the loan.

#### Method and Conditions on Repayments

1. Semiannual Payments. Notwithstanding any other provision of this agreement, the first semiannual payment of principal and interest on this loan shall be due and payable no later than one year after the project completion date or initiation of operation date, whichever comes first.

Thereafter, equal payments shall be due every six months.

If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington State agencies, the payment shall be due on the next business day for Washington State agencies.

Payments shall be mailed to:

Department of Ecology

Cashiering Unit

P.O. Box 47611

Olympia WA 98504-7611

In lieu of mailing payments, electronic fund transfers can be arranged by working with ECOLOGY's Financial Manager.

No change to the amount of the semiannual principal and interest payments shall be made without a mutually signed amendment to this agreement. The RECIPIENT shall continue to make semiannual payments based on this agreement until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended agreement.

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.

3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.

4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

#### K. Loan Security

Due Regard: For loans secured with a Revenue Obligation: The RECIPIENT shall exercise due regard for Maintenance and Operation Expense and the debt service requirements of the Senior Lien Obligations and any other outstanding obligations pledging the Gross Revenue of the Utility, and it has not obligated itself to set aside and pay into the loan Fund a greater amount of the Gross Revenue of the Utility than, in its judgment, shall be available over and above such Maintenance and Operation Expense and those debt service requirements.

Where collecting adequate gross utility revenue requires connecting additional users, the RECIPIENT shall require the sewer system connections necessary to meet debt obligations and expected operation and maintenance expenses.

Levy and Collection of Taxes (if used to secure the repayment of the loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of its electors on all of the taxable property within the boundaries of the RECIPIENT in an amount sufficient, together with other money legally available and to be used therefore, to pay when due the principal of and interest on the loan, and the full faith, credit and resources of the RECIPIENT are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

Not an Excess Indebtedness: For loans secured with a general obligation pledge or a general obligation pledge on special assessments: The RECIPIENT agrees that this agreement and the loan to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the Loan Fund and used to pay the principal of and interest on the loan.

L. Maintenance and Operation of a Funded Utility: The RECIPIENT shall, at all times, maintain and keep the funded Utility in good repair, working order, and condition.

M. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an "Opinion of Legal Counsel to the RECIPIENT" to ECOLOGY before this agreement will be signed. ECOLOGY will provide the form.

N. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and sub contracts in excess of \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act, and make such records available for review upon request.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and make such records available for review upon request.

O. Progress Reports: RECIPIENTS funded with State Revolving Fund Loan or Forgivable Principal shall include the following verification statement in the “General Comments” text box of each progress report.

“We verify that we are in compliance with all the requirements as outlined in our funding agreement(s) with the Department of Ecology. This includes but is not limited to:

- The Davis-Bacon Act, 29 CFR (If applicable)

- Washington State Prevailing Wage Rate, Chapter 39.12 RCW (Pertaining to all recipients)

- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33”

P. Representations and Warranties: The RECIPIENT represents and warrants to ECOLOGY as follows:

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT, which has not been disclosed in writing to ECOLOGY.

Existence; Authority. It is a duly formed and legally existing municipal corporation or political subdivision of the state of Washington or a federally recognized Indian Tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this agreement and to undertake the project identified herein.

Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this loan agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the project or to repay the principal of or interest on the loan, have occurred since the date of this loan agreement. Any changes in the RECIPIENT’s financial condition shall be disclosed in writing to ECOLOGY by the RECIPIENT in its request for payment.

Q. Sale or Disposition of Funded Utility: The RECIPIENT shall not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities, or other part of the funded Utility or any real or personal property comprising a part of the funded Utility unless:

1. The facilities or property transferred are not material to the operation of the funded Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the funded Utility or are no longer necessary, material, or useful to the operation of the funded Utility; or

2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the funded Utility; or

3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the funded Utility from the portion of the funded Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.

4. Expressed written agreement by the ECOLOGY.



The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.

R. Sewer-Use Ordinance or Resolution for Funded Wastewater Facility Projects: If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution. Such ordinance or resolution shall be submitted to ECOLOGY upon request.

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater into separated sewer systems.
- 3) Require that new sewers and connections be properly designed and constructed.

S. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient ECOLOGY or RECIPIENT funds.
2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all of its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

Procedures for Termination. If this loan agreement is terminated prior to project completion, ECOLOGY shall provide to the RECIPIENT a written notice of termination at least five working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the ECOLOGY shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the loan and all accrued interest (the "Termination Payment Date").

Termination and Default Remedies

No Further Payments. On and after the Termination Date, or in the event of a default event, ECOLOGY may, at its sole discretion, withdraw the loan and make no further payments under this agreement.

Repayment Demand. In response to an ECOLOGY initiated termination event, or in response to a loan default event, ECOLOGY may at its sole discretion demand that the RECIPIENT repay the outstanding balance of the Loan Amount and all accrued interest.

Interest after Repayment Demand. From the time that ECOLOGY demands repayment of funds, amounts owed by the RECIPIENT to ECOLOGY shall accrue additional interest at the rate of one percent per month, or fraction thereof.

Accelerate Repayments. In the event of a default, ECOLOGY may, in its sole discretion, declare the principal of and interest on the loan immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien

Obligation upon the Net Revenue. That is, the loan is not subject to acceleration so long as any Senior Lien Obligations are outstanding. Repayments not made immediately upon such acceleration will incur Late Charges.

Late Charges. All amounts due to ECOLOGY and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur late charges.

Intercept State Funds. In the event of a default event and in accordance with Chapter 90.50A.060 RCW, "Defaults," any state funds otherwise due to the RECIPIENT may, at ECOLOGY's sole discretion, be withheld and applied to the repayment of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due, or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this agreement.

Fees and Expenses. In any action to enforce the provisions of this agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) shall be awarded to the prevailing party as that term is defined in Chapter 4.84.330 RCW.

Damages. Notwithstanding ECOLOGY's exercise of any or all of the termination or default remedies provided in this agreement, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and/or the state of Washington because of any breach of this agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

T. User-Charge System for Funded Utilities: The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and shall adopt a system of user-charges to assure that each user of the funded utility shall pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the project. The user-charge system will include provisions for a connection charge.

In addition, the RECIPIENT shall regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the funded utility, to establish reserves to pay for replacement, and to repay the loan.

## **ECOLOGY GENERAL TERMS AND CONDITIONS**

### **1. ADMINISTRATIVE REQUIREMENTS**

a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://apps.ecology.wa.gov/publications/SummaryPages/1701004.html>)

b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.

c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all sub grantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by sub grantees and contractors.

d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

## 2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

## 3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

## 4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:

- Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.

- \* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.

- For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).

b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.

- Make the IDP readily available to anyone working at the project site.

- Discuss the IDP with staff, volunteers, and contractors working at the project site.

- Implement the IDP when Cultural Resources or human remains are found at the project site.

c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

- Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.

d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.

e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

## 5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

## 6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

## 7. COMPENSATION

a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.

b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.

c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.

d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.

e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.

f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.

g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).

h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.

i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

## 8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.

b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.

c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.

d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

## 9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

## 10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

## 11. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

## 12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at: <http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

### 13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

### 14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

### 15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

### 16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

### 17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

### 18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

## 19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

## 20. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

## 21. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.



c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.

d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.

e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.

f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:

1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.

2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.

g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

## 22. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

a) Be kept in a manner which provides an audit trail for all expenditures.

b) Be kept in a common file to facilitate audits and inspections.

c) Clearly indicate total receipts and expenditures related to this Agreement.

d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

### 23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

### 24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

### 25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

### 26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

### 27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.

b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products. For more suggestions visit ECOLOGY's web page, Green Purchasing, <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

## 28. TERMINATION

### a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. 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.

Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

### b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. 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.

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

### c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

### d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

### 29. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

### 30. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd**

1/18/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/26/2024

**Submitting Dept**

INTEGRATED CAPITAL

**Project #**

2024052

**Contact Name/Phone**

MARK PAPICH 625-6310

**Bid #**

**Contact E-Mail**

MPAPICH@SPOKANECITY.ORG

**Requisition #**

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

BWILKERSON

**Agenda Item Name**

4250 – DEPT OF ECOLOGY GRANT FRANCIS STORMWATER FACILITY

**Agenda Wording**

Grant agreement number WQC-2024-Spokane-00130 with the Washington State Department of Ecology for Francis/Assembly Stormwater Facility - \$127,500.00 - Revenue.

**Summary (Background)**

The Department of Ecology has awarded the City of Spokane a grant to enhance stormwater facilities at the intersection of Francis and Assembly. The City will have a 25% match on the grant. The revenue and expenses are budgeted and consistent with the 6-year Capital Program.

Lease? NO

Grant related? YES

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 127,500.00

Current Year Cost \$ 127,500.00

Subsequent Year(s) Cost \$

**Narrative**

There is a 25% match requirement for this grant.

**Amount**

**Budget Account**

Revenue \$ 127,500.00

# 4250 98817 99999 33431 10157

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

<b><u>Dept Head</u></b>	DAVIS, MARCIA
<b><u>Division Director</u></b>	FEIST, MARLENE
<b><u>Accounting Manager</u></b>	ALBIN-MOORE, ANGELA
<b><u>Legal</u></b>	SCHOEDEL, ELIZABETH
<b><u>For the Mayor</u></b>	PICCOLO, MIKE

**Additional Approvals**

<b><u>ACCOUNTING -</u></b>	MURRAY, MICHELLE

**Distribution List**

	eraea@spokanecity.org
jrhall@spokanecity.org	icmaccounting@spokanecity.org
mpapich@spokanecity.org	kkeck@spokanecity.org
mdavis@spokanecity.org	

## Committee Agenda Sheet

### Public Safety & Community Health Committee

<b>Committee Date</b>	1/29/2024
<b>Submitting Department</b>	Integrated Capital Management
<b>Contact Name</b>	Mark Papich
<b>Contact Email &amp; Phone</b>	mpapich@spokanecity.org
<b>Council Sponsor(s)</b>	<u>Council President Betsy Wilkerson</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	Department of Ecology SFAP and Capacity Grant Agreements
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	<p>The Department of Ecology annually awards funding for grants and loans based on competitive process and legislature approval. In October of 2021 and October of 2022, the City applied for SFAP grant funds through the Washington State Department of Ecology. The City of Spokane has been awarded grant funds for five projects. In addition, the City has been awarded a Capacity Grant through the Department of Ecology. This grant funding can be applied to any activities associated with managing our Phase II Municipal Stormwater Permit.</p> <p>Below are the pertinent details of the funding agreements:</p> <ul style="list-style-type: none"> <li>• Francis/Assembly/Nine Mile Stormwater Facility             <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$127,500</li> <li>▪ City Match=15% (\$22,500)</li> <li>▪ Project Phase: Design</li> </ul> </li> <li>• Five Mile Regional Infiltration Facility Rehab             <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$150,000</li> <li>▪ City Match=25% (\$50,000)</li> <li>▪ Project Phase: Design</li> </ul> </li> <li>• CSO Basin 34 (I-90) Stormwater Mitigation/Separation             <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$5,015,000</li> <li>▪ City Match=15% (\$885,000)</li> <li>▪ Project Phase: Construction</li> </ul> </li> <li>• Washington Basin Stormwater Study             <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$262,500</li> <li>▪ City Match=25% (\$87,500)</li> <li>▪ Project Phase: Planning</li> </ul> </li> <li>• Drywell Rehab in Well-head Protection Zones             <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$262,500</li> <li>▪ City Match=25% (\$87,500)</li> <li>▪ Project Phase: Planning</li> </ul> </li> <li>• Capacity Grant             <ul style="list-style-type: none"> <li>▪ Total Grant Amount: \$130,000</li> <li>▪ City Match=0%</li> <li>▪ Project Phase: Any permit management activity</li> </ul> </li> </ul>
<b>Fiscal Impact</b>	

**Approved in current year budget?**     Yes     No     N/A

Total Cost: \$1,914,500

Current year cost: \$1,914,500

Subsequent year(s) cost:

**Narrative:** These grant dollars provide a substantial amount of funding toward important public works projects in the City's 6-year CIP. Without these dollars, the City would be unable to implement these projects within the proposed timeline. These projects enhance our ability to protect the water quality of the Spokane River and continue to provide a significant asset to our community.

**Funding Source**             One-time     Recurring     N/A

Specify funding source: Select Funding Source\*

Is this funding source sustainable for future years, months, etc? [Click or tap here to enter text.](#)

**Expense Occurrence**     One-time     Recurring     N/A

Other budget impacts: (revenue generating, match requirements, etc.)

**Operations Impacts** (If N/A, please give a brief description as to why)

**What impacts would the proposal have on historically excluded communities?**

Public Works services and projects are designed to serve all residents and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.

**How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?**

N/a - This is a public works project and should not impact racial, gender identity, national origin, income level, disability, sexual orientation, or other existing disparity factors.

**How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?**

Public Works follows the City's established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

**Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?**

This project is consistent with the City's adopted policies and programs.





## Agreement WQC-2024-Spokane-00130

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF SPOKANE

This is a binding Agreement entered into by and between the State of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY" and the CITY OF SPOKANE, hereinafter referred to as the "RECIPIENT" to carry out with the provided funds, the activities described herein.

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### GENERAL INFORMATION

Project Title:	Francis/Assembly/Nine Mile Stormwater Facility
Total Cost:	\$ 150,000.00
Total Eligible Cost:	\$ 150,000.00
Ecology Share:	\$ 127,500.00
Recipient Share:	\$ 22,500.00
The Effective Date of this Agreement is:	07/01/2023
The Expiration Date of this Agreement is no later than:	06/30/2027
Project Type:	Stormwater Facility

#### Project Short Description: (500-character limit, includes spaces)

This project will ultimately improve water quality in the Spokane River through design and future installation of stormwater enhanced treatment and infiltration facilities at the intersection of Francis and Assembly in the CITY of SPOKANE. This project will provide treatment for TSS, dissolved metals, total phosphorus, hydrocarbons and will also reduce flows to the Spokane River by increasing stormwater infiltration.

#### Project Long Description: (4,000-character limit, includes spaces)

The Spokane River runs for approximately 111 miles from Lake Coeur d' Alene in Idaho to the Columbia River at Franklin D. Roosevelt Lake and flows through the cities of Post Falls, ID, Spokane Valley, WA, and the heart of downtown Spokane, WA. Historically, the Spokane River supported populations of salmon and currently, it supports salmonid spawning grounds; it is also a popular resource for fishing and recreation. The Spokane River is a Category 5 (303(d))list impaired waterbody for pH, PCBs, metals, and dissolved oxygen DO.

The Francis/Assembly/Nine Mile Stormwater Facility discharges approximately 87.5 impervious acres of contributing stormwater that flows untreated to the Spokane River through the 30-inch outfall in Rifle Club Road. The project aims to

remove the outfall and treat all stormwater in the basin through bio-infiltration swales with bio-retention soil media (BSM) acting as enhanced treatment. By adding stormwater treatment to the urban Spokane River watershed, this project proposes to provide treatment BMPs that target zinc, TSS, and phosphorus. With a recently removed lift station there is space to add stormwater treatment.

The RECIPIENT will design stormwater treatment BMPs that target TSS, dissolved metals, total phosphorus and hydrocarbons.

Overall Goal:

This project will help protect and restore water quality in Washington state by reducing stormwater impacts from existing infrastructure and development.

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## RECIPIENT INFORMATION

Organization Name: CITY OF SPOKANE

Mailing Address: 808 W Spokane Falls Blvd Spokane, WA 99201

Physical Address: 808 W Spokane Falls Blvd Spokane, WA 99201

Organization Email: [mpapich@spokanecity.org](mailto:mpapich@spokanecity.org)

### Contacts

<b>Project Manager</b>	Mark Papich Senior Engineer  808 W Spokane Falls Blvd Spokane, Washington 99201 Email: <a href="mailto:mpapich@spokanecity.org">mpapich@spokanecity.org</a> Phone: (509) 625-6310
<b>Authorized Signatory</b>	Lisa Brown Mayor  808 W Spokane Falls Blvd Spokane, Washington 99201 Email: <a href="mailto:mayor@spokanecity.org">mayor@spokanecity.org</a> Phone: (509) 625-6310 (509) 343-5760
<b>Billing Contact</b>	LaVonne Martelle Accountant I  44 W Riverside Spokane, Washington Email: <a href="mailto:lmartelle@spokanecity.org">lmartelle@spokanecity.org</a> Phone: (509) 625-7000 (509) 343-5760

## ECOLOGY INFORMATION

Mailing Address: Department of Ecology  
Water Quality  
PO BOX 47600  
Olympia, WA 98504-7600

Physical Address: Department of Ecology  
300 Desmond Drive SE  
Lacey, WA 98503

### Contacts

<b>Project Manager</b>	Shilo Sprouse  4601 N. Monroe Spokane, Washington 99205 <a href="mailto:shilo.sprouse@ecy.wa.gov">shilo.sprouse@ecy.wa.gov</a> 509-862-8584
<b>Financial Manager</b>	Joe Kinerk  300 Desmond Dr SE Lacey, Washington 98503 <a href="mailto:joek461@ECY.WA.GOV">joek461@ECY.WA.GOV</a> (360) 742-2875
<b>Technical Advisor</b>	Doug Howie  PO Box 47600 Olympia, Washington 98504-7600 <a href="mailto:douglas.howie@ecy.wa.gov">douglas.howie@ecy.wa.gov</a> 360-870-0983

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

RECIPIENT agrees to read, understand, and accept all information contained within this entire Agreement. Furthermore, RECIPIENT acknowledges that they have reviewed the terms and conditions of this Agreement, Scope of Work, attachments, all incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement.

**Washington State Department of Ecology**

**City of Spokane**

\_\_\_\_\_  
Vincent McGowan  
Water Quality  
Program Manager

Date

\_\_\_\_\_  
Lisa Brown  
Mayor

Date

\_\_\_\_\_  
Additional City/County Signatories Date  
Email Address:

## SCOPE OF WORK

Task Number: 1

Task Cost: \$0

Task Title: Grant and Loan Administration

### Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and an EAGL (Ecology Administration of Grants and Loans) Recipient Close Out Report. In the event that the RECIPIENT elects to use a contractor to complete project elements, the RECIPIENT shall retain responsibility for the oversight and management of this funding agreement.

B. The RECIPIENT shall keep documentation that demonstrates the project is in compliance with applicable procurement, contracting, and interlocal agreement requirements; permitting requirements, including application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items. This documentation shall be made available to ECOLOGY upon request.

C. The RECIPIENT shall maintain effective communication with ECOLOGY and maintain up-to-date staff contact information in the EAGL system. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

### Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant and loan administrative requirements.

### Task Expected Outcome:

\* Timely and complete submittal of requests for reimbursement, quarterly progress reports, and Recipient Close Out Report.

\* Properly maintained project documentation.

### **Grant and Loan Administration Deliverables**

<b>Number</b>	<b>Description</b>	<b>Due Date</b>
1.1	Progress Reports that include descriptions of work accomplished, project challenges, and changes in the project schedule. Submitted at least quarterly.	
1.2	Recipient Close Out Report (EAGL Form).	
1.3	Two-page Outcome Summary Report	

## SCOPE OF WORK

Task Number: 2

Task Cost: 0

Task Title: Cultural and Environmental Review, and Permitting

### Task Description:

The RECIPIENT must ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

- A. The RECIPIENT will submit the documents listed below to initiate ECOLOGY's cultural resources review. Property acquisition and above and below ground activities proposed at any project site must be reviewed by ECOLOGY for potential affects to cultural resources.

The RECIPIENT must receive written notice from ECOLOGY prior to proceeding with work. Examples of work may include (but are not limited to) geotechnical work, acquisition, site prep work, and BMP installations. Work done prior to written notice to proceed shall not be eligible for reimbursement.

To initiate cultural resources review:

1. The RECIPIENT will submit the Cultural Resources Review Form to ECOLOGY, using the ECOLOGY template. Any supporting materials must conform to the Department of Archeology and Historic Preservation's (DAHP) Washington State Standards for Cultural Resource Reporting. The Cultural Resources Review Form template may be found on the ECOLOGY website.
  2. The RECIPIENT will submit an Inadvertent Discovery Plan (IDP) to ECOLOGY, using the ECOLOGY template. The RECIPIENT will ensure that all contractors and subcontractors have a copy of the completed IDP prior to and while working on-site. The IDP template may be found on the ECOLOGY website.
- B. The RECIPIENT will submit the State Environmental Policy Act (SEPA) checklist for ECOLOGY project manager review and notify the ECOLOGY project manager when the official comment period begins. The RECIPIENT will also upload the final SEPA determination.
- C. The RECIPIENT is responsible for application of, receipt of, and compliance with all required local, state, tribal, and federal permits, licenses, easements, or property rights necessary for the project.

