

THE CITY OF SPOKANE



ADVANCE COUNCIL AGENDA

MEETING OF MONDAY, FEBRUARY 11, 2013

MISSION STATEMENT

**TO DELIVER EFFICIENT AND EFFECTIVE SERVICES
THAT FACILITATE ECONOMIC OPPORTUNITY
AND ENHANCE QUALITY OF LIFE.**

MAYOR DAVID A. CONDON

COUNCIL PRESIDENT BEN STUCKART

COUNCIL MEMBER MICHAEL A. ALLEN

COUNCIL MEMBER NANCY McLAUGHLIN

COUNCIL MEMBER JON SNYDER

COUNCIL MEMBER MIKE FAGAN

COUNCIL MEMBER STEVE SALVATORI

COUNCIL MEMBER AMBER WALDREF

COUNCIL CHAMBERS
CITY HALL

808 W. SPOKANE FALLS BLVD.
SPOKANE, WA 99201

CITY COUNCIL BRIEFING SESSION

Council will adopt the Administrative Session Consent Agenda after they have had appropriate discussion. Items may be moved to the 6:00 p.m. Legislative Session for formal consideration by the Council at the request of any Council Member.

SPOKANE CITY COUNCIL BRIEFING SESSIONS (BEGINNING AT 3:30 P.M. EACH MONDAY) AND LEGISLATIVE SESSIONS (BEGINNING AT 6:00 P.M. EACH MONDAY) ARE BROADCAST LIVE ON CITY CABLE CHANNEL FIVE AND STREAMED LIVE ON THE CHANNEL FIVE WEBSITE. THE SESSIONS ARE REPLAYED ON CHANNEL FIVE ON WEDNESDAYS AT 6:00 P.M. AND FRIDAYS AT 10:00 A.M.

The Briefing Session is open to the public, but will be a workshop meeting. Discussion will be limited to Council Members and appropriate Staff and Counsel. There will be an opportunity for the expression of public views on any issue not relating to the Current or Advance Agendas during the Open Forum at the beginning and the conclusion of the Legislative Agenda.

ADDRESSING THE COUNCIL

- No one may speak without first being recognized for that purpose by the Chair. Except for named parties to an adjudicative hearing, a person may be required to sign a sign-up sheet as a condition of recognition.
- Each person speaking at the public microphone shall print his or her name and address on the sheet provided at the podium and verbally identify him/herself by name, address and, if appropriate, representative capacity.
- If you are submitting letters or documents to the Council Members, please provide a minimum of ten copies via the City Clerk. The City Clerk is responsible for officially filing and distributing your submittal.
- In order that evidence and expressions of opinion be included in the record and that decorum befitting a deliberative process be maintained, modes of expression such as demonstration, banners, applause and the like will not be permitted.
- A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.

SPEAKING TIME LIMITS: Unless deemed otherwise by the Chair, each person addressing the Council shall be limited to a three-minute speaking time.

CITY COUNCIL AGENDA: The City Council Advance and Current Agendas may be obtained prior to Council Meetings from the Office of the City Clerk during regular business hours (8 a.m. - 5 p.m.). The Agenda may also be accessed on the City website at www.spokanecity.org. Agenda items are available for public review in the Office of the City Clerk during regular business hours.

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 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.) 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 Gita George-Hatcher at (509) 625-7083, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or ggeorge-hatcher@spokanecity.org. Persons who are deaf or hard of hearing may contact Ms. George-Hatcher at (509) 625-7083 through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

If you have questions, please call the Agenda Hotline at 625-6350.

BRIEFING SESSION

(3:30 p.m.)