### Task Goal Statement:

The RECIPIENT will complete all cultural and environmental reviews and permitting tasks in a timely manner.

### Task Expected Outcome:

The project will meet the requirements set forth by the cultural resource protection requirements, State Environmental Policy Act, and all other applicable federal, state, and local laws, and regulations.

### **Cultural and Environmental Review, and Permitting Deliverables**

Number	Description	Due Date
2.1	ECOLOGY Cultural Resources Review Form. Email the form and any supplemental cultural resources documentation directly to the ECOLOGY Project Manager. DO NOT upload the cultural resources form or documentation to EAGL.	
2.2	ECOLOGY Inadvertent Discovery Plan (IDP). Email the form directly to the ECOLOGY Project Manager for review. Upload to EAGL once review is complete.	

2.3	SEPA Checklist. Upload the checklist, or other documentation for projects considered exempt from SEPA review, to EAGL and notify ECOLOGY when official comment period begins.	
2.4	Final SEPA Determination. Upload to EAGL and notify ECOLOGY.	

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## SCOPE OF WORK

Task Number: 3

Task Cost: 150,000

Task Title: Design Plans and Specifications

### Task Description:

The RECIPIENT must ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

The RECIPIENT will develop a stormwater project design. The design submittals must conform to the Deliverables for Stormwater Projects with Ecology Funding Document. Projects must be designed in accordance with the Stormwater Management Manual for Eastern Washington, Stormwater Management Manual for Western Washington, or equivalent manual. Refer to the ECOLOGY website for specific guidance. Project must be reviewed and accepted in writing by ECOLOGY to be eligible for reimbursement.

The RECIPIENT will upload the design submittals listed below to EAGL for ECOLOGY review. Reduce design figures to 11x17 inches in size and ensure they are legible.

- A. The RECIPIENT will submit a Design Report to ECOLOGY for review and acceptance. Allow 45 calendar days for ECOLOGY review.

The RECIPIENT agrees to respond to ECOLOGY comments. The RECIPIENT must receive an Ecology Design Report Acceptance Letter prior to proceeding to 90 Percent Design.

1. The RECIPIENT will calculate and submit a preliminary equivalent new/re-development area for the completed design using the methods outlined in the Stormwater Deliverables Document.

- B. The RECIPIENT will submit a 90 Percent Design Package to ECOLOGY for review and acceptance. At a minimum, this package must include 90 percent plans, specifications, engineer's opinion of cost including a schedule of eligible costs, and project construction schedule. The current required bid inserts and specifications may be found on the Ecology website. Allow 45 calendar days for ECOLOGY review.

The RECIPIENT agrees to respond to ECOLOGY comments. The RECIPIENT must receive an Ecology 90 Percent Design Acceptance Letter prior to proceeding to Final Bid Package.

### Task Goal Statement:

The RECIPIENT will complete all design tasks and respond to ECOLOGY comments in a timely manner.

### Task Expected Outcome:

The project will meet the requirements set forth by ECOLOGY water quality facility design standards and all other applicable federal, state, and local laws, and regulations.

### **Design Plans and Specifications Deliverables**

Number	Description	Due Date
3.1	Contract documents, if procuring services for design. The contract must include ECOLOGY's standard contract clauses and/or specification insert. Upload to EAGL and notify ECOLOGY.	
3.2	Design Report. Upload to EAGL and notify ECOLOGY.	

3.3	Responses to ECOLOGY Design Report comments. Upload to EAGL and notify ECOLOGY.	
3.4	ECOLOGY Design Report Acceptance Letter. Upload to EAGL and notify ECOLOGY.	
3.5	90 Percent Design Package. Upload to EAGL and notify ECOLOGY.	
3.6	Responses to ECOLOGY 90 Percent Design Package comments. Upload to EAGL and notify ECOLOGY.	
3.7	ECOLOGY 90 Percent Design Acceptance Letter. Upload to EAGL and notify ECOLOGY.	
3.8	Preliminary equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.9	Preliminary project area shapefile, geodatabase file, or ECOLOGY-approved equivalent. Upload to EAGL and notify ECOLOGY when upload is complete. Upload ECOLOGY acceptance documentation.	

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**BUDGET** (EAGL WILL GENERATE THIS SECTION BASED ON PROJECT TYPE/PARAMETERS, ETC. IT MIGHT BE HELPFUL FOR THE RECIPIENT TO USE THE BUDGET TABLE TO PLAN OUT THEIR BUDGET).

**Funding Distribution**

Funding Title: SFAP  
 Funding Type: Grant  
 Funding Effective Date: 7/1/2023  
 Funding Expiration Date: 6/30/2027  
 Funding Source: State – Stormwater Financial Assistance Program

Recipient Match %: 15%  
 InKind Interlocal Allowed: No  
 InKind Other Allowed: No  
 Is this Funding Distribution used to match a federal grant? No

Indirect Rate: max 30%  
 Supporting documentation must be uploaded to EAGL.  
 Rate will be indicated in your agreement.

<b>Stormwater Financial Assistance Program</b>	<b>Task Total</b>	<b>Recipient Amount</b>	<b>ECY Amount</b>
1. Grant and Loan Administration			
2. Cultural and Environmental Review, and Permitting			
3. Design Plans and Specifications			
4. Project Close Out			
Total	\$150,000	\$22,500	\$127,500

<b>Funding Distribution Name</b>	<b>Recipient Match</b>	<b>Recipient Share</b>	<b>Ecology Share</b>	<b>Total</b>
<b>SFAP</b>	15%	\$22,500	\$127,500	\$150,000
<b>Total</b>		\$22,500	\$127,500	\$150,000

Application Budget Worksheet (not for EAGL, but do not delete from this draft document)

**Funding Offer:**

SFAP Grant Offer	SRF Standard Loan Offer	SRF Forgivable Principal Loan Offer	[Other WQC Funding] Offer	Total Funding Offer
\$127,500	\$0	\$0	\$0	\$127,500

**Does the funding offer amount shown in the following forms all match?**

Offer Letter uploaded in EAGL: Yes EAGL Offer Form: Yes Published Offer List: Yes
---

**Was the funding offer less than the amount requested because of ineligible items? Please describe.**

No
----

**Application Budget (copy tasks and amounts from EAGL)**

Task	Budget in App	Notes
1. Grant and Loan Administration	\$0	<b>Application SOW does not follow standard template</b>
2. Design	\$150,000	
3. Environmental and Cultural Resources	\$0	
<b>Total</b>	<b>\$150,000</b>	

**Agreement Budget**

Task	Revised Budget	Notes
1. Grant and Loan Administration	0	
2. Cultural, Environmental Review, and Permitting	0	
3. Design Plans and Specifications	\$150,000	
4. Project Close Out		
<b>Total</b>	<b>\$150,000</b>	

## AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

## SPECIAL TERMS AND CONDITIONS (Updated June 2023)

### SECTION 1: DEFINITIONS

Unless otherwise provided, the following terms will have the respective meanings for all purposes of this agreement:

**“Administration Charge”** means a charge established in accordance with Chapter 90.50A RCW and Chapter 173-98 WAC, to be used to pay Ecology’s cost to administer the State Revolving Fund by placing a percentage of the interest earned in an Administrative Charge Account.

**“Administrative Requirements”** means the effective edition of ECOLOGY’s Administrative Requirements for Recipients of Ecology Grants and Loans at the signing of this agreement.

**“Annual Debt Service”** for any calendar year means for any applicable bonds or loans including the loan, all interest plus all principal due on such bonds or loans in such year.

**“Average Annual Debt Service”** means, at the time of calculation, the sum of the Annual Debt Service for the remaining years of the loan to the last scheduled maturity of the loan divided by the number of those years.

**“Accrued Interest”** means the interest incurred as loan funds are disbursed.

**“Acquisition”** means the purchase or receipt of a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

**“Build American Buy American (BABA)”** means a portion of the Infrastructure Investment and Jobs Act and establishes a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022.

**“Bipartisan Infrastructure Law (BIL)”** means funding to improve drinking water, wastewater and stormwater infrastructure.

**“Centennial Clean Water Program”** means the state program funded from various state sources.

**“Contract Documents”** means the contract between the RECIPIENT and the construction contractor for construction of the project.

**“Construction Materials”** means an article, material, or supply (other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; aggregate binding agents or additives; or non-permanent products) that is or consists primarily of, non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), (including optic glass), lumber, and drywall.

**“Cost Effective Analysis”** means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water quality problem as described in Chapter 173-98-730 WAC.

**“Davis Bacon Prevailing Wage Act”** means the federal law mandating on-site workers on public works projects be paid certain wages, benefits, and overtime (also known as “prevailing wage” on all government-funded construction, alteration, and repair projects.

**“Defease” or “Defeasance”** means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

**“Effective Date”** means the earliest date on which eligible costs may be incurred.

**“Effective Interest Rate”** means the total interest rate established by Ecology that includes the Administrative Charge.

**“Estimated Loan Amount”** means the initial amount of funds loaned to the RECIPIENT.

**“Estimated Loan Repayment Schedule”** means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount and the estimated schedule for completion of the project.

**“Equivalency”** means the amount of State Revolving Fund (SRF) funding each funding cycle equivalent to the EPA grant to Ecology.

**“Equivalency Project”** means State Revolving Fund (SRF) funded project(s) designated by ECOLOGY to receive federal funding and meet additional federal requirements.

**“Expiration Date”** means the latest date on which eligible costs may be incurred.

**“Final Accrued Interest”** means the interest accrued beginning with the first disbursement of funds to the RECIPIENT through such time as the loan is officially closed out and a final loan repayment schedule is issued.

**“Final Loan Amount”** means all principal of and accrued interest on the loan from the Project Start Date through the Project Completion Date.

**“Final Loan Repayment Schedule”** means the schedule of loan repayments over the term of the loan based on the Final Loan Amount and the initiation of operation or completion date, whichever comes first.

**“Forgivable Principal”** means the portion of a loan that is not required to be paid back by the borrower.

**“General Obligation Debt”** means an obligation of the RECIPIENT secured by annual ad valorem taxes levied by the RECIPIENT and by the full faith, credit, and resources of the RECIPIENT.

**“General Obligation Payable from Special Assessments Debt”** means an obligation of the RECIPIENT secured by a valid general obligation of the Recipient payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.

**“Gross Revenue”** means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to Defease or refund Utility obligations or (B) in an obligation redemption fund or account other than the Loan Fund until commingled with other earnings and revenues of the Utility or (C) held in a special account for the purpose of paying a rebate to the United States Government under the Internal Revenue Code.

**“Guidelines”** means the ECOLOGY's Funding Guidelines that correlate to the State Fiscal Year in which the project is funded.

**“Initiation of Operation Date”** means the actual date the facility financed with proceeds of the loan begins to operate for its intended purpose. (For loans only)

**“Iron and Steel Products”** means products made primarily of iron or steel including but may not be limited to: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

**“Loan”** means the Washington State Water Pollution Control Revolving Fund Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this loan agreement.

**“Loan Amount”** means either an Estimated Loan Amount or a Final Loan Amount, as applicable.

**“Loan Fund”** means the special fund created by the RECIPIENT for the repayment of the principal of and interest on the loan.

**“Loan Security”** means the mechanism by which the RECIPIENT pledges to repay the loan.

**“Loan Term”** means the repayment period of the loan.

**“Maintenance and Operation Expense”** means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties, but will not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

**“Manufactured Products”** means, items and construction materials composed in whole or in part of non-ferrous metals such as aluminum plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**“Produced in the United States”** means for iron and steel products, that all manufacturing processes, from the initial melting state through the application of coatings, occurred in the United States.

**“Net Revenue”** means the Gross Revenue less the Maintenance and Operation Expense.

**“Original Engineer’s Estimate”** means the engineer’s estimate of construction costs included with bid documents.

**“Prevailing Wage”** means hourly wage, usual benefits, and overtime paid in the largest city in each county, to the majority of workers, laborers, and mechanics performing the same work. The rate is established separately for each county.

**“Principal and Interest Account”** means, for a loan that constitutes Revenue-Secured Debt, the account created in the loan fund to be first used to repay the principal of and interest on the loan.

**“Project”** means the project described in this agreement.

**“Project Completion Date”** means the date specified in the agreement on which the Scope of Work will be fully completed and is the last day eligible costs can be incurred. This term is only used in loan agreements.

**“Project Schedule”** means that schedule for the project specified in the agreement.

**“Revenue-Secured Debt”** means an obligation of the RECIPIENT secured by a pledge of the revenue of a utility and one not a general obligation of the RECIPIENT.

**“Reserve Account”** means, for a loan that constitutes a Revenue Secured Debt and if specifically identified as a term and condition of the funding agreement, the account of that name created in the loan fund to secure the payment of the principal of and interest on the loan.

**“Risk-Based Determination”** means an approach to sub-recipient monitoring and oversight based on risk factors associated to a RECIPIENT or project.

**“Scope of Work”** means the tasks and activities constituting the project.

**“Section 319”** means the section of the Clean Water Act that provides funding to address nonpoint sources of water pollution.

**“Senior Lien Obligations”** means all revenue bonds and other obligations of the RECIPIENT outstanding on the date of execution of this loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or

issued after the date of execution of this loan agreement having a claim or lien on the Gross Revenue of the Utility prior and superior to the claim or lien of the loan, subject only to Maintenance and Operation Expense.

**“State Water Pollution Control Revolving Fund (Revolving Fund)”** means the water pollution control revolving fund established by Chapter 90.50A.020 RCW.

**“Termination Date”** means the effective date of ECOLOGY’s termination of the agreement.

**“Termination Payment Date”** means the date on which the RECIPIENT is required to repay to ECOLOGY any outstanding balance of the loan and all accrued interest.

**“Total Eligible Project Cost”** means the sum of all costs associated with a water quality project that have been determined to be eligible for ECOLOGY grant or loan funding, including any required recipient match.

**“Total Project Cost”** means the sum of all costs associated with a water quality project, including costs that are not eligible for ECOLOGY grant or loan funding.

**“Unique Entity Identity Identifier (UEI)”** means a 12-character alphanumeric ID assigned by SAM.gov. to an entity doing business with or receiving funds from the federal government. This number replaces the DUNS number.

**“ULID”** means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility.

**“ULID Assessments”** means all assessments levied and collected in any ULID. Such assessments are pledged to be paid into the Loan Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments will include principal installments and any interest or penalties which may be due.

**“Utility”** means the sewer system, stormwater system, or the combined water and sewer system of the RECIPIENT, the Net Revenue of which is pledged to pay and secure the loan.

## **SECTION 2: CONDITIONS APPLY TO ALL RECIPIENTS OF WATER QUALITY COMBINED FINANCIAL ASSISTANCE FUNDING.**

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference and are available on ECOLOGY’s Water Quality Program website.

A. Accounting Standards: The RECIPIENT shall maintain accurate records and accounts for the project (PROJECT Records) in accordance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB), including standards related to the reporting of infrastructure assets or in accordance with the standards in Chapter 43.09.200 RCW “Local Government Accounting – Uniform System of Accounting.”

B. Architectural and Engineering Services: The RECIPIENT certifies by signing this agreement that the requirements of Chapter 39.80 RCW, “Contracts for Architectural and Engineering Services,” have been, or shall be, met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final architectural/engineering services contract and submit a copy of the contract to ECOLOGY.

C. Acquisition: The following provisions shall be in force only if the project described in this agreement is an acquisition project:

a. Evidence of Land Value and Title. The RECIPIENT shall submit documentation of the cost of the property rights and the type of ownership interest that has been acquired.

b. Legal Description of Real Property Rights Acquired. The legal description of the real property rights purchased with funding assistance provided through this agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the agreement before final payment.



c. Conveyance of Rights to the State of Washington. Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT shall execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired, and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT shall use language provided by ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

#### Documentation Options:

1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. RECIPIENTS shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes. The RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the deed of right.

2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.

3. Easements and Leases. The RECIPIENT may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; therefore, the RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the easement or lease.

#### d. Real Property Acquisition and Relocation Assistance.

1. Federal Acquisition Policies. See Section 4 of this agreement for requirements specific to Section 319 and SRF funded projects.

2. State Acquisition Policies. When state funds are part of this agreement, the RECIPIENT agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.

3. Housing and Relocation. In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the RECIPIENT agrees to provide any housing and relocation assistance required.

#### e. Hazardous Substances.

1. Certification. The RECIPIENT shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:

i. No hazardous substances were found on the site, or

ii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site is deemed "clean."

2. Responsibility. Nothing in this provision alters the RECIPIENT's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.

3. Hold Harmless. The RECIPIENT will defend, protect and hold harmless ECOLOGY and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the RECIPIENT is acquiring.

#### f. Restriction On Conversion Of Real Property And/Or Facilities To Other Uses

The RECIPIENT shall not at any time convert any real property (including any interest therein) or facility acquired, developed, maintained, renovated, and/or restored pursuant to this agreement to uses other than those purposes for which funds were approved without prior approval of ECOLOGY. For acquisition projects that are term limited, such as one involving a lease or a term-limited restoration, renovation or development project or easement, this restriction on conversion shall apply only for the length of the term, unless otherwise provided in written documents or required by applicable state or federal law. In such case, the restriction applies to such projects for the length of the term specified by the lease, easement, deed, or landowner agreement.

D. Best Management Practices (BMP) Implementation: If the RECIPIENT installs BMPs that are not approved by ECOLOGY prior to installation, the RECIPIENT assumes the risk that part or all of the reimbursement for that activity may be delayed or ineligible. For more details regarding BMP Implementation, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY's Water Quality Program funding website.

E. Electronic Fund Transfers: Payment will be issued through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process or electronic fund transfers, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).

F. Equipment Purchase: Equipment purchases over \$5,000 and not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase. All equipment purchases over \$5,000 and not included in a contract for work being completed on the funded project, must also be reported on the Equipment Purchase Report in EAGL.

G. Funding Recognition: The RECIPIENT must inform the public about any ECOLOGY or EPA funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Contact your Ecology Project Team to determine the appropriate recognition for your project.

H. Growth Management Planning: The RECIPIENT certifies by signing this agreement that it is in compliance with the requirements of Chapter 36.70A RCW, "Growth Management Planning by Selected Counties and Cities." If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify ECOLOGY in writing of this change within 30 days.

I. Interlocal: The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements necessary for the project are, or shall be, consistent with the terms of this agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the project to ECOLOGY upon request.

J. Lobbying and Litigation: Costs incurred for the purposes of lobbying or litigation are not eligible for funding under this agreement.

K. Post Project Assessment Survey: The RECIPIENT agrees to participate in a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project approximately three years after project completion. A representative from ECOLOGY's Water Quality Program may contact the RECIPIENT to request this data. ECOLOGY may also conduct site interviews and inspections, and may otherwise evaluate the project, as part of this assessment.

L. Project Status Evaluation: ECOLOGY may evaluate the status at any time. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

M. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service (“NRCS”) Field Office Technical Guide for Washington State and specific requirements outlined in the Water Quality Funding Guidelines. Technical assistance, proposed practices, or project designs that do not meet these standards may be eligible if approved in writing by ECOLOGY.

### **SECTION 3: CONDITIONS APPLY TO SECTION 319 AND CENTENNIAL CLEAN WATER FUNDED PROJECTS BEING USED TO MATCH SECTION 319 FUNDS.**

The RECIPIENT must submit the following documents to ECOLOGY before this agreement is signed by ECOLOGY:

1. Federal Funding Accountability and Transparency Act (FFATA) Form is available on the Water Quality Program website and must be completed and submitted to Ecology. (This form is used for Section 319 (federal) funds only)

2. “Section 319 Initial Data Reporting” form must be completed in EAGL.

A. Data Reporting: The RECIPIENT must complete the “Section 319 Initial Data Reporting” form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project for EPA.

B. Funding Recognition and Outreach: In addition to Section 2.F. of these Special Terms and Conditions, the RECIPIENT shall provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA logo and follow usage requirements available at <http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. To obtain the appropriate EPA logo or seal graphic file, the RECIPIENT may send a request to their Ecology Financial Manager.

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable. (Applies to both the Section 319 funded projects and the Centennial match projects)

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement: (Applies to Section 319 funded projects only)

“This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute endorsement or recommendation for use.”

C. Load Reduction Reporting: The RECIPIENT shall complete the “Section 319 Annual Load Reduction Reporting” form in EAGL by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has completed the form. This form is used to gather information on best management practices (BMPs) installed and associated pollutant load reductions that were funded as a part of this project.

D. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA’s assistance agreement. In the event a time extension is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date. (For Section 319 funded projects only)

### **SECTION 4: CONDITIONS APPLY TO ALL FEDERAL FUNDING AGREEMENTS, INCLUDING SECTION 319, State Revolving Fund (SRF) Equivalency Projects, and SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANT (OSG)**

A. Acquisitions: RECIPIENTS shall comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended by the Surface

Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.

B. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at:

<https://facweb.census.gov/>.

C. Archaeological Resources and Historic Properties (Section 106): This requires completion of the Ecology Cultural Resources Review Form, coordination with Ecology Cultural Resources staff, and receipt of the Ecology Final Determination prior to any property acquisition and above and below ground disturbing activities.

D. Architectural and Engineering Services Procurement: The RECIPIENT must procure architectural and engineering services in accordance with the federal requirements in Chapter 11 of Title 40, U.S.C. (see <https://uscode.house.gov/view.xhtml?path=/prelim@title40/subtitle1/chapter11&edition=prelim>).

E Build America, Buy America (BABA – Pub. L. No. 117-58, 70901-52) (Federally funded SRF Equivalency projects only): The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding agrees to comply with all federal requirements applicable to the assistance received (including those imposed by the Infrastructure Investment and Jobs Act ("IIJA"/BIL), Public Law No. 117-58) which the RECIPIENT understands includes, but is not limited to, the following requirements: that all the iron and steel, manufactured products, and construction materials used in the Project are to be produced in the United States ("Build America, Buy America Requirements") unless (i) the RECIPIENT has requested and obtained a waiver from the cognizant Agency pertaining to the Project or the Project is otherwise covered by a general applicability waiver; or (ii) all of the contributing Agencies have otherwise advised the RECIPIENT in writing that the Build America, Buy America Requirements are not applicable to the project.

RECIPIENT shall comply with all record keeping and reporting requirements under all applicable legal authorities, including any reports required by the funding authority (such as EPA and/or a state), such as performance indicators of program deliverables, information on costs and project progress. The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding, understands that (i) each contract and subcontract related to the project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the applicable legal requirements and this Agreement may result in a default hereunder that results in a repayment of the assistance agreement in advance of termination and/or repayment of assistance, and/or other remedial actions.

EPA has granted an adjustment period waiver of the requirements of Section 70914(a) of the BIL, pursuant to Section 70914(b)(1) (public interest waiver), for eligible projects financed by SRF projects that have initiated project design planning prior to May 14, 2022, the statutory effective date of the BABA requirements. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. Sections 70917(a) and (b) of BIL provide a savings provision for existing statutory requirements that meet or exceed BABA requirements. The statutory American Iron and Steel (AIS) requirements of Clean Water Act (CWA) Section 608 and Safe Drinking Water Act (SDWA) Section 1452(a)(4) has previously applied to SRF projects and will continue to do so as part of BABA requirements.

Where manufactured products used in the project are required to be produced in the United States, manufactured product shall mean manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation. The manufactured products included cover the majority of potential water infrastructure products, including complex products made up of

a variety of material types and components. For water infrastructure projects, commonly manufactured products would include, but not be limited to, pumps, motors, blowers, aerators, generators, instrumentation and control systems, gauges, meters, measurement equipment, treatment equipment, dewatering equipment, actuators, and many other mechanical and electrical items.

F. Disadvantaged Business Enterprise (DBE): General Compliance, 40 CFR, Part 33. The RECIPIENT agrees to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises (MBE/WBE) 40CFR, Part 33 in procurement under this agreement.

Six Good Faith Efforts, 40 CFR, Part 33, Subpart C. The RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under this agreement. Records documenting compliance with the following six good faith efforts shall be retained:

- 1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- 2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- 3) Consider, in the contracting process, whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State, and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- 4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- 5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request.

Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

This does not preclude the RECIPIENT from enacting broader nondiscrimination protections.

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including but not limited to, Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).

In the event of the RECIPIENT's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this agreement may be rescinded, canceled, or terminated in whole or in part and the RECIPIENT may be declared ineligible for further funding from ECOLOGY. The RECIPIENT shall, however, be given a reasonable time in which to cure this noncompliance.

The RECIPIENT shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

"The Contractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor will carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in termination of this Contract or other legally available remedies."

Bidder List, 40 CFR, Section 33.501(b) and (c). The RECIPIENT agrees to create and maintain a bidders list. The bidders list shall include the following information for all firms that bid or quote on prime contracts, or bid or quote subcontracts, including both MBE/WBEs and non-MBE/WBEs.

1. Entity's name with point of contact
2. Entity's mailing address, telephone number, and e-mail address
3. The procurement on which the entity bid or quoted, and when
4. Entity's status as an MBE/WBE or non-MBE/WBE

G. Electronic and information Technology (EIT) Accessibility: RECIPIENTS shall ensure that loan funds provided under this agreement for costs in the development or purchase of EIT systems or products provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology as per Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7. Systems or products funded under this agreement must be designed to meet the diverse needs of users without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

H. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.

I. Hotel-Motel Fire Safety Act: The RECIPIENT shall ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (15 USC 2225a, PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act. Pursuant to 15 USC 2225a.

J. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request. Wage determinations and instructions for their use can be found at <https://sam.gov/>.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request. Where conflicts arise between the State prevailing wage rates and Davis-Bacon Act prevailing wage requirements the more stringent requirement shall govern. Washington State prevailing wage rates can be found at <https://www.lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>

K. Trafficking in Persons: The RECIPIENT and RECIPIENT employees that are private entities shall not engage in forms of trafficking in persons. This includes, but is not limited to, the procurement of a commercial sex act or forced labor. The RECIPIENT shall notify ECOLOGY immediately of any information received from any source alleging a violation under this provision.

L. Unique Entity Identifier (UEI): The RECIPIENT agrees to register with and make their registration public in the System for Award Management (SAM.gov). The RECIPIENT will be assigned a UEI and agree to include their UEI Number under their organization’s information in EAGL. The UEI number must be entered into EAGL before a funding agreement is signed.

## **SECTION 5: CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.**

The RECIPIENT must submit the following documents/forms to ECOLOGY before this agreement is signed by ECOLOGY:

1. Financial Capability Assessment Documentation (upon request)
2. Opinion of RECIPIENT’s Legal Council – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
3. Authorizing Ordinance or Resolution – Must be uploaded to the General Uploads form in EAGL.
4. Federal Funding Accountability and Transparency Act (FFATA) Form (Required for all federally funded SRF Equivalency projects – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
5. CWSRF Federal Reporting Information form – Must be completed in EAGL.
6. Fiscal Sustainability Plan (Asset Management) Certification Form (Only required if the project includes construction of a wastewater or stormwater facility construction) – Must be completed in EAGL.
7. Cost and Effectiveness Analysis Certification Form (Required for all projects receiving SRF Loan funding) – Must be completed in EAGL.
8. State Environmental Review Process (SERP) Documentation (Required for treatment works projects only) – Must be uploaded to the Environmental and Cultural Review form in EAGL.

A. Alteration and Eligibility of Project: During the term of this agreement, the RECIPIENT (1) shall not materially alter the design or structural character of the project without the prior written approval of ECOLOGY and (2) shall take no action which would adversely affect the eligibility of the project as defined by applicable funding program rules and state statutes, or which would cause a violation of any covenant, condition, or provision herein.

B. American Iron and Steel (Buy American – P.L 113-76, Consolidated Appropriations Act 2014, Section 436): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a “treatment works” as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings,

hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

C. Authority of RECIPIENT: This agreement is authorized by the Constitution and laws of the state of Washington, including the RECIPIENT's authority, and by the RECIPIENT pursuant to the authorizing ordinance or resolution. The RECIPIENT shall submit a copy of the authorizing ordinance or resolution to the ECOLOGY Financial Manager before this agreement shall be signed by ECOLOGY.

D. Equivalency Projects: ECOLOGY designated equivalency project and alternative designated equivalency project RECIPIENTS agree to accept federal funds and the federal requirements that accompany the funds. This includes all the requirements in Section 4 and this Section.

E. Fiscal Sustainability Plan Certification: The RECIPIENT shall submit a completed Fiscal Sustainability Plan Certification before this agreement is signed by ECOLOGY. The Fiscal Sustainability Plan Certification is available from the ECOLOGY Financial Manager or on the Water Quality Program website.

F. Funding Recognition and Outreach: The RECIPIENT agrees to comply with the EPA SRF Signage Guidance to enhance public awareness of EPA assistance agreements nationwide. Signage guidance can be found at: <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Water-Quality-grants-and-loans/Facility-project-resources>.

G. Insurance: The RECIPIENT shall at all times carry fire and extended insurance coverage, public liability, and property damage, and such other forms of insurance with responsible insurers and policies payable to the RECIPIENT on such of the buildings, equipment, works, plants, facilities, and properties of the Utility as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, or it shall self-insure or participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

H. Litigation Authority: No litigation is now pending, or to the RECIPIENT's knowledge, threatened, seeking to restrain, or enjoin:

(i) the execution of this agreement; or

(ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or

(iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or

(iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence, or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

I. Loan Interest Rate and Terms: This loan agreement shall remain in effect until the date of final repayment of the loan, unless terminated earlier according to the provisions herein.

When the Project Completion Date has occurred, ECOLOGY and the RECIPIENT shall execute an amendment to this loan agreement which details the final loan amount (Final Loan Amount), and ECOLOGY shall prepare a final loan repayment schedule. The Final Loan Amount shall be the combined total of actual disbursements made on the loan and all accrued



interest to the computation date.

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a 365-day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments, semiannually, over the term of this loan "Loan Term" as outlined in this agreement.

## J. Loan Repayment:

### Sources of Loan Repayment

1. Nature of RECIPIENT's Obligation. The obligation of the RECIPIENT to repay the loan from the sources identified below and to perform and observe all other agreements and obligations on its part, contained herein, shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all the covenants, agreements, and attachments contained herein.
2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.
3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.
4. For Revenue-Secured: Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.
6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

If the RECIPIENT defeases or advance refunds the loan, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay both of the following:

- (i) The Loan Amount with interest
- (ii) Any other obligations of the RECIPIENT to ECOLOGY under this agreement, unless in its sole discretion ECOLOGY finds that repayment from those additional sources would not be in the public interest.

Failure to repay the Loan Amount plus interest within the time specified in ECOLOGY's notice to make such repayment shall incur Late Charges and shall be treated as a Loan Default.

7. Refinancing or Early Repayment of the Project. So long as ECOLOGY shall hold this loan, the RECIPIENT shall give ECOLOGY thirty days written notice if the RECIPIENT intends to refinance or make early repayment of the loan.

### Method and Conditions on Repayments

1. Semiannual Payments. Notwithstanding any other provision of this agreement, the first semiannual payment of principal and interest on this loan shall be due and payable no later than one year after the

project completion date or initiation of operation date, whichever comes first.

Thereafter, equal payments shall be due every six months.

If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington State agencies, the payment shall be due on the next business day for Washington State agencies.

Payments shall be mailed to:  
Department of Ecology  
Cashiering Unit  
P.O. Box 47611  
Olympia WA 98504-7611

In lieu of mailing payments, electronic fund transfers can be arranged by working with ECOLOGY's Financial Manager.

No change to the amount of the semiannual principal and interest payments shall be made without a mutually signed amendment to this agreement. The RECIPIENT shall continue to make semiannual payments based on this agreement until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended agreement.

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.

3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.

4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

#### K. Loan Security

Due Regard: For loans secured with a Revenue Obligation: The RECIPIENT shall exercise due regard for Maintenance and Operation Expense and the debt service requirements of the Senior Lien Obligations and any other outstanding obligations pledging the Gross Revenue of the Utility, and it has not obligated itself to set aside and pay into the loan Fund a greater amount of the Gross Revenue of the Utility than, in its judgment, shall be available over and above such Maintenance and Operation Expense and those debt service requirements.

Where collecting adequate gross utility revenue requires connecting additional users, the RECIPIENT shall require the sewer system connections necessary to meet debt obligations and expected operation and maintenance expenses.

Levy and Collection of Taxes (if used to secure the repayment of the loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of its electors on all of the taxable property within the boundaries of the RECIPIENT in an amount sufficient, together with other money legally available and to be used therefore, to pay when due the principal of and interest on the loan, and the full faith, credit and resources of the RECIPIENT are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

Not an Excess Indebtedness: For loans secured with a general obligation pledge or a general obligation pledge on special assessments: The RECIPIENT agrees that this agreement and the loan to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the Loan Fund and used to pay the principal of and interest on the loan.

L. Maintenance and Operation of a Funded Utility: The RECIPIENT shall, at all times, maintain and keep the funded Utility in good repair, working order, and condition.

M. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an "Opinion of Legal Counsel to the RECIPIENT" to ECOLOGY before this agreement will be signed. ECOLOGY will provide the form.

N. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves "public work" and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request.

O. Progress Reports: RECIPIENTS funded with State Revolving Fund Loan or Forgivable Principal shall include the following verification statement in the "General Comments" text box of each progress report.

"We verified that we are in compliance with all the requirements as outlined in our funding agreement(s) with the Department of Ecology. This includes but is not limited to:

- The Davis-Bacon Act, 29 CFR , prevailing wage requirements, certified weekly payroll, etc.
- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33
- The American Iron and Steel Act (Buy American)
- The Build America Buy America Act (BABA) (equivalency projects only)"

P. Representations and Warranties: The RECIPIENT represents and warrants to ECOLOGY as follows:

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT, which has not been disclosed in writing to ECOLOGY.

Existence; Authority. It is a duly formed and legally existing municipal corporation or political subdivision of the

state of Washington or a federally recognized Indian Tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this agreement and to undertake the project identified herein.

Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this loan agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the project or to repay the principal of or interest on the loan, have occurred since the date of this loan agreement. Any changes in the RECIPIENT's financial condition shall be disclosed in writing to ECOLOGY by the RECIPIENT in its request for payment.

Q. Sale or Disposition of Funded Utility: The RECIPIENT shall not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities, or other part of the funded Utility or any real or personal property comprising a part of the funded Utility unless:

1. The facilities or property transferred are not material to the operation of the funded Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the funded Utility or are no longer necessary, material, or useful to the operation of the funded Utility; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the funded Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the funded Utility from the portion of the funded Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the ECOLOGY. The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.

R. Sewer-Use Ordinance or Resolution for Funded Wastewater Facility Projects: If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution. Such ordinance or resolution shall be submitted to ECOLOGY upon request.

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater into separated sewer systems.
- 3) Require that new sewers and connections be properly designed and constructed.

S. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient ECOLOGY or RECIPIENT funds.
2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.

4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

Procedures for Termination. If this loan agreement is terminated prior to project completion, ECOLOGY shall provide to the RECIPIENT a written notice of termination at least five working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the ECOLOGY shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the loan and all accrued interest (the "Termination Payment Date").

#### Termination and Default Remedies

No Further Payments. On and after the Termination Date, or in the event of a default event, ECOLOGY may, at its sole discretion, withdraw the loan and make no further payments under this agreement.

Repayment Demand. In response to an ECOLOGY initiated termination event, or in response to a loan default event, ECOLOGY may at its sole discretion demand that the RECIPIENT repay the outstanding balance of the Loan Amount and all accrued interest.

Interest after Repayment Demand. From the time that ECOLOGY demands repayment of funds, amounts owed by the RECIPIENT to ECOLOGY shall accrue additional interest at the rate of one percent per month, or fraction thereof.

Accelerate Repayments. In the event of a default, ECOLOGY may, in its sole discretion, declare the principal of and interest on the loan immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien Obligation upon the Net Revenue. That is, the loan is not subject to acceleration so long as any Senior Lien Obligations are outstanding. Repayments not made immediately upon such acceleration will incur Late Charges.

Late Charges. All amounts due to ECOLOGY and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur late charges.

Intercept State Funds. In the event of a default event and in accordance with Chapter 90.50A.060 RCW, "Defaults," any state funds otherwise due to the RECIPIENT may, at ECOLOGY's sole discretion, be withheld and applied to the repayment of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due, or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this agreement.

Fees and Expenses. In any action to enforce the provisions of this agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) shall be awarded to the prevailing party as that term is defined in Chapter 4.84.330 RCW.

Damages. Notwithstanding ECOLOGY's exercise of any or all the termination or default remedies provided in this agreement, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and/or the state of Washington because of any breach of this agreement by the RECIPIENT. ECOLOGY may withhold

payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

T. User-Charge System for Funded Utilities: The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and shall adopt a system of user-charges to assure that each user of the funded utility shall pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the project. The user-charge system will include provisions for a connection charge.

In addition, the RECIPIENT shall regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the funded utility, to establish reserves to pay for replacement, and to repay the loan.

## **GENERAL FEDERAL CONDITIONS**

**If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.**

### **A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:**

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

**B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:**

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$30,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required Unique Entity Identifier in [www.sam.gov](http://www.sam.gov) <<http://www.sam.gov>> within 30 days of agreement signature. The FFATA information will be available to the public at [www.usaspending.gov](http://www.usaspending.gov) <<http://www.usaspending.gov>>.

For more details on FFATA requirements, see [www.fsr.gov](http://www.fsr.gov) <<http://www.fsr.gov>>.

**C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:**

- As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
  1. Procure or obtain;
  2. Extend or renew a contract to procure or obtain; or
  3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf) <<https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management \(SAM\)](https://sam.gov/SAM/) <<https://sam.gov/SAM/>> exclusion list.

## ECOLOGY GENERAL TERMS AND CONDITIONS

### 1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://apps.ecology.wa.gov/publications/SummaryPages/2301002.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

### 2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

### 3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

### 4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:

- Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.

\* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.

- For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).

b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
- Make the IDP readily available to anyone working at the project site.



- Discuss the IDP with staff, volunteers, and contractors working at the project site.
- Implement the IDP when Cultural Resources or human remains are found at the project site.

c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

- Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.

d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.

e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

#### 5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

#### 6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

#### 7. COMPENSATION

a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.

b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.

c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.

d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.

e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.

f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.

g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).

h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.

i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

## 8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

## 9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

## 10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

## 11. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

## 12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at:

<http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

## 13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

## 14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

## 15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

## 16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

## 17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

## 18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

## 19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

## 20. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

## 21. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
  - 1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
  - 2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

## 22. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

## 23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

## 24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

## 25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

## 26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

## 27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing, <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

## 28. TERMINATION

### a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. 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.

**Failure to Commence Work.** ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

**Non-Performance.** The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

### b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. 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.

**Non-Allocation of Funds.** ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

**c) By Mutual Agreement**

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

**d) In Event of Termination**

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

**29. THIRD PARTY BENEFICIARY**

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

**30. WAIVER**

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

**End of Terms and Conditions**



## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	January 29th, 2024
<b>Submitting Department</b>	Streets
<b>Contact Name</b>	Clint Harris
<b>Contact Email &amp; Phone</b>	<a href="mailto:ceharris@spokanecity.org">ceharris@spokanecity.org</a> , 509-625-7744
<b>Council Sponsor(s)</b>	Please enter the name of the Council Sponsor(s)
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	1100 - Street Department Perforated Steel Tubes
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>	<p>*use the Fiscal Impact box below for relevant financial information</p> <p>The Street Department is seeking approval to purchase perforated square steel tubing from Traffic Safety Supply Company at a cost not to exceed \$90,000.00</p> <p>This perforated square steel tubing is used for the mounting of City signs during new installations as well as for repairs and replacements of existing infrastructure. Purchases will be made using value blanket pricing found on VB-301047-001</p>
<p><b>Fiscal Impact</b></p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$90,000.00</u></p> <p>    Current year cost: \$90,000.00</p> <p>    Subsequent year(s) cost: N/A</p> <p><b>Narrative:</b> Please provide financial due diligence review, as applicable, such as number and type of positions, grant match requirements, summary type details (personnel, maintenance and supplies, capital, revenue), impact on rates, fees, or future shared revenue</p> <p><b>Funding Source</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Program revenue</p> <p>Is this funding source sustainable for future years, months, etc? Yes</p> <p><b>Expense Occurrence</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
What impacts would the proposal have on historically excluded communities?	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?	

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?



Traffic Safety Supply  
 2324 SE Umatilla Street  
 Portland, OR 97202  
 Phone: (503) 235-8531  
 Fax: (503) 235-5112

CSR: Susan Gerkin

# SALES QUOTE

Quote Number	Date	Customer Number
SQN00034247	09-23-21	C000996
Quote valid for 30 days.		