(Council Chambers Lower Level of City Hall)

(No Public Testimony Taken)

Council Reports

Staff Reports

Committee Reports

Advance Agenda Review

Current Agenda Review

ADMINISTRATIVE SESSION

Roll Call of Council

CONSENT AGENDA

REPORTS, CONTRACTS AND CLAIMS

RECOMMENDATION

- | | | |
|--|---------|---------------|
| 1. Amendment to Contract with Spokane County to continue supporting the Spokane Regional Drug Task Force through June 30, 2013—increase of \$74,146. Total contract amount \$191,341.
Craig Meidl | Approve | OPR 2012-0631 |
| 2. Interlocal Agreement with Spokane County and Spokane County Superior Court for the sharing of 2013 Jury Management Services for Spokane Municipal Court from January 1, 2013 through December 31, 2013—\$45,900.
Cindy Marshall | Approve | OPR 2013-0090 |
| 3. Interlocal Agreement with City of Spokane Valley, Spokane Regional Health District and Spokane Regional Transportation Council to pay Spokane County IS for participation in ESRI GIS Software Enterprise License Agreement through December 31, 2015, with one year renewal option—estimated annual expense \$125,000.
Michael Sloon | Approve | OPR 2013-0091 |

4. Loan Agreement with Washington State Department of Ecology for construction of: Approve All
- a. Combined Sewer Overflow Basin 41 Control Facility—\$4,968,600. OPR 2013-0092
ENG 2010102
- b. Hazel's Creek Downstream Conveyance—\$1,428,600. OPR 2013-0093
ENG 2013055
- Marcia Davis**
5. Termination and Release of Easement with Parkwood South Homeowner's Association of Spokane regarding property located at 21st Court and Ray Street. Approve OPR 2013-0094
- Dale Arnold**
6. Report of the Mayor of pending: Approve & Authorize Payments
- a. Claims and payments of previously approved obligations, including those of Parks and Library, through _____, total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____. CPR 2013-0002
- b. Payroll claims of previously approved obligations through _____: \$_____. CPR 2013-0003

EXECUTIVE SESSION

(Closed Session of Council)

(Executive Session may be held or reconvened during the 6:00 p.m. Legislative Session)

CITY COUNCIL SESSION

(May be held or reconvened following the 3:30 p.m. Administrative Session)

(Council Briefing Center)

This session may be held for the purpose of City Council meeting with Mayoral nominees to Boards and/or Commissions. The session is open to the public.

LEGISLATIVE SESSION

(6:00 P.M.)

(Council Reconvenes in Council Chamber)

WORDS OF INSPIRATION

PLEDGE OF ALLEGIANCE

ROLL CALL OF COUNCIL

ANNOUNCEMENTS

(Announcements regarding Changes to the City Council Agenda)

BOARDS AND COMMISSIONS APPOINTMENTS

(Includes Announcements of Boards and Commissions Vacancies)

CITY ADMINISTRATION REPORT

COUNCIL COMMITTEE REPORTS

(Committee Reports for Finance, Neighborhoods, Public Safety, Public Works, and Planning/Community and Economic Development Committees and other Boards and Commissions)

OPEN FORUM

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair. If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.

LEGISLATIVE AGENDA

NO EMERGENCY BUDGET ORDINANCES

NO EMERGENCY ORDINANCES

RESOLUTIONS & FINAL READING ORDINANCES

(Require Four Affirmative, Recorded Roll Call Votes)

- RES 2013-0012 Recognizing the planning efforts of the West Central Planning Stakeholder Group as a declaration of the neighborhood's desired future condition, providing direction for neighborhood-based improvement activities, and neighborhood priorities for future projects.
Scott Chesney
- RES 2013-0013 Regarding Council Member appointments to boards and committees.
Sponsor: Council President Ben Stuckart
- ORD C34955 Relating to marijuana; amending SMC Sections 1.05.210, 10.14.170, 10.14.220 and 10.15.100; and adopting a new Section 10.02.065 to Chapter 10.02 and a new Section 10.15.220 to Chapter 10.15 of the Spokane Municipal Code.
Sponsors: Council Members Jon Snyder & Mike Fagan
- ORD C34956 Relating to the business licensing process; amending SMC Sections 8.01.020, 8.01.130, 8.01.180, 8.01.190, 8.02.0206, 8.02.0207, 8.01.230 and 8.01.280.
Kim Orlob
- ORD C34957 Relating to solid waste disposal fees; amending SMC Sections 13.02.0528 and 13.02.0560; repealing SMC Section 13.02.0564; and setting an effective date. (Adjusts solid waste disposal rates at the waste to energy facility and transfer stations from \$107 per ton to \$98 per ton and increases the minimum charge from \$7 to \$15.)
Ken Gimpel

FIRST READING ORDINANCES

(No Public Testimony Will Be Taken)

- ORD C34960 Relating to the Chase Youth Commission; amending SMC Sections 4.23.020, 4.23.030 and 4.23.080.
Jonathan Mallahan
- ORD C34961 An ordinance relating to street development standards to clarify language with regard to sidewalks, planting strips, and street trees; amending SMC sections 17C.110.410, 17C.120.230, 17C.122.110, 17C.124.230, 17C.130.230, 17C.200.040, 17C.200.050, 17H.010.050 and 17H.010.190; and repealing SMC section 17C.122.140.
Julie Neff

FURTHER ACTION DEFERRED

NO SPECIAL CONSIDERATIONS

NO HEARINGS

**Motion to Approve Advance Agenda for February 11, 2013
(per Council Rule 2.1.2)**

OPEN FORUM (CONTINUED)

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair. If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.

ADJOURNMENT

The February 11, 2013, Regular Legislative Session of the City Council is adjourned to Monday, February 25, 2013.

Note: The regularly scheduled City Council meeting for Monday, February 18, 2013, has been canceled.

NOTES

**Agenda Sheet for City Council Meeting of:**

02/11/2013

Date Rec'd

1/30/2013

Clerk's File #

OPR 2012-0631

Renews #**Submitting Dept**

POLICE

Cross Ref #**Contact Name/Phone**

CRAIG MEIDL 625.4117

Project #**Contact E-Mail**

CMEIDL@SPOKANEPOLICE.ORG

Bid #**Agenda Item Type**

Contract Item

Requisition #**Agenda Item Name**

0680-AMENDMENT-SPOKANE REGIONAL DRUG TASK FORCE

Agenda Wording

Amendment with Spokane County to continue supporting the Spokane Regional Drug Task Force. Amendment extends the contract to 6/30/13 and increases the amount by \$74,146. Total Contract amount \$191,341.

Summary (Background)

The Spokane Regional Drug Task Force (SRDTF) operates in and around the City and County of Spokane. The Spokane Police Department (SPD) has maintained an on-going participation with the SRDTF by dedicating two commissioned officers to the effort. SPD's participation in the task force allows the department to participate in asset sharing that occurs from operation forfeitures and drug seizures. This increase covers partial salary and overtime through 6/30/13.

Fiscal Impact**Budget Account**

Revenue \$ 74,146

0680-11210-21231-33821

Expense \$ 74,146

0680-11210-21231-Various

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

MEIDL, CRAIG

Study Session**Division Director****Other**

PSC-1/14/13

Finance

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

ewade

For the Mayor

SANDERS, THERESA

klwatkins@spokanecounty.org

Additional Approvals

agolden

Purchasing

**AMENDMENT NO. A AGREEMENT BETWEEN
SPOKANE COUNTY SHERIFF'S OFFICE
AND
CITY OF SPOKANE POLICE DEPARTMENT**

THIS AMENDMENT NO. A AGREEMENT between Spokane County and City of Spokane Police Department to the document executed under Spokane County Resolution No. 2012-0731 (the "Agreement") in conjunction with the Spokane Regional Drug Task Force Grant referenced above.