**Bill To:**

City of Spokane  
 W 808 Spokane Falls Blvd  
 Del Hours: 7-2:30  
 Spokane, WA 99201

**Ship To:**

City of Spokane  
 901 N Nelson St  
 Del Hours: 7-2:30  
 Spokane, WA 99202

Contact Name: Marcus Eveland  
 Phone Number: (509) 232-8803

**Project:** City of Spokane SQ Post Contract

**Freight Terms:** Prepaid

Product	Description	Quantity	Price	Extended Price
DP00296	POST, PERFORATED SQUARE TUBE, 2" 12GA 9FT	200.00 EA	\$46.30	\$9,260.00
DP00297	POST, PERFORATED SQUARE TUBE, 2" 12GA 10FT	200.00 EA	\$52.35	\$10,470.00
DP00298	POST, PERFORATED SQUARE TUBE, 2" 12GA 11FT	200.00 EA	\$57.50	\$11,500.00
DP00299	POST, PERFORATED SQUARE TUBE, 2" 12GA 12FT	200.00 EA	\$62.65	\$12,530.00
DP00321	POST, PERFORATED SQUARE TUBE, 1.75" 14GA 12FT	200.00 EA	\$46.95	\$9,390.00



Traffic Safety Supply  
2324 SE Umatilla Street  
Portland, OR 97202  
Phone: (503) 235-8531  
Fax: (503) 235-5112

CSR: Susan Gerkin

# SALES QUOTE

Quote Number	Date	Customer Number
SQN00034247	09-23-21	C000996
Quote valid for 30 days.		

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Total Before Tax	\$53,150.00
Tax	\$4,783.50
Order Total	\$57,933.50



**CITY OF SPOKANE  
PURCHASING**  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WA 99201-3316  
TELEPHONE (509) 625-6400  
FAX (509) 625-6413

Purchase Order Number

**VB-301047-001**

This number must appear on all invoices, papers and shipments

**Vendor:** TRAFFIC SAFETY SUPPLY INC  
2324 SE UMATILLA ST  
PORTLAND OR 97202

**Ship To:** STREET DEPARTMENT - S & M  
CITY OF SPOKANE  
901 N. NELSON STREET  
SPOKANE WA 99202-3769

BUYER		BUYER PHONE #	TERMS	F.O.B.	DELIVERY DATE
THEA PRINCE		509-625-6403	NET 30 DAYS	DESTINATION	--
Quantity	U/M	Part Number/ Description		Unit Price	Total
		PER SPECIFICATIONS CALLED OUT IN QUOTE #781-19 APPROVED BY CITY COUNCIL ON 4/29/19 (OPR 2019-0312). FIRST RENEWAL APPROVED BY CITY COUNCIL ON 6/29/20 (OPR 2019-0312)  ITEMS WILL BE ORDERED ON AN "AS NEEDED" BASIS BY THE DEPARTMENT.  PRICING IS ATTACHED.  THIS VB EXPIRES 7/1/21 AND HAS THREE (3) ONE-YEAR OPTIONAL RENEWALS AVAILABLE           ORDER TO INCLUDE "MATERIAL SAFETY DATA SHEETS" IF REQUIRED			
				<b>Total</b>	60,000.00

AUTHORIZED SIGNATURE

**STANDARD TERMS & CONDITIONS**

1. **TAXES:** Unless otherwise indicated, the City agrees to pay all State of Washington sales taxes or use taxes. The City is exempt from federal excise taxes. Business, occupational and personal property taxes are the sole responsibility of the Seller.
2. **CHANGES:**
  - A. No alteration in any of the terms, conditions, delivery, price, quantity or specifications of items ordered will be effective without the written consent of the Accounting Director or above-named buyer.
  - B. In no event will the City agree to any disclaimer of warranties.
  - C. Any response to the City's order which does not contain the words "counteroffer and not acceptance" prominently will be treated as an acceptance of this purchase order on its terms.
3. **FREIGHT TERMS:**
  - A. Unless otherwise specified, all items are to be shipped prepaid F.O.B. Destination.
  - B. Packing lists shall be enclosed in every box or package.
  - C. Regardless of F.O.B. point, Seller agrees to bear all risk of loss, injury or destruction of items ordered while in transit.
4. **ORDERING POLICY:**
  - A. Items shall not be shipped to the City unless a purchase order is received or an authorized purchase order number is given over the phone.
  - B. Items received without an authorized purchase order number will be returned to the Seller at the Seller's expense.

# Expenditure Control Form



1. All requests being made, including those against master agreements, must be accompanied by this form.
2. All requests requiring City Council approval exceeding \$100,000 must be accompanied by this form.
3. Route **ALL** requests to the Division Director first and then the CFO for signature.
4. The CFO will route for signature to the City Administrator.

**Today's Date:**

**Type of expenditure:**

Goods  Services

**Department:**

**Approving Supervisor:**

**Amount of Proposed Expenditure:**

Is this against a master agreement? If yes, please provide the number:

**Funding Source**

**Please verify correct funding sources. Indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

**What are the impacts if expenses are deferred?**

**What alternative resources have been considered?**

**Description of the goods or service and any additional information?**

**Person Submitting Form/Contact:**

**Division Director:**

**CFO Signature:**

**City Administrator Signature:**

**Additional Comments:**



**Agenda Sheet for City Council:**

**Committee:** PIES **Date:** 01/29/2024

**Committee Agenda type:** Consent

**Date Rec'd**

1/18/2024

**Clerk's File #**

**Renews #**

**Cross Ref #**

**Council Meeting Date:** 02/12/2024

**Submitting Dept**

INNOVATION & TECHNOLOGY

**Project #**

**Contact Name/Phone**

MICHAEL 625-6468

**Bid #**

SOURCEWELL

**Contact E-Mail**

MSLOON@SPOKANECITY.ORG

**Requisition #**

CR 25917

**Agenda Item Type**

Contract Item

**Council Sponsor(s)**

JBINGLE

**Agenda Item Name**

5300 SHI – CO-MANAGED LOGRHYTHM SERVICES

**Agenda Wording**

Co-managed professional services provides LogRhythm application administration and 7x24x365 monitoring for all critical city systems. Term is January 1, 2024, through December 31, 2024. Total amount \$74,514.36 (no tax professional services).

**Summary (Background)**

Contract with Software House International (SHI) for the purchase of Co-Managed LogRhythm Professional Services. Utilizing Sourcewell - Technology Contract# 081419-SHI.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? YES

Total Cost \$ 74,514.36

Current Year Cost \$ 74,514.36

Subsequent Year(s) Cost \$

**Narrative**

Co-managed professional services provides LogRhythm application administration and 7x24x365 monitoring for all critical city systems.

**Amount**

**Budget Account**

Expense \$ 74,514.36

# 5300-73150-18880-54201

Select \$

#

Select \$

#

Select \$

#

\$

#

\$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

**Approvals**

<b><u>Dept Head</u></b>	SLOON, MICHAEL
<b><u>Division Director</u></b>	SLOON, MICHAEL
<b><u>Accounting Manager</u></b>	BUSTOS, KIM
<b><u>Legal</u></b>	HARRINGTON,
<b><u>For the Mayor</u></b>	PICCOLO, MIKE

**Additional Approvals**

<b><u>PURCHASING</u></b>	PRINCE, THEA

**Distribution List**

Paul_Linhardt@shi.com	Accounting - ywang@spokanecity.org
Contract Accounting - ddaniels@spokanecity.org	Legal - mharrington@spokanecity.org
Purchasing - cwahl@spokanecity.org	IT - itadmin@spokanecity.org
Tax & Licenses	dwordell@spokanecity.org



## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	January 29 <sup>th</sup> 2024
<b>Submitting Department</b>	IT
<b>Contact Name</b>	Michael Sloon
<b>Contact Email &amp; Phone</b>	<a href="mailto:msloon@spokanecity.org">msloon@spokanecity.org</a> & 625-6468
<b>Council Sponsor(s)</b>	<u>CM Bingle</u>
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested:
<b>Agenda Item Name</b>	SHI – CO-Managed LogRhythm Services
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>  *use the Fiscal Impact box below for relevant financial information	Contract with Software House International (SHI) for the purchase of Co-Managed LogRhythm Professional Services. Contract term to begin January 1, 2024 through December 31, 2024 for a total amount of \$74,514.36 (no tax professional services). Utilizing Sourcewell – Technology Contract# 081419-SHI.
<p><b>Fiscal Impact</b>    \$74,514.36</p> <p><b>Approved in current year budget?</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p> <p>Total Cost: <u>\$74,514.36</u></p> <p>    Current year cost: \$74,514.36</p> <p>    Subsequent year(s) cost:</p>	
<p><b>Narrative:</b> <u>Co-managed professional services provides LogRhythm application administration and 7x24x365 monitoring for all critical city systems.</u></p>	
<p><b>Funding Source</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Specify funding source: Select Funding Source*</p> <p>Is this funding source sustainable for future years, months, etc? <a href="#">Click or tap here to enter text.</a></p>	
<p><b>Expense Occurrence</b>    <input type="checkbox"/> One-time    <input checked="" type="checkbox"/> Recurring    <input type="checkbox"/> N/A</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<b>dOperations Impacts</b> (If N/A, please give a brief description as to why)	
What impacts would the proposal have on historically excluded communities?	
Not Applicable – cybersecurity professional services	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?	
Not applicable – cybersecurity professional services	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?	

Not applicable – cybersecurity professional services

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

Not applicable – cybersecurity professional services



**City of Spokane**  
**CONTRACT**  
**Title: CO-MANAGED LOGRHYTHM SERVICES**

THIS CONTRACT is between the **CITY OF SPOKANE** as (“City”), a Washington municipal corporation, and **SHI INTERNATIONAL, CORP.**, whose address is 290 Davidson Avenue, Somerset, New Jersey 08873, as (“Company”), individually hereafter referenced as a “party”, and together as the “parties”.

The parties agree as follows:

1. **PERFORMANCE.** The Company will resell Co-Managed LogRhythm Services in accordance with Company’s Pricing Proposal dated December 18, 2023, attached as Exhibit B and pursuant to the terms and conditions of Sourcewell Contract #081419-SHI. In the event of a discrepancy between the documents this City Contract controls.
2. **CONTRACT TERMS.** The Contract shall begin January 1, 2024, and run through December 31, 2024, unless amended by written agreement or terminated earlier under the provisions. This Contract may be renewed by written agreement of the parties not to exceed three (3) additional one year contract periods.
3. **COMPENSATION.** Total compensation under this Contract shall not exceed **SEVENTY-FOUR THOUSAND FIVE HUNDRED FOURTEEN AND 36/100 DOLLARS**, plus applicable sales tax; for everything furnished and done under this Contract. This is the maximum amount to be paid under this Contract for the work described in Section 1 above, and shall not be exceeded without the prior written authorization of the City in the form of an executed amendment to this Contract.
4. **PAYMENT.** The Company shall send its application for payment to Innovation and Technology Services Division, Administration Office, Seventh Floor, City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201. **Payment will be made via direct deposit/ACH** within thirty (30) days after receipt of the Company’s application except as provided by state law.
5. **COMPLIANCE WITH LAWS.** Each party shall comply with all applicable federal, state, and local laws and regulations.
6. **ASSIGNMENTS.** This Contract is binding on the parties and their heirs, successors, and assigns. Neither party may assign, transfer or subcontract its interest, in whole or in part, without the other party’s prior written consent.

7. AMENDMENTS. This Contract may be amended at any time by mutual written agreement.

8. ANTI-KICKBACK. No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in the Contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in this Contract.

9. TERMINATION. Either party may terminate this Contract by thirty (30) days' written notice to the other party. In the event of such termination, the City shall pay the Company for all work previously authorized and performed prior to the termination date.

10. INSURANCE. During the term of the Agreement, the Company shall maintain in force at its own expense, the following insurance coverages:

A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers; and

B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this contract. It shall provide that the City, its officers and employees are additional insureds, but only with respect to the Company's services to be provided under this contract;

i. Acceptable supplementary Umbrella insurance coverage, combined with the Company's General Liability insurance policy must be a *minimum* of \$1,000,000, in order to meet the insurance coverages required under this Contract;

C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Company or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, the Company shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns this signed Agreement. **The certificate shall specify the City of Spokane as "Additional Insured"** specifically for Company's services under this Agreement, as well as all of the parties who are additional insureds, and include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level. The Company shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

11. INDEMNIFICATION. The Company shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from the Company's negligence or willful misconduct under this Agreement, including reasonable attorneys' fees and litigation costs; provided that nothing herein shall require a Company to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of the Company's agents or employees and the City,

its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of the Company, its agents or employees. The Company specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by the Company's own employees against the City and, solely for the purpose of this indemnification and defense, the Company specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. The Company recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

12. DEBARMENT AND SUSPENSION. The Company has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

13. SEVERABILITY. In the event any provision of this Contract should become invalid, the rest of the Contract shall remain in full force and effect.

14. STANDARD OF PERFORMANCE. The silence or omission in the Contract regarding any detail required for the proper performance of the work, means that the Company shall perform the best general practice.

15. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Company agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Company.

16. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Company shall be responsible for contacting the State of Washington Business License Services at [www.dor.wa.gov](http://www.dor.wa.gov) or 360-705-6741 to obtain a business registration. If the Company does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

17. AUDIT / RECORDS. The Company and its subcontractors shall maintain for a minimum of three (3) years following final payment all financial records related to its performance of the Contract. The Company and its subcontractors shall provide access to authorized City representatives, at reasonable times and in a reasonable manner to inspect and copy any such record; provided however, the City shall provide the Company thirty (30) days prior written notice of any such inspections and inspections shall not occur more than one per calendar year. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Contract, the federal law shall prevail.

18. CONFIDENTIALITY/PUBLIC RECORDS. Notwithstanding anything to the contrary, City will maintain the confidentiality of Company's materials and information only to the extent that is

legally allowed in the State of Washington. City is bound by the State Public Records Act, RCW Ch. 42.56. That law presumptively makes all records in the possession of the City public records which are freely available upon request by anyone. In the event that City gets a valid public records request for Company's materials or information and the City determines there are exemptions only the Company can assert, City will endeavor to give Company notice. Company, at its own expense, will be required to go to Court to get an injunction preventing the release of the requested records. In the event that Company does not get a timely injunction preventing the release of the records, the City will comply with the Public Records Act and release the records.

19. DISPUTES. This Contract shall be performed under the laws of the State of Washington. Any litigation to enforce this Contract or any of its provisions shall be brought in Spokane County, Washington.

**SHI INTERNATIONAL, CORP.**

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature Date

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

Attachments that are part of this Agreement:  
Exhibit A – Certificate Regarding Debarment  
Exhibit B – Company's Pricing Proposal dated December 18, 2023

24-004A

**EXHIBIT A  
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
  - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
  - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.
  
2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
  
3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  
  2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. I understand that a false statement of this certification may be grounds for termination of the contract.

<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Name of Subrecipient / Contractor / Consultant (Type or Print)	<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Program Title (Type or Print)
<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Name of Certifying Official (Type or Print)	<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Signature
<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Title of Certifying Official (Type or Print)	<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Date (Type or Print)

## EXHIBIT B





< Business Lookup

### License Information:

[New search](#) [Back to results](#)

**Entity name:** SOFTWARE HOUSE INTERNATIONAL, INC.

**Business name:** SOFTWARE HOUSE INTERNATIONAL, INC.

**Entity type:** [Corporation](#)

**UBI #:** 601-639-984

**Business ID:** 001

**Location ID:** 0003

**Location:** Active

**Location address:** 290 DAVIDSON AVE  
SOMERSET NJ 08873-4145

**Mailing address:** 290 DAVIDSON AVE  
SOMERSET NJ 08873-4145

**Excise tax and reseller permit status:** [Click here](#)

**Secretary of State status:** [Click here](#)

### Endorsements

Endorsements held at this location	License #	Count	Details	Status	Expiration date	First issuance date
<a href="#">Spokane General Business - Non-Resident</a>	T12070226BUS			Active	Nov-30-2024	Oct-15-2012

### Governing People May include governing people not registered with Secretary of State

Governing people	Title
THAI, LEE	

[View Additional Locations](#)

The Business Lookup information is updated nightly. Search date and time: 11/30/2023 10:17:22 AM



[Contact us](#)

How are we doing?

[Take our survey!](#)

Don't see what you expected?

[Check if your browser is supported](#)



CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Marsh & McLennan Agency LLC Park 80 West, Plaza Two 250 Pehle Avenue, Suite 400 Saddle Brook, NJ 07663	<b>CONTACT NAME:</b> _____	
	<b>PHONE (A/C, No, Ext):</b> _____	<b>FAX (A/C, No):</b> _____
	<b>E-MAIL ADDRESS:</b> jennifer.juarez@marshmma.com	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
	<b>INSURER A : National Fire Insurance Co of Hartford</b>	<b>NAIC #</b> 20478
	<b>INSURER B : Continental Insurance Company</b>	35289
<b>INSURED</b> SHI International Corp. 290 Davidson Avenue Somerset, NJ 08873	<b>INSURER C : American Casualty Company of Reading PA</b>	20427
	<b>INSURER D : National Fire Insurance Co of Hartford</b>	20478
	<b>INSURER E :</b> _____	_____
	<b>INSURER F :</b> _____	_____

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER: _____			6050250197	09/30/2023	09/30/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
D	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			6050291509	09/30/2023	09/30/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB DED <input checked="" type="checkbox"/> RETENTION \$10000			6081819517	09/30/2023	09/30/2024	EACH OCCURRENCE \$15,000,000 AGGREGATE \$15,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	650251110	09/30/2023	09/30/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Evidence of Insurance

CERTIFICATE HOLDER

City of Spokane  
 ITSD 7th Floor  
 808 W. Spokane Falls Blvd.  
 Spokane, WA 99201

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Wm. Ce. Cilento*

**Continuation of Wording, Summary, and Distribution**

**Agenda Item Name:** 5300 STATE & LOCAL CYBER SECURITY GRANT PROGRAM - ISE

**Agenda Wording** (630 character max)

**Summary (Background)** (498 character max)

The project will implement a system to validate the connected device's security posture, including its patch and signatures level. Systems not meeting the defined security posture will be quarantined to a network zone that only has access to the update server.

This project will provide security not currently available to the City of Spokane with our current systems.

**Fiscal Impact**

**Budget Account**

Select ▼ \$  #

Select ▼ \$  #

**Distribution List**

<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

**Save**

**Cancel**

**Agenda Sheet for City Council:****Committee:** PIES **Date:** 01/29/2024**Committee Agenda type:** Consent**Date Rec'd**

1/18/2024

**Clerk's File #****Renews #****Cross Ref #****Council Meeting Date:** 02/12/2024**Submitting Dept**

INNOVATION &amp; TECHNOLOGY

**Project #****Contact Name/Phone**

MICHAEL 625-6468

**Bid #****Contact E-Mail**

MSLOON@SPOKANECITY.ORG

**Requisition #****Agenda Item Type**

Contract Item

**Council Sponsor(s)**

JBINGLE

**Agenda Item Name**

5300 STATE &amp; LOCAL CYBER SECURITY GRANT PROGRAM - ISE

**Agenda Wording**

Acceptance of the State and Local Cyber Security Grant Program (SLGCP) Award. Grant funding for Cisco Identity Service Engine (ISE). City of Spokane IT awarded \$160,000. Grant agreement start date of 12/1/2023 through 09/30/2024.

**Summary (Background)**

SLCGP grant funding from Homeland Security/WA Military Department has been approved for the Implementation of Cisco Identity Services Engine (ISE). This project is the implementation of identity services, identity-based network access control and policy enforcement system, for the City of Spokane Network. This project will allow the network to automatically detect the connection of authorized and unauthorized devices.

Lease? NO

Grant related? YES

Public Works? NO

**Fiscal Impact**

Approved in Current Year Budget? NO

Total Cost \$ 160,000

Current Year Cost \$ 160,000

Subsequent Year(s) Cost \$

**Narrative**

Dan Wordell will be the SME on this grant and is responsible for management and compliance with all grant requirements. This is a one-time grant that will be fully expended in 2024. There is no matching requirement on the grant.

**Amount****Budget Account**

Revenue \$ 160,000

# 5300-97312-99999-33397-99999

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Select \$

#



**Continuation of Wording, Summary, Approvals, and Distribution**

**Agenda Wording**

**Summary (Background)**

The project will implement a system to validate the connected device's security posture, including its patch and signatures level. Systems not meeting the defined security posture will be quarantined to a network zone that only has access to the update server. This project will provide security not currently available to the City of Spokane with our current systems.