The hereinafter signatories do hereby agree for and in consideration of the their mutual promises set forth that the above referenced Agreement between the Spokane County Sheriff's Office and City of Spokane Police Department is hereby amended as follows:

1. The maximum Agreement Contract Amount is revised from \$117,195 to \$191,341.

The additional increase in monies of \$74,146 is provided by local forfeiture funds. Funding of \$74,146 is budgeted as outlined:

Salary/ Benefits	\$56,021
Overtime	\$18,125

2. The Agreement End Date has been extended to June 30, 2013.

The hereinafter signatories do further agree that but for the above mentioned amendment all other terms and conditions of the Agreement shall remain in force and in effect without any change or modification whatsoever.

THIS AMENDMENT NO. A AGREEMENT is executed by the persons signing below, who warrant that they have the authority to execute this document.

For Spokane County

For City of Spokane Police Department

Signature Date

Signature Date

Name

Name

Title

Title

Initialed as to form



Spokane Police Department Briefing Paper - SRDTF City of Spokane – SPD - PSC January 14, 2013

Subject

Contract amendment with Spokane County Sheriff's Office for the Spokane Regional Drug Task Force.

Background

The Spokane Police Department has maintained on-going participation in the Spokane Regional Drug Task Force by dedicating two commissioned officers to the effort. These officers are funded by the task force through the Sheriff's office at a level of approximately 75%. The task force is made up of commissioned personnel from the Spokane Police Department, Spokane County Sheriff's Office and the Washington State Patrol.

Impact

Grant amendment and extension for reimbursement of \$191,341 in salaries, benefits and overtime. Regular salary reimbursement will increase by \$56,021 and overtime reimbursement will increase by \$18,125 for a total increase of \$74,146. Term of grant contract will extend due date to June 30, 2013 past December 31, 2012.

- **Mission-** Focus on illegal drug activity that has a direct impact on our city and county even when those activities take them outside the normal jurisdictions.
- **Operations-** Local surrounding area of the city and county of Spokane supporting 2 FTEs.
- **Prosecution-** Completed criminal cases may be prosecuted either in the jurisdiction of occurrence by local prosecutors but also through the federal system by the U. S. Attorney's Office.
- **Fiscal-** Due to the Spokane Police Department's participation in the task force, the department participates in asset sharing from forfeitures and will be allocated a portion back to SPD based on their level of effort.

Action

Council approval of contract amendment and extension with the Spokane County Sheriff's Office.

Funding

These positions are funded through the general fund and reimbursed through the Spokane County Sheriff's through forfeiture funds, federal DOJ funds, and state general funds.

**Agenda Sheet for City Council Meeting of:**

02/11/2013

<u>Date Rec'd</u>	1/30/2013
<u>Clerk's File #</u>	OPR 2013-0090
<u>Renews #</u>	OPR 2012-0531

<u>Submitting Dept</u>	MUNICIPAL COURT	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	CINDY 4450 MARSHALL	<u>Project #</u>	
<u>Contact E-Mail</u>	CSMARSHALL@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Contract Item	<u>Requisition #</u>	CR 13131
<u>Agenda Item Name</u>	0560 INTERLOCAL WITH SPOKANE COUNTY FOR JURY MGMNT SVCS		

Agenda Wording

Interlocal Agreement with Spokane County and Spokane County Superior Court for the sharing of 2013 Jury Management Services for Spokane Municipal Court from January 1, 2013 through December 31, 2013.

Summary (Background)

This agreement is between the City, County and Superior Court whereby the Court provides shared jury management services between the County Superior Court, County District Court and Spokane Municipal Court. This results in better use of court resources and more efficient utilization of called juries.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 20,400	#	0560-13100-12500-54915
Expense	\$ 25,500	#	0560-13100-12500-55114
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MARSHALL, CINDY S.	<u>Study Session</u>	PSC January 14, 2013
<u>Division Director</u>	LOGAN, MARY	<u>Other</u>	
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	BURNS, BARBARA	csmarshall@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	rmiles@spokanecounty.org	
<u>Additional Approvals</u>		jemacio@spokanecounty.org	
<u>Purchasing</u>		mlesesne@spokanecity.org	
		Spokane County Commissioners	
		mlogan@spokanecity.org	

**INTERLOCAL AGREEMENT FOR COSTS INCIDENT
TO JURY MANAGEMENT SERVICES IN THE CITY OF SPOKANE
(January 1, 2013-December 31, 2013)**

THIS AGREEMENT, made and entered into by and among **Spokane County**, a political subdivision of the State of Washington, having offices for the transaction of business at 1116 West Broadway, Spokane, Washington 99260, hereinafter referred to as "COUNTY," the **City of Spokane**, a municipal corporation of the State of Washington, having offices for the transaction of business at 808 West Spokane Falls Blvd., Spokane, Washington 99201, hereinafter referred to as "CITY" and **Spokane County Superior Court**, having offices for the transaction of business at 1116 West Broadway, Spokane, Washington 99260, hereinafter referred to as the "COURT," jointly hereinafter referred to as the "PARTIES."

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of RCW 36.32.120(6), the Spokane County Board of County Commissioners has the care of County property and the management of County funds and business; and

WHEREAS, chapter 39.34 RCW (Interlocal Cooperation Act), authorizes counties and cities to contract with each other to perform certain functions which each may legally perform; and

WHEREAS, the COURT maintains a Jury Management System ("System"); and

WHEREAS, the CITY is desirous of using the COURT'S System for its Municipal Court; and

WHEREAS, in conjunction with the CITY'S use of the System, the CITY agrees to pay a percentage of the administrative costs for such System, to include (1) personnel, computer equipment/printer and supply costs; (2) printing and postage costs; (3) State Industrial Insurance costs; and (4) juror fees, mileage, bus and parking costs, and (5) indirect costs.

NOW, THEREFORE, for and in consideration of the mutual promises set forth hereinafter, the PARTIES do mutually agree as follows:

SECTION NO. 1: PURPOSE

The purpose of this Agreement is to set forth the PARTIES' understanding of the terms and conditions under which the COURT will provide System services to the CITY. For the purpose of this Agreement, the System is described as summoning, qualifying, organizing, tracking, providing and compensating jury panels for the CITY'S Municipal Court. The terminology CITY'S Municipal Court shall mean that Court used by the CITY to meet its responsibilities under RCW 39.34.180.

SECTION NO. 2: DURATION

This Agreement shall be effective at 12:01 A.M. on January 1, 2013, and run through 11:59 P.M. December 31, 2013, unless one or all of the PARTIES give notice of termination as provided for in Section No. 5 and Section No. 10 of this Agreement.

SECTION NO. 3: COST OF SERVICES AND PAYMENTS

The CITY shall pay the COUNTY the actual costs for its use of the System in 2013 as outlined below.

- A. **Reimbursement.** Costs of the System shall be comprised of two components, namely (1) costs for each jury panel requested, and (2) administrative costs for management of the System.

(1) Costs for each jury panel requested.

Costs for each jury panel requested shall be the actual costs to include jury fee, mileage, and all other costs directly attributable to the specific jury requested. These costs shall be the responsibility of the CITY once a jury is requested regardless of whether it is ever empanelled.

(2) Administrative costs for management of the System.

Administrative costs of the System shall include all costs incurred by the COURT in operating/providing the System for any calendar year to include:

Item (a): court personnel, Information Services Department personnel, computer equipment/printer and supply costs. Personnel costs will include (i) all cost of giving (COLA) adjustments as authorized by the COUNTY for persons providing the System and/or (ii) salary increases.,

Item (b): Printing and postage costs,

Item (c): State Industrial Insurance costs,

Item (d): Cost for bus passes for jurors summoned on CITY cases, and

Item (e): Indirect costs.

Any increase in any administrative costs will be reflected in the current year's costs.

The CITY'S share of the administrative costs under Item 2 (a) above will be calculated by taking the total costs for Item 2 (a) for any calendar year and dividing it by the total number of jury panels requested in Superior, District and Municipal Court by all users of the System. This will provide a per jury panel administrative costs for Item 2 (a). The

CITY will then pay this per jury administrative costs for Item 2 (a) for each jury panel it has requested.