**Approvals**

<b><u>Dept Head</u></b>	SLOON, MICHAEL
<b><u>Division Director</u></b>	SLOON, MICHAEL
<b><u>Accounting Manager</u></b>	BUSTOS, KIM
<b><u>Legal</u></b>	HARRINGTON,
<b><u>For the Mayor</u></b>	PICCOLO, MIKE

**Additional Approvals**

<b><u>ACCOUNTING -</u></b>	MURRAY, MICHELLE

**Distribution List**

preparedness.grants@mil.wa.gov	Accounting - ywang@spokanecity.org
Contract Accounting - ddaniels@spokanecity.org	Legal - mharrington@spokanecity.org
Purchasing - cwahl@spokanecity.org	IT - itadmin@spokanecity.org
Tax & Licenses	

## Committee Agenda Sheet

### Public Infrastructure, Environment & Sustainability Committee

<b>Committee Date</b>	01/29/2024
<b>Submitting Department</b>	IT
<b>Contact Name</b>	Dan Wordell, 625-6456
<b>Contact Email &amp; Phone</b>	<a href="mailto:dwordell@spokanecity.org">dwordell@spokanecity.org</a>
<b>Council Sponsor(s)</b>	CM Bingle, M Cathcart
<b>Select Agenda Item Type</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion    Time Requested: 5 min
<b>Agenda Item Name</b>	SBO for State & Local Cyber Security Grant Program (SLCGP)
<b>Proposed Council Action</b>	<input checked="" type="checkbox"/> Approval to proceed to Legislative Agenda <input type="checkbox"/> Information Only
<b>Summary (Background)</b>	<p>The grant acceptance agenda is on the current agenda for January 29, 2024. An SBO is needed in order to provide 2024 budget authority for the grant.</p> <p>*use the Fiscal Impact box below for relevant financial information</p> <p>SLCGP grant funding from Homeland Security/WA Military Department has been approved for the Implementation of Cisco Identity Services Engine (ISE). This project is the implementation of identity services, identity-based network access control and policy enforcement system, for the City of Spokane Network. This project will allow the network to automatically detect the connection of authorized and unauthorized devices.</p> <p>The project will implement a system to validate the connected device's security posture, including its patch and signatures level. Systems not meeting the defined security posture will be quarantined to a network zone that only has access to the update server.</p> <p>This project will provide security not currently available to the City of Spokane with our current systems.</p>
<b>Fiscal Impact</b>	
<b>Approved in current year budget?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Total Cost: <u>\$160,000</u> Current year cost: \$160,000 Subsequent year(s) cost:	
<b>Narrative:</b> <u>Dan Wordell will be the SME on this grant and is responsible for management and compliance with all grant requirements. This is a one-time grant that will be fully expended in 2024. There is no matching requirement on the grant.</u>	
<b>Funding Source</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A Specify funding source: Grant Is this funding source sustainable for future years, months, etc? N/A	
<b>Expense Occurrence</b> <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring <input type="checkbox"/> N/A  Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts (If N/A, please give a brief description as to why)</b>	
What impacts would the proposal have on historically excluded communities?	

Not applicable – IT Related, Data Security

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

Not applicable – IT Related, Data Security

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Not applicable – IT Related, Data Security

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

Not applicable – IT Related, Data Security



**Washington Military Department  
STATE AND LOCAL CYBERSECURITY GRANT PROGRAM AGREEMENT FACE SHEET**

1. Subrecipient Name and Address: <b>Spokane, City of 808 W Spokane Falls Blvd Spokane, WA 99201</b>		2. Grant Agreement Amount: <b>\$160,000</b>		3. Grant Agreement Number: <b>E24-266</b>			
4. Subrecipient Contact, phone/email: <b>Dan Wordell, 509-625-6456 dwordell@spokanecity.org</b>		5. Grant Agreement Start Date: <b>December 1, 2023</b>		6. Grant Agreement End Date: <b>September 30, 2024</b>			
7. Department Contact, phone/email: <b>Jocelyn Overby, 253-512-7226 jocelyn.overby@mil.wa.gov</b>		8. Unique Entity Identifier (UEI): <b>PDNCLY8MYJN3</b>		9. UBI # (state revenue): <b>328-013-877</b>			
10. Funding Authority: <b>Washington Military Department (the Department) and the U.S. Department of Homeland Security (DHS)</b>							
11. Federal Funding Identification #: <b>EMW-2023-CY-00042</b>		12. Federal Award Date: <b>12/7/2023</b>		13. Assistance Listings # & Title: <b>97.137 – 23SLCGP</b>			
14. Total Federal Award Amount: <b>\$7,403,503</b>		15. Program Index # & OBJ/SUB-OBJ: <b>735C3 (State), 735C4 (Local-Rural), 735C5 (Local-Not Rural) / NZ</b>			16. EIN <b>91-6001280</b>		
17. Service Districts: BY LEGISLATIVE DISTRICTS: <b>3, 4, 6</b> BY CONGRESSIONAL DISTRICTS: <b>5</b>		18. Service Area by County(ies): <b>Spokane</b>		19. Women/Minority-Owned, State Certified: <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO <input type="checkbox"/> YES, OMWBE # _____			
20. Agreement Classification <input type="checkbox"/> Personal Services <input type="checkbox"/> Client Services <input checked="" type="checkbox"/> Public/Local Gov't <input type="checkbox"/> Research/Development <input type="checkbox"/> A/E <input type="checkbox"/> Other _____			21. Contract Type (check all that apply): <input type="checkbox"/> Contract <input checked="" type="checkbox"/> Grant <input checked="" type="checkbox"/> Agreement <input type="checkbox"/> Intergovernmental (RCW 39.34) <input type="checkbox"/> Interagency				
22. Subrecipient Selection Process: <input checked="" type="checkbox"/> "To all who apply & qualify" <input type="checkbox"/> Competitive Bidding <input type="checkbox"/> Sole Source <input type="checkbox"/> A/E RCW <input type="checkbox"/> N/A <input type="checkbox"/> Filed w/OFM? <input type="checkbox"/> Advertised? <input type="checkbox"/> YES <input type="checkbox"/> NO			23. Subrecipient Type (check all that apply) <input type="checkbox"/> Private Organization/Individual <input type="checkbox"/> For-Profit <input checked="" type="checkbox"/> Public Organization/Jurisdiction <input type="checkbox"/> Non-Profit <input type="checkbox"/> CONTRACTOR <input checked="" type="checkbox"/> SUBRECIPIENT <input type="checkbox"/> OTHER				
24. PURPOSE & DESCRIPTION: <b>The goal of the Federal Fiscal Year (FFY) 2023 State and Local Cybersecurity Grant Program (23SLCGP) is to assist state, local, and territorial (SLT) governments with managing and reducing systemic cyber risk. Strengthening cybersecurity practices and resilience of SLT governments is an important homeland security mission and the primary focus of the SLCGP. Through funding from the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), the SLCGP enables DHS to make targeted cybersecurity investments in SLT government agencies, thus improving the security of critical infrastructure and improving the resilience of the services. The Department is the Recipient and Pass-through Entity of the 23SLCGP DHS Award Letter for Grant No. EMW-2023-CY-00042 ("Grant"), which is incorporated in and attached hereto as Attachment C and has made a subaward of funds to the Subrecipient pursuant to this Agreement. The Subrecipient is accountable to the Department for use of Federal award funds provided under this Agreement.</b>							
IN WITNESS WHEREOF, the Department and Subrecipient acknowledge and accept the terms of this Agreement, including all referenced attachments which are hereby incorporated, and have executed this Agreement as of the date below. This Agreement Face Sheet; Special Terms & Conditions (Attachment A); General Terms and Conditions (Attachment B); DHS Award Letter (Attachment C), Work Plan (Attachments D), Budget (Attachment E), Timeline (Attachment F); and all other documents and attachments expressly referenced and incorporated herein contain all the terms and conditions agreed upon by the parties and govern the rights and obligations of the parties to this Agreement. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties.							
In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: <table style="width:100%; border:none;"> <tr> <td style="width:50%; vertical-align: top;"> <b>1. Applicable federal and state statutes and regulations</b>  <b>2. DHS/FEMA Award and program documents</b>  <b>3. Work Plan, Timeline, and Budget</b> </td> <td style="width:50%; vertical-align: top;"> <b>4. Special Terms and Conditions</b>  <b>5. General Terms and Conditions, and,</b>  <b>6. Other provisions of the Agreement incorporated by reference.</b> </td> </tr> </table>						<b>1. Applicable federal and state statutes and regulations</b> <b>2. DHS/FEMA Award and program documents</b> <b>3. Work Plan, Timeline, and Budget</b>	<b>4. Special Terms and Conditions</b> <b>5. General Terms and Conditions, and,</b> <b>6. Other provisions of the Agreement incorporated by reference.</b>
<b>1. Applicable federal and state statutes and regulations</b> <b>2. DHS/FEMA Award and program documents</b> <b>3. Work Plan, Timeline, and Budget</b>	<b>4. Special Terms and Conditions</b> <b>5. General Terms and Conditions, and,</b> <b>6. Other provisions of the Agreement incorporated by reference.</b>						
WHEREAS, the parties have executed this Agreement on the day and year last specified below.							
FOR THE DEPARTMENT:			FOR THE SUBRECIPIENT:				
_____ Signature Regan Anne Hesse, Chief Financial Officer Washington Military Department			_____ Signature Lisa Brown, Mayor City of Spokane				
_____ Date			_____ Date				
BOILERPLATE APPROVED TO FORM: Alex Staub 12/7/2023 Assistant Attorney General			APPROVED AS TO FORM (if applicable): _____ Signature Date				

## SPECIAL TERMS AND CONDITIONS

## ARTICLE I. KEY PERSONNEL

The individuals listed below shall be considered key personnel for point of contact under this Agreement. Any substitution of key personnel by either party shall be made by written notification to the current key personnel.

SUBRECIPIENT		DEPARTMENT	
Name	<b>Dan Wordell</b>	Name	<b>Jocelyn Overby</b>
Title	<b>Information Security Officer</b>	Title	<b>Program Coordinator</b>
Email	<b>dwordell@spokanecity.org</b>	Email	<b>jocelyn.overby@mil.wa.gov</b>
Phone	<b>509-625-6456</b>	Phone	<b>253-512-7226</b>
Name	<b>Del Murpy</b>	Name	<b>Sierra Wardell</b>
Title	<b>Senior Network Engineer</b>	Title	<b>Financial Operations Section Manager</b>
Email	<b>dimurphy@spokanecity.org</b>	Email	<b>sierra.wardell@mil.wa.gov</b>
Phone	<b>509-625-6982</b>	Phone	<b>253-512-7121</b>
Name	<b>Chris McDonald</b>	Name	<b>Grant Miller</b>
Title	<b>Network Engineer</b>	Title	<b>Program Assistant</b>
Email	<b>cmcdonald@spokanecity.org</b>	Email	<b>grant.miller@mil.wa.gov</b>
Phone	<b>509-625-6734</b>	Phone	<b>253-512-7145</b>

## ARTICLE II. ADMINISTRATIVE AND/OR FINANCIAL REQUIREMENTS

The Subrecipient shall comply with all applicable state and federal laws, rules, regulations, requirements and program guidance identified or referenced in this Agreement and the informational documents published by DHS/FEMA applicable to the 23SLCGP, including, but not limited to, all criteria, restrictions, and requirements of “*The Department of Homeland Security (DHS) Notice of Funding Opportunity (NOFO) Fiscal Year 2023 State and Local Cybersecurity Grant Program (SLCGP)*” (hereafter “the NOFO”) document, the DHS Award Letter for the Grant, and the federal regulations commonly applicable to DHS/FEMA grants, all of which are incorporated herein by reference. The *DHS Award Letter* is incorporated in this Agreement as Attachment C.

The Subrecipient acknowledges that since this Agreement involves federal award funding, the period of performance may begin prior to the availability of appropriated federal funds. The Subrecipient agrees that it will not hold the Department, the State of Washington, or the United States liable for any damages, claim for reimbursement, or any type of payment whatsoever for services performed under this Agreement prior to distribution of appropriated federal funds, or if federal funds are not appropriated or in a particular amount.

## A. STATE AND FEDERAL REQUIREMENTS FOR DHS/FEMA PREPAREDNESS GRANTS:

The following requirements apply to all DHS/FEMA Preparedness Grants administered by the Department.

## 1. SUBAWARDS &amp; CONTRACTS BY SUBRECIPIENTS

- a. The Subrecipient must make a case-by-case determination whether each agreement it makes for the disbursement of 23SLCGP funds received under this Agreement casts the party receiving the funds in the role of a subrecipient or contractor in accordance with 2 CFR 200.331.
- b. If the Subrecipient also becomes a pass-through entity by making a subaward to a non-federal entity as its subrecipient, the Subrecipient must make a case-by-case determination whether each agreement it makes for the disbursement of 23SLCGP funds received under this Agreement casts the party receiving the funds in the role of a subrecipient or contractor in accordance with 2 CFR 200.330.
  - i. The Subrecipient must comply with all federal laws and regulations applicable to pass-through entities of 23SLCGP funds, including, but not limited to, those contained in 2 CFR 200.
  - ii. The Subrecipient shall require its subrecipient(s) to comply with all applicable state and federal laws, rules, regulations, requirements and program guidance identified or referenced in this Agreement and the informational documents published by DHS/FEMA applicable to the 23SLCGP Program, including, but not limited to, all criteria, restrictions, and

requirements of the NOFO , the DHS Award Letter for the Grant in Attachment C, and the federal regulations commonly applicable to DHS/FEMA grants.

- iii. The Subrecipient shall be responsible to the Department for ensuring that all 23SLCGP federal award funds provided to its subrecipients are used in accordance with applicable federal and state statutes and regulations, and the terms and conditions of the federal award set forth in Attachment C of this Agreement.

## 2. BUDGET, REIMBURSEMENT, AND TIMELINE

- a. Within the total Grant Agreement Amount, travel, subcontracts, salaries, benefits, printing, equipment, and other goods and services or other budget categories will be reimbursed on an actual cost basis upon completion unless otherwise provided in this Agreement.
- b. The maximum amount of all reimbursement requests permitted to be submitted under this Agreement, including the final reimbursement request, is limited to and shall not exceed the total Grant Agreement Amount.
- c. If the Subrecipient chooses to include indirect costs within the Budget (Attachment E), additional documentation is required based on the applicable situation. As described in 2 CFR 200.414 and Appendix VII to 2 CFR 200:
  - i. If the Subrecipient receives direct funding from any Federal agency(ies), documentation of the rate must be submitted to the Department Key Personnel per the following:
    - A. More than \$35 million, the approved indirect cost rate agreement negotiated with its federal cognizant agency.
    - B. Less than \$35 million, the indirect cost proposal developed in accordance with Appendix VII of 2 CFR 200 requirements.
  - ii. If the Subrecipient does not receive direct federal funds (i.e., only receives funds as a subrecipient), the Subrecipient must either elect to charge a de minimis rate of ten percent (10%) or 10% of modified total direct costs or choose to negotiate a higher rate with the Department. If the latter is preferred, the Subrecipient must contact Department Key Personnel for approval steps.
- d. For travel costs, the Subrecipient shall comply with 2 CFR 200.475 and should consult their internal policies, state rates set pursuant to RCW 43.03.050 and RCW 43.03.060 as now existing or amended, and federal maximum rates set forth at <https://www.gsa.gov>, and follow the most restrictive. If travel costs exceed set state or federal limits, travel costs shall not be reimbursed without prior written approval by Department Key Personnel.
- e. Reimbursement requests will include a properly completed State A-19 Invoice Form and Reimbursement Spreadsheet (in the format provided by the Department) detailing the expenditures for which reimbursement is sought. Reimbursement requests must be submitted to [Reimbursements@mil.wa.gov](mailto:Reimbursements@mil.wa.gov) no later than the due dates listed within the Timeline (Attachment F).

Reimbursement request totals should be commensurate to the time spent processing by the Subrecipient and the Department.
- f. Receipts and/or backup documentation for any approved items that are authorized under this Agreement must be maintained by the Subrecipient consistent with record retention requirements of this Agreement and be made available upon request by the Department, and federal, state, and local auditors.
- g. The Subrecipient must request **prior** written approval from Department Key Personnel to waive or extend a due date in the Timeline (Attachment F). For waived or extended reimbursement due dates, all allowable costs should be submitted on the next scheduled reimbursement due date contained in the Timeline. Waiving or missing deadlines serves as an indicator for assessing an agency's level of risk of noncompliance with the regulations, requirements, and the terms and conditions of the Agreement and may increase required monitoring activities. Any request for a waiver or extension of a due date in the Timeline will be treated as a request for Amendment of

the Agreement. This request must be submitted to the Department Key Personnel sufficiently in advance of the due date to provide adequate time for Department review and consideration and may be granted or denied within the Department's sole discretion.

- h. All work under this Agreement must end on or before the Grant Agreement End Date, and the final reimbursement request must be submitted to the Department within the time period notated in the Timeline (Attachment F), except as otherwise authorized by either (1) written amendment of this Agreement or (2) written notification from the Department to the Subrecipient to provide additional time for completion of the Subrecipient's subproject(s).
- i. No costs for purchases of equipment/supplies will be reimbursed until the related equipment/supplies have been received by the Subrecipient, its contractor, or any non-federal entity to which the Subrecipient makes a subaward and is invoiced by the vendor.
- j. Failure to submit timely, accurate, and complete reports and reimbursement requests as required by this Agreement (including, but not limited to, those reports in the Timeline [Attachment F]) will prohibit the Subrecipient from being reimbursed until such reports are submitted and the Department has had reasonable time to conduct its review.
- k. Final reimbursement requests will not be approved for payment until the Subrecipient is current with all reporting requirements contained in this Agreement.
- l. A written amendment will be required if the Subrecipient expects cumulative transfers among solution area totals, as identified in the Budget (Attachment E), to exceed ten percent (10%) of the Grant Agreement Amount. Any changes to solution area totals not in compliance with this paragraph will not be reimbursed without approval from the Department.
- m. Subrecipients shall only use federal award funds under this Agreement to supplement existing funds and will not use them to replace (supplant) non-federal funds that have been budgeted for the same purpose. The Subrecipient may be required to demonstrate and document that the reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

### **3. REPORTING**

- a. Biannual reports must be submitted to [Reimbursements@mil.wa.gov](mailto:Reimbursements@mil.wa.gov) in the format provided by the Department no later than the dates listed within the Timeline (Attachment F).
- b. With each reimbursement request, the Subrecipient shall report how the expenditures, for which reimbursement is sought, relate to the Work Plan (Attachments D) activities in the format provided by the Department.
- c. With the final reimbursement request, the Subrecipient shall submit to [Reimbursements@mil.wa.gov](mailto:Reimbursements@mil.wa.gov) a final report in the format provided by the Department describing all completed activities under this Agreement.
- d. The Subrecipient shall comply with the Federal Funding Accountability and Transparency Act (FFATA) and related OMB Guidance consistent with Public Law 109-282 as amended by section 6202(a) of Public Law 110-252 (see 31 U.S.C. 6101 note) and complete and return to the *Department an Audit Certification/FFATA* Form. This form is required to be completed once per calendar year, per Subrecipient, and not per agreement. The Department's Contracts Office will request the Subrecipient submit an updated form at the beginning of each calendar year in which the Subrecipient has an active agreement.

### **4. EQUIPMENT AND SUPPLY MANAGEMENT**

- a. The Subrecipient and any non-federal entity to which the Subrecipient makes a subaward shall comply with 2 CFR 200.317 through 200.327 when procuring any equipment or supplies under this Agreement, 2 CFR 200.313 for management of equipment, and 2 CFR 200.314 for management of supplies, to include, but not limited to:
  - i. Upon successful completion of the terms of this Agreement, all equipment and supplies purchased through this Agreement will be owned by the Subrecipient, or a recognized non-federal entity to which the Subrecipient has made a subaward, for which a contract, subrecipient grant agreement, or other means of legal transfer of ownership is in place.

- ii. All equipment, and supplies as applicable, purchased under this Agreement will be recorded and maintained in the Subrecipient's inventory system.
- iii. Inventory system records shall include:
  - A. Description of the property;
  - B. Manufacturer's serial number, model number, or other identification number;
  - C. Funding source for the property, including the Federal Award Identification Number (FAIN) (Face Sheet, Box 11);
  - D. Assistance Listings Number (Face Sheet, Box 13);
  - E. Who holds the title;
  - F. Acquisition date;
  - G. Cost of the property and the percentage of federal participation in the cost;
  - H. Location, use and condition of the property at the date the information was reported;
  - I. Disposition data including the date of disposal and sale price of the property.
- iv. The Subrecipient shall take a physical inventory of the equipment, and supplies as applicable, and reconcile the results with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the records shall be investigated by the Subrecipient to determine the cause of the difference. The Subrecipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.
- v. The Subrecipient shall be responsible for any and all operational and maintenance expenses and for the safe operation of the equipment and supplies including all questions of liability. The Subrecipient shall develop appropriate maintenance schedules and procedures to ensure the equipment, and supplies as applicable, are well-maintained and kept in good operating condition.
- vi. The Subrecipient shall develop a control system to ensure adequate safeguards to prevent loss, damage, and theft of the property. Any loss, damage, or theft shall be investigated, and a report generated and sent to the Department's Key Personnel.
- vii. The Subrecipient must obtain and maintain all necessary certifications and licenses for the equipment.
- viii. If the Subrecipient is authorized or required to sell the property, proper sales procedures must be established and followed to ensure the highest possible return. For disposition, if upon termination or at the Grant Agreement End Date, when original or replacement supplies or equipment acquired under a federal award are no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, the Subrecipient must comply with the following procedures:
  - A. For Supplies: If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federal award, the Subrecipient must retain the supplies for use on other activities or sell them, but must, in either case, compensate the federal government for its share. The amount of compensation must be computed in the same manner as for equipment.
  - B. For Equipment:
    - 1) Items with a current per-unit fair-market value of five thousand dollars (\$5,000) or less may be retained, sold, transferred, or otherwise disposed of with no further obligation to the federal awarding agency.
    - 2) Items with a current per-unit fair-market value in excess of five thousand dollars (\$5,000) may be retained or sold. The Subrecipient shall compensate the federal

awarding agency in accordance with the requirements of 2 CFR 200.313 (e) (2) and the Subrecipient shall notify Department Key Personnel to initiate approval by the federal awarding agency.