The CITY'S share of the administrative costs under Item 2 (b) shall be determined by using the percentage of juror days served by Superior, District, and Municipal Courts in any calendar year. The CITY shall pay its proportionate share of such cost based on the number of juries requested.

The CITY'S share of the administrative costs under Item 2 (c) shall be determined by taking the per hour juror rate which the COURT pays for State Industrial Insurance and multiplying it by the total number of juror hours for persons who served as jurors for the CITY.

The CITY's share of the administrative costs under Item 2 (d) shall include the actual cost of bus passes for jurors summoned on CITY cases as well as the actual cost of parking on public lots within the Spokane County Courthouse complex for jurors called in to serve on CITY cases.

The CITY's share of the administrative costs under Item 2 (e) shall be determined by multiplying the indirect cost percentage calculated by the COUNTY Indirect Cost Plan by all other costs listed in this Agreement.

- B. **Payment.** The COUNTY will invoice the CITY for its actual use of the System on or before January 15, 2014 for the use of the System in the preceding year. Payment by the CITY will be due thirty (30) days after receipt of the COUNTY'S invoice. At the sole option of the COUNTY, a penalty may be assessed on any late payment by the CITY based on lost interest earnings had the payment been timely paid and invested in the Spokane County Treasurer's Investment Pool. The CITY also agrees to pay juror fees and mileage on a monthly basis, parking costs on a monthly basis, state industrial insurance yearly along with administration costs. Indirect costs will be added to each monthly and annual billing.

SECTION NO. 4: SERVICES PROVIDED

The COUNTY, through the COURT, shall operate and provide the System to the CITY. The System is generally described as computer system maintenance, summoning, qualifying, organizing, tracking, providing and compensating jury panels for the CITY'S Municipal Court.

SECTION NO. 5: NOTICE

All notices or other communications given hereunder shall be deemed given on: (i) the day such notices or other communications are received when sent by personal delivery; or (ii) the third day following the day on which the same have been mailed by certified mail delivery, receipt requested and postage prepaid addressed to PARTIES at the address set forth below, or at such other address as the PARTIES shall from time-to-time designate by notice in writing to the other PARTIES:

COUNTY: Spokane County Chief Executive Officer or his/her authorized representative
1116 West Broadway Avenue
Spokane, Washington 99260

COURT: Spokane Superior Court Presiding Judge
Spokane County Superior Court
1116 West Broadway Avenue
Spokane, Washington 99260

CITY: City of Spokane Mayor or authorized representative
City Hall
808 West Spokane Falls Boulevard
Spokane, Washington 99201

Spokane Municipal Court Presiding Judge
Spokane Municipal Court
1110 West Mallon Avenue
Spokane, Washington 99260

SECTION NO. 6: COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute one and the same.

SECTION NO. 7: ASSIGNMENT

No Party may assign, in whole or in part, its interest in this Agreement without the approval of all other PARTIES.

SECTION NO. 8: LIABILITY

The COUNTY shall indemnify, defend and hold harmless the CITY, its officers and employees from all claims, demands, or suits in law or equity arising from the COUNTY'S/COURT'S intentional or negligent acts or breach of its obligations under the Agreement. The COUNTY'S duty to indemnify shall not apply to loss or liability caused by the intentional or negligent acts of the CITY, its officers and employees.

The CITY shall indemnify, defend and hold harmless the COUNTY/COURT, their officers and employees from all claims, demands, or suits in law or equity arising from the CITY'S intentional or negligent acts or breach of its obligations under the Agreement. The CITY'S duty to indemnify shall not apply to loss or liability caused by the intentional or negligent acts of the COUNTY/COURT, their officers and employees.

If the comparative negligence of the PARTIES and their officers and employees is a cause of such damage or injury, the liability, loss, cost, or expense shall be shared between the PARTIES

in proportion to their relative degree of negligence and the right of indemnity shall apply to such proportion.

Where an officer or employee of a Party is acting under the direction and control of the other Party, the Party directing and controlling the officer or employee in the activity and/or omission giving rise to liability shall accept all liability for the other Party's officer or employee's negligence.

Each Party's duty to indemnify shall survive the termination or expiration of the Agreement. Each Party waives, with respect to the other Party only, its immunity under RCW Title 51, Industrial Insurance. The PARTIES have specifically negotiated this provision.

SECTION NO. 9: RELATIONSHIP OF THE PARTIES

The PARTIES intend that an independent contractor relationship will be created by this Agreement. No agent, employee, servant or representative of the COUNTY/COURT shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose. Likewise, no agent, employee, servant or representative of the CITY shall be deemed to be an employee, agent, servant or representative of the COUNTY/COURT for any purpose.

SECTION NO. 10: MODIFICATION, WITHDRAWAL, NON-RENEWAL AND TERMINATION

This Agreement may be modified in writing by mutual agreement of the PARTIES.

Any Party may withdraw from this Agreement upon a minimum of ninety (90) days written notice to the other PARTIES of intent to withdraw. Any Party may terminate this Agreement upon a breach by the other Party, provided the Party seeking to terminate the Agreement shall provide at least 30 days written notice and an opportunity to cure by the breaching Party.

Upon withdrawal or termination, the CITY shall be obligated to pay for only those System services rendered prior to the date of withdrawal or termination.

The withdrawal of the CITY from this Agreement shall not impose a requirement on the COUNTY/COURT to provide for the funding or handling of System services for cases that are filed after the effective date of withdrawal.

SECTION NO. 11: PROPERTY AND EQUIPMENT

The ownership of all property and equipment utilized by any Party to meet its obligations under the terms of this Agreement shall remain with such Party.

SECTION NO. 12: VENUE STIPULATION

This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is mutually understood and agreed by each Party that this Agreement

shall be governed by the laws of the State of Washington both as to interpretation and performance. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement, or any provision hereto, shall be instituted only in courts of competent jurisdiction within Spokane County, Washington.

SECTION NO. 13: SEVERABILITY

It is understood and agreed among the PARTIES that if any parts, terms or provisions of this Agreement are held by the courts to be illegal, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the PARTIES shall not be affected in regard to the remainder of the Agreement. If it should appear that any part, term or provision of this Agreement is in conflict with any statutory provision of the State of Washington, then the part, term or provision thereof that may be in conflict shall be deemed inoperative and null and void insofar as it may be in conflict therewith and this Agreement shall be deemed to modify or conform to such statutory provision.

SECTION NO. 14: HEADINGS

The section headings appearing in this Agreement have been inserted solely for the purpose of convenience and ready reference. In no way do they purport to, and shall not be deemed to define, limit or extend the scope or intent of the sections to which they pertain.

SECTION NO. 15: ALL WRITINGS CONTAINED HEREIN/BINDING EFFECT

This Agreement contains terms and conditions agreed upon by the PARTIES. The PARTIES agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Agreement. No changes or additions to this Agreement shall be valid or binding upon the PARTIES unless such change or addition is in writing, executed by the PARTIES.

This Agreement shall be binding upon the PARTIES hereto, their successors and assigns.

SECTION NO. 16: AUDIT/RECORDS

The COUNTY AND COURT shall maintain for a minimum of three years following final payment all records related to its performance of the Agreement. The COUNTY and COURT shall provide access to authorized CITY representatives, including the City Auditor, 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.

SECTION NO. 17: 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, 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.

SECTION NO. 18: RCW 39.34 REQUIRED CLAUSES

A. PURPOSE

See Section No. 1 above.

B. DURATION

See Section No. 2 above.

C. ORGANIZATION OF SEPARATE ENTITY AND ITS POWERS

No new or separate legal or administrative entity is created to administer the provisions of this Agreement.

D. RESPONSIBILITIES OF THE PARTIES.

See provisions above.