- ix. Records for equipment shall be retained by the Subrecipient for a period of six (6) years from the date of the disposition, replacement, or transfer. If any litigation, claim, or audit is started before the expiration of the six- (6-) year period, the records shall be retained by the Subrecipient until all litigation, claims, or audit findings involving the records have been resolved.
- b. Equipment purchases (those with a current per-unit fair market value in excess of \$5,000) must be identified and explained to the Department. The use, management, and disposition of such equipment is subject to requirements outlined in 2 CFR 200.313. Before making such purchases, the Subrecipient should analyze the cost benefits of purchasing versus leasing equipment, especially those subject to rapid technical advances.
- c. Unless expressly provided otherwise, all equipment must meet all mandatory regulatory and/or DHS/FEMA adopted standards to be eligible for purchase using federal award funds.
- d. If funding is allocated to support emergency communications activities, the Subrecipient must ensure that all projects comply with SAFECOM Guidance on Emergency Communications Grants, located at <https://www.cisa.gov/safecom/funding>, including provisions on technical standards that ensure and enhance interoperable communications.
- e. Effective August 13, 2020, FEMA recipients and subrecipients, as well as their contractors and subcontractors, may not obligate or expend any FEMA award funds to:
  - i. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
  - ii. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; or
  - iii. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

This prohibition regarding certain telecommunications and video surveillance services or equipment is mandated by section 889 of the *John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA)*, Pub. L. No. 115-232 (2018) and 2 CFR 200.216, 200.327, 200.471, and Appendix II to 2CFR200. Recipients and subrecipients may use DHS/FEMA grant funding to procure replacement equipment and services impacted by this prohibition, provided the costs are otherwise consistent with the requirements of the NOFO.

Per subsections 889(f)(2)-(3) of the FY 2019 NDAA, and 2 CFR 200.216, covered telecommunications equipment or services means:

- i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, (or any subsidiary or affiliate of such entities);
- ii. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- iii. Telecommunications or video surveillance services provided by such entities or using such equipment; or
- iv. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be

an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

- f. The Subrecipient must pass through equipment and supply management requirements that meet or exceed the requirements outlined above to any non-federal entity to which the Subrecipient makes a subaward of federal award funds under this Agreement.

## 5. ENVIRONMENTAL AND HISTORICAL PRESERVATION

- a. The Subrecipient shall ensure full compliance with the DHS/FEMA Environmental Planning and Historic Preservation (EHP) Program. EHP program information can be found at <https://www.fema.gov/grants/guidance-tools/environmental-historic> all of which are incorporated in and made a part of this Agreement.
- b. Projects that have historical impacts or the potential to impact the environment, **including, but not limited to**, construction of communication towers; modification or renovation of existing buildings, structures, and facilities; or new construction, including replacement of facilities, must participate in the DHS/FEMA EHP review process prior to project initiation. Modification of existing buildings, including minimally invasive improvements such as attaching monitors to interior walls, and training or exercises occurring outside in areas not considered previously disturbed also require a DHS/FEMA EHP review before project initiation.
- c. The EHP review process involves the submission of a detailed project description that includes the entire scope of work, including any alternatives that may be under consideration, along with supporting documentation so FEMA may determine whether the proposed project has the potential to impact environmental resources and/or historic properties.
- d. The Subrecipient agrees that, to receive any federal preparedness funding, all EHP compliance requirements outlined in applicable guidance must be met. The EHP review process **must be completed and FEMA approval must be received by the Subrecipient before any work is started** for which reimbursement will be later requested. Expenditures for projects started before completion of the EHP review process and receipt of approval by the Subrecipient may not be reimbursed.

## 6. PROCUREMENT

The Subrecipient shall comply with all procurement requirements of 2 CFR 200.317 through 200.327 and as specified in the General Terms and Conditions (Attachment B, A.10).

- a. For all contracts expected to exceed the simplified acquisition threshold, per 2 CFR 200.1, the Subrecipient must notify the Department. The Department may request pre-procurement documents, such as request for proposals, invitations for bids and independent cost estimates. This requirement must be passed on to any non-federal entity to which the Subrecipient makes a subaward, at which point the Subrecipient will be responsible for requesting and reviewing pre-procurement documents.
- b. For all sole source contracts expected to exceed the micro-purchase threshold per 2 CFR 200.1, the Subrecipient must submit justification to the Department for review and approval. This requirement must be passed on to any non-federal entity to which the Subrecipient makes a subaward, at which point the Subrecipient will be responsible for reviewing and approving sole source justifications to any non-federal entity to which Subrecipient makes any award.
- c. The Subrecipient as well as its contractors and subcontractors must comply with the Build America, Buy America Act (BABAA), which was enacted as a part of the Infrastructure Investment and Jobs Act §§ 70901-70297, Pub. L. No. 117-58 (2021); and Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers. BABAA requires any infrastructure project receiving federal funding must ensure:
  - i. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from initial melting stage through the application of coatings, occurred in the United States.
  - ii. All manufactured products must be produced in the United States. For a manufactured product to be considered produced in the United States, the cost of the components of the

manufactured product that are mined, produced, or manufactured in the United States must be greater than 55% of the total cost of all minimum amount of domestic content of manufactured product, unless subject to another standard.

- iii. All construction materials are manufactured in the United States. This means that all manufacturing processes for construction material occurred in the United States.

Additionally, applicable infrastructure projects are subject to domestic preference requirements. A domestic preference does not apply to non-infrastructure spending under an award that also includes a covered project. A domestic preference applies to an entire infrastructure project, even if it is funded by both federal and non-federal funds under one or more awards.

- i. Domestic preferences under BABAA only apply to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a domestic preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of or permanently affixed to the structure.
- ii. Infrastructure, for the purposes of BABAA, includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways and bridges; public transportation; dams, ports, harbors and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.
- iii. The Subrecipient's contractors and their subcontractors who apply or bid for an award for an infrastructure project subject to the domestic preference requirement in the BABAA shall file a required certification to the Subrecipient with each bid or offer for an infrastructure project, unless a domestic preference requirement is waived by FEMA. Contractors and subcontractors must certify that no federal financial assistance funding for infrastructure projects will be provided unless all the iron, steel, manufactured projects, and construction materials used in the project are produced in the United States. BABAA, Pub. L. No. 117-58, §§ 70901-52. Contractors and subcontractors shall also disclose any use of federal financial assistance for infrastructure projects that does not ensure compliance with BABAA domestic preference requirement. Such disclosures shall be forwarded to the Subrecipient who will forward them to the Department who, in turn, will forward the disclosures to FEMA. The Build America, Buy America Act Self-Certification form is included herein as Attachment G.

If the Subrecipient is interested in applying for a waiver, the Subrecipient should contact the Department Key Personnel to determine the requirements. All waiver requests must include a detailed justification for the use of goods, products, or materials mined, produced, or manufactured outside the United States and a certification that there was a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with potential suppliers.

## **7. SUBRECIPIENT MONITORING**

- a. The Department will monitor the activities of the Subrecipient from award to closeout. The goal of the Department's monitoring activities is to ensure that subrecipients receiving federal pass-through funds are in compliance with this Agreement, federal and state audit requirements, federal grant guidance, and applicable federal and state financial regulations, as well as 2 CFR Part 200 Subpart F.
- b. To document compliance with 2 CFR Part 200 Subpart F requirements, the Subrecipient shall complete and return to the Department an Audit Certification/FFATA form. Reporting requirements are referenced in section 3.c.



- c. Monitoring activities may include, but are not limited to:
  - i. Review of financial and performance reports;
  - ii. Monitoring and documenting the completion of Agreement deliverables;
  - iii. Documentation of phone calls, meetings (e.g., agendas, sign-in sheets, meeting minutes), e-mails, and correspondence;
  - iv. Review of reimbursement requests and supporting documentation to ensure allowability and consistency with Agreement Work Plan (Attachments D-1, D-2, D-3), Budget (Attachment E), and federal requirements;
  - v. Observation and documentation of Agreement-related activities, such as exercises, training, events, and equipment demonstrations; and
  - vi. On-site visits to review equipment records and inventories, to verify source documentation for reimbursement requests and performance reports, and to verify completion of deliverables.
- d. The Subrecipient is required to meet or exceed the monitoring activities, as outlined above, for any non-federal entity to which the Subrecipient makes a subaward as a pass-through entity under this Agreement.
- e. Compliance will be monitored throughout the performance period to assess risk. Concerns will be addressed through a corrective action plan.

#### **8. LIMITED ENGLISH PROFICIENCY (CIVIL RIGHTS ACT OF 1964 TITLE VI)**

The Subrecipient must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that subrecipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services, selecting language services, and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance at <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <https://www.lep.gov>.

#### **B. SLCGP SPECIFIC REQUIREMENTS**

1. The Subrecipient must use SLCGP funds only to perform tasks as described in the Work Plan (Attachments D) and the Subrecipient's approved application for funding incorporated into this Agreement.
2. Subrecipients are required to annually complete the Nationwide Cybersecurity Review (NCSR) <https://www.cisecurity.org/ms-isac/services/ncsr>, a free, anonymous, annual self-assessment designed to measure gaps and capabilities of a SLT's cybersecurity programs to benchmark and measure progress of improvement in their cybersecurity posture. Due dates are included in the Timeline (Attachment F). For more information, visit [Nationwide Cybersecurity Review \(NCSR\) \(cisecurity.org\)](#).
3. Subrecipients are required to participate in free cyber hygiene services, specifically vulnerability scanning and web application scanning. To register for these services, email [vulnerability@cisa.dhs.gov](mailto:vulnerability@cisa.dhs.gov) with the subject line "Requesting Cyber Hygiene Services – SLCGP" to get started. Indicate in the body of your email that you are requesting this service as part of the SLCGP. For more information, visit CISA's [Cyber Hygiene Information Page](#).

4. Subrecipients may retain a maximum of up to five percent of the Grant Agreement Amount for management and administration (M&A) activities, directly relating to the management and administration of SLCGP funds, such as financial management and monitoring.

**C. DHS TERMS AND CONDITIONS**

As a subrecipient of 23SLCGP funding, the Subrecipient shall comply with all applicable DHS terms and conditions of the 23SLCGP Award Letter and its incorporated documents, which are incorporated in and made a part of this Agreement as Attachment C.

**Washington Military Department  
GENERAL TERMS AND CONDITIONS  
Department of Homeland Security (DHS)/  
Federal Emergency Management Agency (FEMA)  
Grants**

**A.1 DEFINITIONS**

As used throughout this Agreement, the terms will have the same meaning as defined in 2 CFR 200 Subpart A (which is incorporated herein by reference), except as otherwise set forth below:

- a. **“Agreement”** means this Grant Agreement.
- b. **“Department”** means the Washington Military Department, as a state agency, any division, section, office, unit or other entity of the Department, or any of the officers or other officials lawfully representing that Department. The Department is a recipient of a federal award directly from a federal awarding agency and is the pass-through entity making a subaward to a Subrecipient under this Agreement.
- c. **“Investment”** means the grant application submitted by the Subrecipient describing the project(s) for which federal funding is sought and provided under this this Agreement. Such grant application is hereby incorporated into this Agreement by reference.
- d. **“Monitoring Activities”** means all administrative, financial, or other review activities that are conducted to ensure compliance with all state and federal laws, rules, regulations, authorities and policies.
- e. **“Subrecipient”** when capitalized is primarily used throughout this Agreement in reference to the non-federal entity identified on the Face Sheet of this Agreement that has received a subaward from the Department. However, the definition of “Subrecipient” is the same as in 2 CFR 200.1 for all other purposes.

**A.2 ADVANCE PAYMENTS PROHIBITED**

The Department shall make no payments in advance or in anticipation of goods or services to be provided under this Agreement. Subrecipient shall not invoice the Department in advance of delivery and invoicing of such goods or services.

**A.3 AMENDMENTS AND MODIFICATIONS**

The Subrecipient or the Department may request, in writing, an amendment or modification of this Agreement. However, such amendment or modification shall not be binding, take effect or be incorporated herein until made in writing and signed by the authorized representatives of the Department and the Subrecipient. No other understandings or agreements, written or oral, shall be binding on the parties.

The Agreement performance period shall only be extended by (1) written notification of DHS/FEMA approval of the Award performance period, followed up with a mutually agreed written amendment, or (2) written notification from the Department to the Subrecipient to provide additional time for completion of the Subrecipient’s project(s).

**A.4 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, 42 U.S.C. 12101 ET SEQ. AND ITS IMPLEMENTING REGULATIONS ALSO REFERRED TO AS THE “ADA” 28 CFR Part 35.**

The Subrecipient must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunication.

**A.5 ASSURANCES**

The Department and Subrecipient agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

**A.6 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, OR INELIGIBILITY**

As federal funds are a basis for this Agreement, the Subrecipient certifies that the Subrecipient is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency.

The Subrecipient shall complete, sign, and return a *Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion* form located at <http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms>. Any such form completed by the Subrecipient for this Agreement shall be incorporated into this Agreement by reference.

Further, the Subrecipient agrees to comply with all applicable federal regulations concerning the federal debarment and suspension system, including 2 CFR Part 180. The Subrecipient certifies that it will ensure that potential contractors or subrecipients or any of their principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in "covered transactions" by any federal department or agency. "Covered transactions" include procurement contracts for goods or services awarded under a non-procurement transaction (e.g., grant or cooperative agreement) that are expected to equal or exceed \$25,000, and subawards to subrecipients for any amount. With respect to covered transactions, the Subrecipient may comply with this provision by obtaining a certification statement from the potential contractor or subrecipient or by checking the System for Award Management (<https://sam.gov/SAM/>) maintained by the federal government. The Subrecipient also agrees not to enter into any arrangements or contracts with any party on the Washington State Department of Labor and Industries' "Debarred Contractor List" (<https://secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx>). The Subrecipient also agrees not to enter into any agreements or contracts for the purchase of goods and services with any party on the Department of Enterprise Services' "Debarred Vendor List" (<http://www.des.wa.gov/services/ContractingPurchasing/Business/Pages/Vendor-Debarment.aspx>).

#### A.7 CERTIFICATION REGARDING RESTRICTIONS ON LOBBYING

As required by 44 CFR Part 18, the Subrecipient hereby certifies that to the best of its knowledge and belief: (1) no federally appropriated funds have been paid or will be paid by or on behalf of the Subrecipient to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; (2) that if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, grant, loan, or cooperative agreement, the Subrecipient will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; (3) and that, as applicable, the Subrecipient will require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352.

#### A.8 COMPLIANCE WITH APPLICABLE STATUTES, RULES AND DEPARTMENT POLICIES

The Subrecipient and all its contractors and subrecipients shall comply with, and the Department is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, executive orders, OMB Circulars, and/or policies. This obligation includes, but is not limited to: nondiscrimination laws and/or policies, Energy Policy and Conservation Act (PL 94-163, as amended), the Americans with Disabilities Act (ADA), Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Civil Rights Act of 1968, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (PL 93-288, as amended), Ethics in Public Service (RCW 42.52), Covenant Against Contingent Fees (48 CFR Section 52.203-5), Public Records Act (RCW 42.56), Prevailing Wages on Public Works (RCW 39.12), State Environmental Policy Act (RCW 43.21C), Shoreline Management Act of 1971 (RCW 90.58), State Building Code (RCW 19.27), Energy Related Building Standards (RCW 19.27A), Provisions in Buildings for Aged and Handicapped Persons (RCW 70.92), and safety and health regulations.

In the event of noncompliance or refusal to comply with any applicable law, regulation, executive order, OMB Circular or policy by the Subrecipient, its contractors or subrecipients, the Department may rescind, cancel, or terminate the Agreement in whole or in part in its sole discretion. The Subrecipient is

responsible for all costs or liability arising from its failure, and that of its contractors and subrecipients, to comply with applicable laws, regulations, executive orders, OMB Circulars or policies.

#### A.9 CONFLICT OF INTEREST

No officer or employee of the Department; no member, officer, or employee of the Subrecipient or its designees or agents; no member of the governing body of the jurisdiction in which the project is undertaken or located; and no other official of the Subrecipient who exercises any functions or responsibilities with respect to the project during his or her tenure, shall have any personal or pecuniary gain or interest, direct or indirect, in any contract, subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this Agreement.

The Subrecipient shall incorporate, or cause to incorporate, in all such contracts or subawards, a provision prohibiting such interest pursuant to this provision.

#### A.10 CONTRACTING & PROCUREMENT

a. The Subrecipient shall use a competitive procurement process in the procurement and award of any contracts with contractors or subcontractors that are entered into under the original agreement award. The procurement process followed shall be in accordance with 2 CFR Part 200.318, General procurement standards, through 200.327, Contract provisions.

As required by Appendix II to 2 CFR Part 200, all contracts entered into by the Subrecipient under this Agreement must include the following provisions, as applicable:

- 1) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- 2) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-federal entity including the manner by which it will be affected and the basis for settlement.
- 3) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "*Equal Employment Opportunity*" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "*Amending Executive Order 11246 Relating to Equal Employment Opportunity*," and implementing regulations at 41 CFR part 60, "*Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor*."
- 4) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "*Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction*"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "*Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States*"). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or

- she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency.
- 5) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
  - 6) Rights to Inventions Made Under a Contract or Agreement. If the federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “*Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements*,” and any implementing regulations issued by the awarding agency.
  - 7) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
  - 8) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “*Debarment and Suspension*.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
  - 9) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.
  - 10) Procurement of recovered materials – As required by 2 CFR 200.323, a non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy

and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- 11) Notice of federal awarding agency requirements and regulations pertaining to reporting.
- 12) Federal awarding agency requirements and regulations pertaining to copyrights and rights in data.
- 13) Access by the Department, the Subrecipient, the federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- 14) Retention of all required records for six years after the Subrecipient has made final payments and all other pending matters are closed.
- 15) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
- 16) Pursuant to Executive Order 13858 "*Strengthening Buy-American Preferences for Infrastructure Projects*," and as appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States, as required in 2 CFR Part 200.322, in every contract, subcontract, purchase order, or sub-award that is chargeable against federal financial assistance awards.
- 17) Per 2 C.F.R. § 200.216, prohibitions regarding certain telecommunications and video surveillance services or equipment are mandated by *section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018)*.

- b. The Department reserves the right to review the Subrecipient's procurement plans and documents and require the Subrecipient to make changes to bring its plans and documents into compliance with the requirements of 2 CFR Part 200.317 through 200.327. The Subrecipient must ensure that its procurement process requires contractors and subcontractors to provide adequate documentation with sufficient detail to support the costs of the project and to allow both the Subrecipient and Department to make a determination on eligibility of project costs.
- c. All contracting agreements entered into pursuant to this Agreement shall incorporate this Agreement by reference.

#### A.11 DISCLOSURE

The use or disclosure by any party of any information concerning the Department for any purpose not directly connected with the administration of the Department's or the Subrecipient's responsibilities with respect to services provided under this Agreement is prohibited except by prior written consent of the Department or as required to comply with the state Public Records Act, other law or court order.

#### A.12 DISPUTES

Except as otherwise provided in this Agreement, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute resolution board to resolve the dispute. A request for a dispute resolution board shall be in writing, state the disputed issues, state the relative positions of the parties, and be sent to all parties. The board shall consist of a representative appointed by the Department, a representative appointed by the Subrecipient, and a third party mutually agreed upon by both parties. The determination of the dispute resolution board shall be final and binding on the parties hereto. Each party shall bear the cost for its member of the dispute resolution board and its attorney fees and costs and share equally the cost of the third board member.

#### A.13 LEGAL RELATIONS

It is understood and agreed that this Agreement is solely for the benefit of the parties to the Agreement and gives no right to any other party. No joint venture or partnership is formed as a result of this Agreement.

To the extent allowed by law, the Subrecipient, its successors or assigns, will protect, save and hold harmless the Department, the state of Washington, and the United States Government and their authorized agents and employees, from all claims, actions, costs, damages or expenses of any nature whatsoever by reason of the acts or omissions of the Subrecipient, its subcontractors, subrecipients, assigns, agents, contractors, consultants, licensees, invitees, employees or any person whomsoever arising out of or in connection with any acts or activities authorized by this Agreement.

To the extent allowed by law, the Subrecipient further agrees to defend the Department and the state of Washington and their authorized agents and employees in any litigation; including payment of any costs or attorneys' fees for any claims or action commenced thereon arising out of or in connection with acts or activities authorized by this Agreement.

This obligation shall not include such claims, costs, damages or expenses which may be caused by the sole negligence of the Department; provided, that if the claims or damages are caused by or result from the concurrent negligence of (1) the Department, and (2) the Subrecipient, its agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Subrecipient, or the Subrecipient's agents or employees.

Insofar as the funding source, FEMA, is an agency of the Federal government, the following shall apply:

44 CFR 206.9 Non-liability. The Federal government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Federal government in carrying out the provisions of the Stafford Act.

A.14 LIMITATION OF AUTHORITY – AUTHORIZED SIGNATURE

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement. Only the Department's Authorized Signature representative and the Authorized Signature representative of the Subrecipient or Alternate for the Subrecipient, formally designated in writing, shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by both parties' Authorized Signature representatives, except as provided for time extensions in Article A.3.

Further, only the Authorized Signature representative or Alternate for the Subrecipient shall have signature authority to sign reimbursement requests, time extension requests, amendment and modification requests, requests for changes to projects or work plans, and other requests, certifications and documents authorized by or required under this Agreement.

A.15 LOSS OR REDUCTION OF FUNDING

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 normal completion or end date, the Department may unilaterally reduce the work plan and budget or unilaterally terminate all or part of the Agreement as a "Termination for Cause" without providing the Subrecipient an opportunity to cure. Alternatively, the parties may renegotiate the terms of this Agreement under "Amendments and Modifications" to comply with new funding limitations and conditions, although the Department has no obligation to do so.

A.16 NONASSIGNABILITY

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Subrecipient.

A.17 NONDISCRIMINATION

During the performance of this agreement, the Subrecipient shall comply with all federal and state nondiscrimination statutes and regulations. These requirements include, but are not limited to:

- a. Nondiscrimination in Employment: The Subrecipient shall not discriminate against any employee or applicant for employment because of race, color, sex, sexual orientation, religion, national origin, creed, marital status, age, Vietnam era or disabled veteran status, or the presence of any sensory, mental, or physical handicap. This requirement does not apply, however, to a religious corporation, association, educational institution or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its activities.



b. The Subrecipient shall take action to ensure that employees are employed and treated during employment without discrimination because of their race, color, sex, sexual orientation religion, national origin, creed, marital status, age, Vietnam era or disabled veteran status, or the presence of any sensory, mental, or physical handicap. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment selection for training, including apprenticeships and volunteers.

A.18 NOTICES

The Subrecipient shall comply with all public notices or notices to individuals required by applicable local, state and federal laws and regulations and shall maintain a record of this compliance.

A.19 OCCUPATIONAL SAFETY/HEALTH ACT and WASHINGTON INDUSTRIAL SAFETY/HEALTH ACT (OSHA/WISHA)

The Subrecipient represents and warrants that its workplace does now or will meet all applicable federal and state safety and health regulations that are in effect during the Subrecipient's performance under this Agreement. To the extent allowed by law, the Subrecipient further agrees to indemnify and hold harmless the Department and its employees and agents from all liability, damages and costs of any nature, including, but not limited to, costs of suits and attorneys' fees assessed against the Department, as a result of the failure of the Subrecipient to so comply.

A.20 OWNERSHIP OF PROJECT/CAPITAL FACILITIES

The Department makes no claim to any capital facilities or real property improved or constructed with funds under this Agreement, and by this subaward of funds does not and will not acquire any ownership interest or title to such property of the Subrecipient. The Subrecipient shall assume all liabilities and responsibilities arising from the ownership and operation of the project and agrees to defend, indemnify, and hold the Department, the state of Washington, and the United States government harmless from any and all causes of action arising from the ownership and operation of the project.

A.21 POLITICAL ACTIVITY

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

A.22 PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The assistance provided under this Agreement shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such assistance or any other approval or concurrence under this Agreement provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

A.23 PUBLICITY

The Subrecipient agrees to submit to the Department prior to issuance all advertising and publicity matters relating to this Agreement wherein the Department's name is mentioned, or language used from which the connection of the Department's name may, in the Department's judgment, be inferred or implied. The Subrecipient agrees not to publish or use such advertising and publicity matters without the prior written consent of the Department. The Subrecipient may copyright original work it develops in the course of or under this Agreement; however, pursuant to 2 CFR Part 200.315, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the work for government purposes.

Publication resulting from work performed under this Agreement shall include an acknowledgement of FEMA's financial support, by the Assistance Listings Number (formerly CFDA Number), and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA's views.

A.24 RECAPTURE PROVISION

In the event the Subrecipient fails to expend funds under this Agreement in accordance with applicable federal, state, and local laws, regulations, and/or the provisions of the Agreement, the Department reserves the right to recapture funds in an amount equivalent to the extent of noncompliance. Such right of recapture shall exist for the life of the project following Agreement termination. Repayment by the Subrecipient of funds under this recapture provision shall occur within 30 days of demand. In the event the Department is required to institute legal proceedings to enforce the recapture provision, the

Department shall be entitled to its costs and expenses thereof, including attorney fees from the Subrecipient.

A.25 RECORDS

- a. The Subrecipient agrees to maintain all books, records, documents, receipts, invoices and all other electronic or written records necessary to sufficiently and properly reflect the Subrecipient's contracts, subawards, grant administration, and payments, including all direct and indirect charges, and expenditures in the performance of this Agreement (the "records").
- b. The Subrecipient's records related to this Agreement and the projects funded may be inspected and audited by the Department or its designee, by the Office of the State Auditor, DHS, FEMA or their designees, by the Comptroller General of the United States or its designees, or by other state or federal officials authorized by law, for the purposes of determining compliance by the Subrecipient with the terms of this Agreement and to determine the appropriate level of funding to be paid under the Agreement.
- c. The records shall be made available by the Subrecipient for such inspection and audit, together with suitable space for such purpose, at any and all times during the Subrecipient's normal working day.
- d. The Subrecipient shall retain and allow access to all records related to this Agreement and the funded project(s) for a period of at least six (6) years following final payment and closure of the grant under this Agreement. Despite the minimum federal retention requirement of three (3) years, the more stringent State requirement of six (6) years must be followed.

A.26 RESPONSIBILITY FOR PROJECT/STATEMENT OF WORK/WORK PLAN

While the Department undertakes to assist the Subrecipient with the project/statement of work/work plan (project) by providing federal award funds pursuant to this Agreement, the project itself remains the sole responsibility of the Subrecipient. The Department undertakes no responsibility to the Subrecipient, or to any third party, other than as is expressly set out in this Agreement.

The responsibility for the design, development, construction, implementation, operation and maintenance of the project, as these phrases are applicable to this project, is solely that of the Subrecipient, as is responsibility for any claim or suit of any nature by any third party related in any way to the project.

Prior to the start of any construction activity, the Subrecipient shall ensure that all applicable federal, state, and local permits and clearances are obtained, including, but not limited to, FEMA compliance with the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, and all other environmental laws, regulations, and executive orders.

The Subrecipient shall defend, at its own cost, any and all claims or suits at law or in equity, which may be brought against the Subrecipient in connection with the project. The Subrecipient shall not look to the Department, or to any state or federal agency, or to any of their employees or agents, for any performance, assistance, or any payment or indemnity, including, but not limited to, cost of defense and/or attorneys' fees, in connection with any claim or lawsuit brought by any third party related to any design, development, construction, implementation, operation and/or maintenance of a project.

A.27 SEVERABILITY

If any court of rightful jurisdiction holds any provision or condition under this Agreement or its application to any person or circumstances invalid, this invalidity does not affect other provisions, terms or conditions of the Agreement, which can be given effect without the invalid provision. To this end, the terms and conditions of this Agreement are declared severable.

A.28 SINGLE AUDIT ACT REQUIREMENTS (including all AMENDMENTS)

The Subrecipient shall comply with and include the following audit requirements in any subawards.

Non-federal entities, as Subrecipients of a federal award, that expend **\$750,000** or more in one fiscal year of federal funds from all sources, direct and indirect, are required to have a single or a program-specific audit conducted in accordance with 2 CFR Part 200 Subpart F. Non-federal entities that spend less than **\$750,000** a year in federal awards are exempt from federal audit requirements for that year, except as noted in 2 CFR Part 200 Subpart F. As defined in 2 CFR Part 200, the term "non-federal entity" means a state, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a federal award as a recipient or subrecipient.

Subrecipients that are required to have an audit must ensure the audit is performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) as found in the Government Auditing Standards (the Revised Yellow Book) developed by the United States Comptroller General and the OMB Compliance Supplement. The Subrecipient has the responsibility of notifying its auditor and requesting an audit in compliance with 2 CFR Part 200 Subpart F, to include the Washington State Auditor's Office, a federal auditor, or a public accountant performing work using GAGAS, as appropriate. Costs of the audit may be an allowable grant expenditure as authorized by 2 CFR Part 200.425.

The Subrecipient shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any subcontractors also maintain auditable records. The Subrecipient is responsible for any audit exceptions incurred by its own organization or that of its subcontractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Subrecipient must respond to Department requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. The Department reserves the right to recover from the Subrecipient all disallowed costs resulting from the audit.

After the single audit has been completed, and if it includes any audit findings, the Subrecipient must send a full copy of the audit and its Corrective Action Plan to the Department at the following address no later than nine (9) months after the end of the Subrecipient's fiscal year(s):

**Contracts Office  
Washington Military Department  
Finance Division, Building #1 TA-20  
Camp Murray, WA 98430-5032**

**OR**

**[Contracts.Office@mil.wa.gov](mailto:Contracts.Office@mil.wa.gov)**

The Department retains the sole discretion to determine whether a valid claim for an exemption from the audit requirements of this provision has been established.

Conducting a single or program-specific audit in compliance with 2 CFR Part 200 Subpart F is a material requirement of this Agreement. In the absence of a valid claim of exemption from the audit requirements of 2 CFR Part 200 Subpart F, the Subrecipient's failure to comply with said audit requirements may result in one or more of the following actions in the Department's sole discretion: a percentage of federal awards being withheld until the audit is completed in accordance with 2 CFR Part 200 Subpart F; the withholding or disallowing of overhead costs; the suspension of federal awards until the audit is conducted and submitted; or termination of the federal award.

**A.29 SUBRECIPIENT NOT EMPLOYEE**

The Subrecipient, and/or employees or agents performing under this Agreement, are not employees or agents of the Department in any manner whatsoever. The Subrecipient will not be presented as nor claim to be an officer or employee of the Department or of the State of Washington by reason hereof, nor will the Subrecipient make any claim, demand, or application to or for any right, privilege or benefit applicable to an officer or employee of the Department or of the State of Washington, including, but not limited to, Workers' Compensation coverage, unemployment insurance benefits, social security benefits, retirement membership or credit, or privilege or benefit which would accrue to a civil service employee under Chapter 41.06 RCW; OFM Reg. 4.3.1.1.8.

It is understood that if the Subrecipient is another state department, state agency, state university, state college, state community college, state board, or state commission, that the officers and employees are employed by the State of Washington in their own right.

If the Subrecipient is an individual currently employed by a Washington State agency, the Department shall obtain proper approval from the employing agency or institution before entering into this contract. A statement of "no conflict of interest" shall be submitted to the Department.

**A.30 TAXES, FEES AND LICENSES**

Unless otherwise provided in this Agreement, the Subrecipient shall be responsible for, pay and maintain in current status all taxes, unemployment contributions, fees, licenses, assessments, permit charges and expenses of any other kind for the Subrecipient or its staff required by statute or regulation that are applicable to Agreement performance.

A.31 TERMINATION FOR CONVENIENCE

Notwithstanding any provisions of this Agreement, the Subrecipient may terminate this Agreement by providing written notice of such termination to the Department Key Personnel identified in the Agreement, specifying the effective date thereof, at least thirty (30) days prior to such date.

Except as otherwise provided in this Agreement, the Department, in its sole discretion and in the best interests of the state of Washington, may terminate this Agreement in whole or in part ten (10) business days after emailing notice to the Subrecipient. Upon notice of termination for convenience, the Department reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Subrecipient from incurring additional obligations of funds. In the event of termination, the Subrecipient shall be liable for all damages as authorized by law. The rights and remedies of the Department provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

A.32 TERMINATION OR SUSPENSION FOR LOSS OF FUNDING

The Department may unilaterally terminate or suspend all or part of this Grant Agreement, or may reduce its scope of work and budget, if there is a reduction in funds by the source of those funds, and if such funds are the basis for this Grant Agreement. The Department will email the Subrecipient ten (10) business days prior to termination.

A.33 TERMINATION OR SUSPENSION FOR CAUSE

In the event the Department, in its sole discretion, determines the Subrecipient has failed to fulfill in a timely and proper manner its obligations under this Agreement, is in an unsound financial condition so as to endanger performance hereunder, is in violation of any laws or regulations that render the Subrecipient unable to perform any aspect of the Agreement, or has violated any of the covenants, agreements or stipulations of this Agreement, the Department has the right to immediately suspend or terminate this Agreement in whole or in part.

The Department may notify the Subrecipient in writing of the need to take corrective action and provide a period of time in which to cure. The Department is not required to allow the Subrecipient an opportunity to cure if it is not feasible as determined solely within the Department's discretion. Any time allowed for cure shall not diminish or eliminate the Subrecipient's liability for damages or otherwise affect any other remedies available to the Department. If the Department allows the Subrecipient an opportunity to cure, the Department shall notify the Subrecipient in writing of the need to take corrective action. If the corrective action is not taken within ten (10) calendar days or as otherwise specified by the Department, or if such corrective action is deemed by the Department to be insufficient, the Agreement may be terminated in whole or in part.

The Department reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Subrecipient from incurring additional obligations of funds during investigation of the alleged compliance breach, pending corrective action by the Subrecipient, if allowed, or pending a decision by the Department to terminate the Agreement in whole or in part.

In the event of termination, the Subrecipient shall be liable for all damages as authorized by law, including, but not limited to, any cost difference between the original Agreement and the replacement or cover Agreement and all administrative costs directly related to the replacement Agreement, e.g., cost of administering the competitive solicitation process, mailing, advertising and other associated staff time. The rights and remedies of the Department provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

If it is determined that the Subrecipient: (1) was not in default or material breach, or (2) failure to perform was outside of the Subrecipient's control, fault or negligence, the termination shall be deemed to be a termination for convenience.

A.34 TERMINATION PROCEDURES

In addition to the procedures set forth below, if the Department terminates this Agreement, the Subrecipient shall follow any procedures specified in the termination notice. Upon termination of this Agreement and in addition to any other rights provided in this Agreement, the Department may require the Subrecipient to deliver to the Department any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

If the termination is for convenience, the Department shall pay to the Subrecipient as an agreed upon price, if separately stated, for properly authorized and completed work and services rendered or goods

delivered to and accepted by the Department prior to the effective date of Agreement termination, the amount agreed upon by the Subrecipient and the Department for (i) completed work and services and/or equipment or supplies provided for which no separate price is stated, (ii) partially completed work and services and/or equipment or supplies provided which are accepted by the Department, (iii) other work, services and/or equipment or supplies which are accepted by the Department, and (iv) the protection and preservation of property.

Failure to agree with such amounts shall be a dispute within the meaning of the "Disputes" clause of this Agreement. If the termination is for cause, the Department shall determine the extent of the liability of the Department. The Department shall have no other obligation to the Subrecipient for termination. The Department may withhold from any amounts due the Subrecipient such sum as the Department determines to be necessary to protect the Department against potential loss or liability.

The rights and remedies of the Department provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

After receipt of a notice of termination, and except as otherwise directed by the Department in writing, the Subrecipient shall:

- a. Stop work under the Agreement on the date, and to the extent specified, in the notice;
- b. Place no further orders or contracts for materials, services, supplies, equipment and/or facilities in relation to this Agreement except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;
- c. Assign to the Department, in the manner, at the times, and to the extent directed by the Department, all of the rights, title, and interest of the Subrecipient under the orders and contracts so terminated, in which case the Department has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and contracts;
- d. Settle all outstanding liabilities and all claims arising out of such termination of orders and contracts, with the approval or ratification of the Department to the extent the Department may require, which approval or ratification shall be final for all the purposes of this clause;
- e. Transfer title to the Department and deliver in the manner, at the times, and to the extent directed by the Department any property which, if the Agreement had been completed, would have been required to be furnished to the Department;
- f. Complete performance of such part of the work as shall not have been terminated by the Department in compliance with all contractual requirements; and
- g. Take such action as may be necessary, or as the Department may require, for the protection and preservation of the property related to this Agreement which is in the possession of the Subrecipient and in which the Department has or may acquire an interest.

**A.35 MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES**

In accordance with the legislative findings and policies set forth in Chapter 39.19 RCW, the State of Washington encourages participation in all its contracts by MWBE firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). To the extent possible, the Subrecipient will solicit and encourage minority-owned and women-owned business enterprises who are certified by the OMWBE under the state of Washington certification program to apply and compete for work under this contract. Voluntary numerical MWBE participation goals have been established and are indicated herein: Minority Business Enterprises: (MBE's): 10% and Woman's Business Enterprises (WBE's): 6%.

**A.36 VENUE**

This Agreement shall be construed and enforced in accordance with, and the validity and performance shall be governed by, the laws of the state of Washington. Venue of any suit between the parties arising out of this Agreement shall be the Superior Court of Thurston County, Washington. The Subrecipient, by execution of this Agreement, acknowledges the jurisdiction of the courts of the state of Washington.

**A.37 WAIVERS**

No conditions or provisions of this Agreement can be waived unless approved in advance by the Department in writing. The Department's failure to insist upon strict performance of any provision of the Agreement or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement.

**23SLCGP Award Letter  
EMW-2023-CY-00042****Award Letter**

U.S. Department of Homeland Security  
Washington, D.C. 20472

Bret Daugherty  
Washington Military Department  
Building 20  
Camp Murray, WA 98430 - 5122

Re: Grant No.EMW-2023-CY-00042

Dear Bret Daugherty:

Congratulations, on behalf of the Department of Homeland Security, your application for financial assistance submitted under the Fiscal Year (FY) 2023 State and Local Cybersecurity Grant Program has been approved in the amount of \$7,403,503.00. As a condition of this award, you are required to contribute a cost match in the amount of \$1,850,876.00 of non-Federal funds, or 20 percent of the total approved project costs of \$9,254,379.00.

Before you request and receive any of the Federal funds awarded to you, you must establish acceptance of the award. By accepting this award, you acknowledge that the terms of the following documents are incorporated into the terms of your award:

- Agreement Articles (attached to this Award Letter)
- Obligating Document (attached to this Award Letter)
- FY 2023 State and Local Cybersecurity Grant Program Notice of Funding Opportunity
- Information Bulletin 489: Fiscal Year 2023 State and Local Cybersecurity Grant Program Allocation Amounts

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award.

In order to establish acceptance of the award and its terms, please follow these instructions:

Step 1: Please log in to the ND Grants system at <https://portal.fema.gov>.

Step 2: After logging in, you will see the Home page with a Pending Tasks menu. Click on the Pending Tasks menu, select the Application sub-menu, and then click the link for "Award Offer Review" tasks. This link will navigate you to Award Packages that are pending review.

Step 3: Click the Review Award Package icon (wrench) to review the Award Package and accept or decline the award. Please save or print the Award Package for your records.

System for Award Management (SAM): Grant recipients are to keep all of their information up to date in SAM, in particular, your organization's name, address, Unique Entity Identifier (UEI) number, EIN and banking information. Please ensure that the UEI number used in SAM is the same one used to apply for all FEMA awards. Future payments will be contingent on the information provided in the SAM; therefore, it is imperative that the information is correct. The System for Award Management is located at <http://www.sam.gov>.

If you have any questions or have updated your information in SAM, please let your Grants Management Specialist (GMS) know as soon as possible. This will help us to make the necessary updates and avoid any interruptions in the payment process.

PAMELA SUSAN WILLIAMS

U.S. Department of Homeland Security  
Washington, D.C. 20472

**AGREEMENT ARTICLES**  
**State and Local Cybersecurity Grant Program**

**GRANTEE:** Washington Military Department  
**PROGRAM:** State and Local Cybersecurity Grant Program  
**AGREEMENT NUMBER:** EMW-2023-CY-00042-S01

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### **Article I - Summary Description of Award**

The purpose of the Fiscal Year 2023 State and Local Cybersecurity Grant Program (SLCGP) is to assist state, local, and territorial (SLT) governments with managing and reducing systemic cyber risk. Through funding from the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law, the SLCGP enables DHS to make targeted cybersecurity investments in SLT government agencies, thus improving the security of critical infrastructure and improving the resilience of the services SLT governments provide their community. This SLCGP award provides funding in the amount of: \$7,403,503 for the state of Washington. Of this amount, up to \$370,175 can be retained by the State Administrative Agency (SAA) for management and administrative expenses, and a total of \$1,850,876 is the required cost share.

The terms of the approved Investment Justification(s) and Project Worksheet(s) submitted by the recipient are incorporated into the terms of this Federal award, subject to the additional description and limitations stated in this Agreement Article and the limitations stated in subsequent reviews by FEMA and CISA of the award budget. Post-award documents uploaded into ND Grants for this award are also incorporated into the terms and conditions of this award, subject to any limitations stated in subsequent approvals by FEMA and CISA of changes to the award. Investments not listed in this Agreement Article are not approved for funding under this award.

### **Article II - SLCGP Performance Goal**

In addition to the Performance Progress Report (PPR) submission requirements due January 30, outlined in NOFO Appendix A-11, recipients must demonstrate how the grant-funded projects address the capability gaps identified in their Cybersecurity Plan or other relevant documentation or sustains existing capabilities per the CISA-approved Investment Justification. The capability gap reduction or capability sustainment must be addressed in the PPR, Section 10. Performance Narrative.

### **Article III - DHS Standard Terms and Conditions Generally**

The Fiscal Year (FY) 2023 DHS Standard Terms and Conditions apply to all new federal financial assistance awards funded in FY 2023. These terms and conditions flow down to subrecipients unless an award term or condition specifically indicates otherwise. The United States has the right to seek judicial enforcement of these obligations.

All legislation and digital resources are referenced with no digital links. The FY 2023 DHS Standard Terms and Conditions will be housed on dhs.gov at [www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions](http://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions).

### **Article IV - Assurances, Administrative Requirements, Cost Principles, Representations and Certifications**

I. DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances Non-Construction Programs, or OMB Standard Form 424D Assurances Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances as instructed by the awarding agency.

II. DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200 and adopted by DHS at 2 C.F.R. Part 3002.

III. By accepting this agreement, recipients, and their executives, as defined in 2 C.F.R. section 170.315, certify that their policies are in accordance with OMB's guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

### **Article V - General Acknowledgements and Assurances**

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

I. Recipients must cooperate with any DHS compliance reviews or compliance investigations conducted by DHS.

II. Recipients must give DHS access to examine and copy records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities or personnel.

III. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.

IV. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law, or detailed in program guidance.

V. Recipients (as defined in 2 C.F.R. Part 200 and including recipients acting as pass-through entities) of federal financial assistance from DHS or one of its awarding component agencies must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award for the first award under which this term applies. Recipients of multiple awards of DHS financial assistance should only submit one completed tool for their organization, not per award. After the initial submission, recipients are required to complete the tool once every two (2) years if they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to [CivilRightsEvaluation@hq.dhs.gov](mailto:CivilRightsEvaluation@hq.dhs.gov). This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>. DHS Civil Rights Evaluation Tool | Homeland Security

The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to [CivilRightsEvaluation@hq.dhs.gov](mailto:CivilRightsEvaluation@hq.dhs.gov) prior to expiration of the 30-day deadline.

### **Article VI - Acknowledgement of Federal Funding from DHS**

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

### **Article VII - Activities Conducted Abroad**

Recipients must ensure that project activities performed outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

#### **Article VIII - Age Discrimination Act of 1975**

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Public Law 94-135 (1975) (codified as amended at Title 42, U.S. Code, section 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

#### **Article IX - Americans with Disabilities Act of 1990**

Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. 101-336 (1990) (codified as amended at 42 U.S.C. sections 12101-12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

#### **Article X - Best Practices for Collection and Use of Personally Identifiable Information**

Recipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.

#### **Article XI - Civil Rights Act of 1964 - Title VI**

Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. section 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

#### **Article XII - Civil Rights Act of 1968**

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. section 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units-i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)-be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

#### **Article XIII - Copyright**

Recipients must affix the applicable copyright notices of 17 U.S.C. sections 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

#### **Article XIV - Debarment and Suspension**

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3002. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

#### **Article XV - Drug-Free Workplace Regulations**

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. sections 8101-8106).

#### **Article XVI - Duplication of Benefits**

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons.

**Article XVII - Education Amendments of 1972 (Equal Opportunity in Education Act) - Title IX**

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318 (1972) (codified as amended at 20 U.S.C. section 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

**Article XVIII - E.O. 14074 - Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety**

Recipient State, Tribal, local, or territorial law enforcement agencies must comply with the requirements of section 12(c) of E.O. 14074. Recipient State, Tribal, local, or territorial law enforcement agencies are also encouraged to adopt and enforce policies consistent with E.O. 14074 to support safe and effective policing.

**Article XIX - Energy Policy and Conservation Act**

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. 94- 163 (1975) (codified as amended at 42 U.S.C. section 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

**Article XX - False Claims Act and Program Fraud Civil Remedies**

Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. sections 3729- 3733, which prohibit the submission of false or fraudulent claims for payment to the Federal Government. (See 31 U.S.C. sections 3801-3812, which details the administrative remedies for false claims and statements made.)

**Article XXI - Federal Debt Status**

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

**Article XXII - Federal Leadership on Reducing Text Messaging while Driving**

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the Federal Government.

**Article XXIII - Fly America Act of 1974**

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C.) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. section 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

**Article XXIV - Hotel and Motel Fire Safety Act of 1990**

Recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. section 2225a.

**Article XXV - John S. McCain National Defense Authorization Act of Fiscal Year 2019**

Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 (2018) and 2 C.F.R. sections 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute - as it applies to DHS recipients, subrecipients, and their contractors and subcontractors - prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

#### **Article XXVI - Limited English Proficiency (Civil Rights Act of 1964 - Title VI)**

Recipients must comply with Title VI of the Civil Rights Act of 1964, (42 U.S.C. section 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

#### **Article XXVII - Lobbying Prohibitions**

Recipients must comply with 31 U.S.C. section 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

#### **Article XXVIII - National Environmental Policy Act**

Recipients must comply with the requirements of the National Environmental Policy Act of 1969, (NEPA) Pub. L. 91-190 (1970) (codified as amended at 42 U.S.C. section 4321 et seq.) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

#### **Article XXIX - Nondiscrimination in Matters Pertaining to Faith-Based Organizations**

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

#### **Article XXX - Non-Supplanting Requirement**

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

#### **Article XXXI - Notice of Funding Opportunity Requirements**

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

#### **Article XXXII - Patents and Intellectual Property Rights**

Recipients are subject to the Bayh-Dole Act, 35 U.S.C. section 200 et seq, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. section 401.14.

#### **Article XXXIII - Procurement of Recovered Materials**

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. section 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

#### **Article XXXIV - Rehabilitation Act of 1973**

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (1973) (codified as amended at 29 U.S.C. section 794), which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

#### **Article XXXV - Reporting of Matters Related to Recipient Integrity and Performance**

General Reporting Requirements:

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

#### **Article XXXVI - Reporting Subawards and Executive Compensation**

Reporting of first tier subawards:

Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

#### **Article XXXVII - Required Use of American Iron, Steel, Manufactured Products, and Construction Materials**

Recipients must comply with the Build America, Buy America provisions of the Infrastructure Investment and Jobs Act and E.O. 14005. Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- (1) all iron and steel used in the project are produced in the United States-this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- (2) all manufactured products used in the project are produced in the United States-this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- (3) all construction materials are manufactured in the United States-this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. Information on the process for requesting a waiver from these requirements is on the website below.

(a) When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

- (1) applying the domestic content procurement preference would be inconsistent with the public interest;

- (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at "Buy America" Preference in FEMA Financial Assistance Programs for Infrastructure | FEMA.gov.

The awarding Component may provide specific instructions to Recipients of awards from infrastructure programs that are subject to the Build America, Buy America provisions. Recipients should refer to the Notice of Funding Opportunity for further information on the Buy America preference and waiver process.

#### **Article XXXVIII - SAFECOM**

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

#### **Article XXXIX - Terrorist Financing**

Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

#### **Article XL - Trafficking Victims Protection Act of 2000 (TVPA)**

Trafficking in Persons:

Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106 (g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. section 7104. The award term is located at 2 C.F.R. section 175.15, the full text of which is incorporated here by reference.

#### **Article XLI - Universal Identifier and System of Award Management**

Requirements for System for Award Management and Unique Entity Identifier Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

#### **Article XLII - USA PATRIOT Act of 2001**

Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), which amends 18 U.S.C. sections 175-175c.

#### **Article XLIII - Use of DHS Seal, Logo and Flags**

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

#### **Article XLIV - Whistleblower Protection Act**

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C section 2409, 41 U.S.C. section 4712, and 10 U.S.C. section 2324, 41 U.S.C. sections 4304 and 4310.

#### **Article XLV - Environmental Planning and Historic Preservation (EHP) Review**

DHS/FEMA funded activities that may require an Environmental Planning and Historic Preservation (EHP) review are subject to the FEMA EHP review process. This review does not address all federal, state, and local requirements. Acceptance of federal funding requires the recipient to comply with all federal, state and local laws.

DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/FEMA grant funds, through its EHP review process, as mandated by: the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and any other applicable laws and executive orders. General guidance for FEMA's EHP process is available on the DHS/FEMA Website. Specific applicant guidance on how to submit information for EHP review depends on the individual grant program and applicants should contact their grant Program Officer to be put into contact with EHP staff responsible for assisting their specific grant program. The EHP review process must be completed before funds are released to carry out the proposed project; otherwise, DHS/FEMA may not be able to fund the project due to noncompliance with EHP laws, executive orders, regulations, and policies.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archaeological resources are discovered the applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA.

#### **Article XLVI - Applicability of DHS Standard Terms and Conditions to Tribes**

The DHS Standard Terms and Conditions are a restatement of general requirements imposed upon recipients and flow down to sub-recipients as a matter of law, regulation, or executive order. If the requirement does not apply to Indian tribes or there is a federal law or regulation exempting its application to Indian tribes, then the acceptance by Tribes of, or acquiescence to, DHS Standard Terms and Conditions does not change or alter its inapplicability to an Indian tribe. The execution of grant documents is not intended to change, alter, amend, or impose additional liability or responsibility upon the Tribe where it does not already exist.

#### **Article XLVII - Acceptance of Post Award Changes**

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to: [ASK-GMD@fema.dhs.gov](mailto:ASK-GMD@fema.dhs.gov) if you have any questions.

#### **Article XLVIII - Disposition of Equipment Acquired Under the Federal Award**

For purposes of original or replacement equipment acquired under this award by a non-state recipient or non-state sub-recipients, when that equipment is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, you must request instructions from FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. section 200.313. State recipients and state sub-recipients must follow the disposition requirements in accordance with state laws and procedures.

#### **Article XLIX - Prior Approval for Modification of Approved Budget**

Before making any change to the FEMA approved budget for this award, you must request prior written approval from FEMA where required by 2 C.F.R. section 200.308.

For purposes of non-construction projects, FEMA is utilizing its discretion to impose an additional restriction under 2 C.F.R. section 200.308(f) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the federal share is greater than the simplified acquisition threshold (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget FEMA last approved.

For purposes of awards that support both construction and non-construction work, FEMA is utilizing its discretion under 2 C.F.R. section 200.308(h)(5) to require the recipient to obtain prior written approval from FEMA before making any fund or budget transfers between the two types of work.

You must report any deviations from your FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.



**Article L - Indirect Cost Rate**

2 C.F.R. section 200.211(b)(15) requires the terms of the award to include the indirect cost rate for the federal award. If applicable, the indirect cost rate for this award is stated in the budget documents or other materials approved by FEMA and included in the award file.

**Article LI - Funding Hold: Additional Information Required**

FEMA has placed a funding hold on this award, and \$5,067,919 is on hold in the FEMA financial systems. The recipient is prohibited from obligating, expending, or drawing down the funds associated with the following projects/investments.

All projects to be determined: \$5,067,919

To release the funding hold, the recipient must provide a detailed cost breakdown and justification for the projects/ investments listed above. FEMA will rescind the funding hold upon its review and approval of the detailed cost breakdown and justification. If you believe this funding hold was placed in error, please contact the relevant Preparedness Officer at [fema-slcgp@fema.dhs.gov](mailto:fema-slcgp@fema.dhs.gov).

**BUDGET COST CATEGORIES**

Personnel	\$286,647.00
Fringe Benefits	\$108,926.00
Travel	\$8,625.00
Equipment	\$0.00
Supplies	\$3,125.00
Contractual	\$8,791,661.00
Construction	\$0.00
Indirect Charges	\$55,395.00
Other	\$0.00

Obligating Document for Award/Amendment						
1a. AGREEMENT NO. EMW-2023-CY-00042-S01	2. AMENDMENT NO. ***	3. RECIPIENT NO. 916001095G	4. TYPE OF ACTION AWARD	5. CONTROL NO. WX00697N2024T		
6. RECIPIENT NAME AND ADDRESS Washington Military Department Building 20 Camp Murray, WA, 98430 - 5122	7. ISSUING FEMA OFFICE AND ADDRESS FEMA-GPD 400 C Street, SW, 3rd floor Washington, DC 20472-3645 POC: 866-927-5646		8. PAYMENT OFFICE AND ADDRESS FEMA Finance Center 430 Market Street Winchester, VA 22603			
9. NAME OF RECIPIENT PROJECT OFFICER Sierra Wardell	PHONE NO. 2535127121	10. NAME OF FEMA PROJECT COORDINATOR Central Scheduling and Information Desk Phone: 800-368-6498 Email: Askcsid@dhs.gov				
11. EFFECTIVE DATE OF THIS ACTION 12/07/2023	12. METHOD OF PAYMENT PARS	13. ASSISTANCE ARRANGEMENT Cost Reimbursement	14. PERFORMANCE PERIOD <b>From:</b> 12/01/2023 <b>To:</b> 11/30/2027 <b>Budget Period</b> 12/01/2023 11/30/2027			
1 5. DESCRIPTION OF ACTION a. (Indicate funding data for awards or financial changes)						
PROGRAM NAME ACRONYM	CFDA NO.	ACCOUNTING DATA (ACCS CODE) XXXX-XXX-XXXXXX-XXXXX-XXXX-XXXX-X	PRIOR TOTAL AWARD	AMOUNT AWARDED THIS ACTION + OR (-)	CURRENT TOTAL AWARD	CUMULATIVE NON-FEDERAL COMMITMENT
State and Local Cybersecurity Grant Program	97.137	2024-IF-PA11-P410- -4101-D	\$0.00	\$7,403,503.00	\$7,403,503.00	See Totals
			\$0.00	\$7,403,503.00	\$7,403,503.00	\$1,850,876.00
b. To describe changes other than funding data or financial changes, attach schedule and check here. N/A						
16 a. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address) State and Local Cybersecurity Grant Program recipients are not required to sign and return copies of this document. However, recipients should print and keep a copy of this document for their records.						
16b. FOR DISASTER PROGRAMS: RECIPIENT IS NOT REQUIRED TO SIGN This assistance is subject to terms and conditions attached to this award notice or by incorporated reference in program legislation cited above.						
17. RECIPIENT SIGNATORY OFFICIAL (Name and Title) Sierra Wardell, Preparedness Grants Section Section Supervisor					DATE Fri Dec 15 01:00:32 UTC 2023	
18. FEMA SIGNATORY OFFICIAL (Name and Title) PAMELA SUSAN WILLIAMS,					DATE Thu Dec 07 18:41:14 UTC 2023	

## WORK PLAN

## FY 2023 State and Local Cybersecurity Grant Program

**PROJECT #1 TITLE** *Implementation of Cisco Identity Services Engine (ISE)*

**PROJECT DESCRIPTION**

This project is the implementation of identity services, identity-based network access control and policy enforcement system, for the City of Spokane Network. This project will allow the network to automatically detect the connection of authorized and unauthorized devices.

The project will implement a system to validate the connected device's security posture, including its patch and signatures level. Systems not meeting the defined security posture will be quarantined to a network zone that only has access to the update server.

This project will replace aging hardware and upgrade the ISE feature set. The existing hardware is end of life and is not capable of running current ISE software and advanced security feature set that would enhance the Cities security posture.

This project will provide security not currently available to the City of Spokane with our current systems.

**GAP BEING ADDRESSED**

This project will meet the GAP we currently have in our network security implementation for identifying unauthorized connections to the network. We have many rooms that are open to the public and staff alike, this creates an exposure that isn't realized in a private company. We have attempted to overcome this by other means, but we have issues with the manual processes we have implemented. i.e. shutting down public-facing network ports. This risk was identified by internal and third-party security audits. These concerns have been brought to the attention of senior management. This ISE system will automatically audit every device connecting to the network and dynamically adjust the configuration on the network port to the appropriate security level.

**IMPACT**

The impact of this project will be closing the loop on a significant area of risk for the City of Spokane. By putting Cisco ISE in place, we will add increased visibility, functionality, and security to city resources. Once the Cisco ISE is physically installed, configured, and put into production this particular project will be finished. As far as ongoing costs and support are concerned, we will be providing regular operating system upgrades to the hardware and will engage professional services as needed for future alterations that are not within the current scope of initial build.

**OUTCOME**

The outcome of this project will reduce risk and automate the manual processes that today require significant time and will reduce the risk of human error. All stakeholders in this project are dedicated to being the best stewards of critical services and data we can be, and wherever possible want to create secure, resilient, and low risk environments. This project on completion will exponentially help in our efforts to achieve these goals.

**BUDGET**  
**FY 2023 State and Local Cybersecurity Grant Program**

*City of Spokane*

**AGREEMENT AMOUNT      \$160,000**

	SOLUTION AREA						M&A	TOTAL
	PLANNING	ORGANIZATION	EQUIPMENT	TRAINING	EXERCISE			
<b>PROJECT #1</b>	Salaries & Benefits	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	<b>\$0.00</b>
	Supplies	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	<b>\$0.00</b>
	Travel/Per Diem	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	<b>\$0.00</b>
	Contractor/Consultant	\$2,000.00	\$20,000.00		\$0.00	\$0.00	\$0.00	<b>\$22,000.00</b>
	Passthrough	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		<b>\$0.00</b>
	Other	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	<b>\$0.00</b>
	Equipment			\$138,000.00				<b>\$138,000.00</b>
	<b>SUBTOTAL</b>	<b>\$2,000.00</b>	<b>\$20,000.00</b>	<b>\$138,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$160,000.00</b>
	Indirect							<b>\$0.00</b>
	<b>TOTAL</b>	<b>\$2,000.00</b>	<b>\$20,000.00</b>	<b>\$138,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$160,000.00</b>

## TIMELINE

### FY 2023 State and Local Cybersecurity Grant Program

<i>DATE</i>	<i>TASK</i>
December 1, 2023	Grant Agreement start date
NLT February 28, 2024	Complete NCSR
July 15, 2024	Submit Progress Report <i>* time period 12/1/2023 - 6/30/2024</i>
September 30, 2024	Grant Agreement end date
November 14, 2024	Submit Final Reimbursement Request and Closeout Report

<i>October 1st annually</i>	<a href="https://www.cisecurity.org/ms-isac/services/ncsr">Nationwide Cybersecurity Review (NCSR) opens for input https://www.cisecurity.org/ms-isac/services/ncsr</a>
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**BUILD AMERICA, BUY AMERICA ACT SELF-CERTIFICATION**

The Subrecipient’s contractors and subcontractors must sign and submit the following certification to the next tier, with the Subrecipient forwarding to the Department Key Personnel for each bid or offer for an infrastructure project that has not been waived by a BABAA waiver.

The undersigned certifies, to the best of their knowledge and belief, that:

The Build America, Buy America Act (BABAA) requires that no federal financial assistance for “infrastructure” projects is provided “unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.” Section 70914 of Public Law No. 117-58, §§ 70901-52.

The undersigned certifies that for the Insert Project Name and Location that the iron, steel, manufactured products, and construction materials used in this contract are in full compliance with the BABAA requirements including:

1. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
2. All manufactured products purchased with FEMA financial assistance must be produced in the United States. For a manufactured product to be considered produced in the United States, the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55% of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
3. All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

“The [Contractor or Subcontractor], \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the [Contractor or Subcontractor] understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.”

\_\_\_\_\_  
Signature of [Contractor’s or Subcontractor’s] Authorized Official

Enter Name and Title  
Name and Title of [Contractor’s or Subcontractor’s] Authorized Official

\_\_\_\_\_  
Date