E. AGREEMENT TO BE FILED.

The CITY shall file this Agreement with its City Clerk. The COUNTY shall file this Agreement with its County Auditor or place it on its web site.

F. FINANCING.

Each Party shall be responsible for the financing of its contractual obligations under its normal budgetary process.

G. TERMINATION.

See Section No. 10 above.

IN WITNESS WHEREOF, the PARTIES have caused this Agreement to be executed on the date and year opposite their respective signature blocks.

DATED: _____

SPOKANE COUNTY SUPERIOR COURT:

By: _____

Title: _____

DATED: _____

**BOARD OF COUNTY COMMISSIONERS
OF SPOKANE, COUNTY, WASHINGTON**

ATTEST:

SHELLY O'QUINN, Chairman

Daniela Erickson
Clerk of the Board

AL FRENCH, Vice chair

TODD MIELKE, Commissioner

DATED: _____

CITY OF SPOKANE

Attest:

By: _____

Title: _____

City Clerk

Approved as to form:

Approved as to form:

Assistant City Attorney

Deputy Civil Prosecutor

DATED: _____

CITY OF SPOKANE MUNICIPAL COURT:

By: _____

Title: _____

**Agenda Sheet for City Council Meeting of:**

02/11/2013

<u>Date Rec'd</u>	1/30/2013
<u>Clerk's File #</u>	OPR 2013-0091
<u>Renews #</u>	
<u>Cross Ref #</u>	OPR 2008-1140
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	

<u>Submitting Dept</u>	MANAGEMENT INFORMATION SERVICES
<u>Contact Name/Phone</u>	MICHAEL 625-6468 SLOON
<u>Contact E-Mail</u>	MSLOON@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Contract Item
<u>Agenda Item Name</u>	5300 ESRI INTERLOCAL (2013)

Agenda Wording

Interlocal Contract with multiple Agencies to pay Spokane County IS for participation in ESRI GIS Software Enterprise License Agreement. Three-year contract with one-year renewal option-per year cost up to \$125,000.00 approx. and starts January 2013.

Summary (Background)

Involved agencies are: Spokane County, Cities of Spokane and Spokane Valley, Spokane Regional Health District & SRTC. This Agreement provides numerous benefits including a lower cost-per-unit for licensed software, reduced administrative procurement expenses, maintenance on all ESRI software deployed within the organization, & complete flexibility to deploy software products when and where needed. Remittance address: Spokane County Treasurer PO Box 2244 Spokane, WA 99210-2244

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 125,000.00	#	5300-41630-18850-54820
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	SLOON, MICHAEL	<u>Study Session</u>	
<u>Division Director</u>	DUNIVANT, TIMOTHY	<u>Other</u>	
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	BURNS, BARBARA	Accounting - pdolan@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	Contract Accounting - mlesense@spokanecity.org	
<u>Additional Approvals</u>		Legal - bburns@spokanecity.org	
<u>Purchasing</u>	WAHL, CONNIE	Taxes & Licenses	
		Purchasing - cwahl@spokanecity.org	
		MIS – jhamilton@spokancity.org	
		Spokane County - ivonessen@spokanecounty.org	

**INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF SPOKANE, CITY
OF SPOKANE VALLEY, SPOKANE REGIONAL HEALTH DISTRICT, AND THE
SPOKANE REGIONAL TRANSPORTATION COUNCIL FOR PARTICIPATION IN
THE ESRI/SPOKANE COUNTY, WA RECONSOLIDATED ENTERPRISE LICENSE
AGREEMENT NO. 2004ESL6082, AS AMENDED AND RECONSOLIDATED
PURSUANT TO AMENDMENT 7**

THIS AGREEMENT, is made and entered into the _____ day of _____, 2013 by and between the CITY OF SPOKANE, a municipal corporation of the State of Washington, having offices for the transaction of business at 808 West Spokane Falls Boulevard, Spokane, Washington 99201; the CITY OF SPOKANE VALLEY, a municipal corporation of the State of Washington, having offices for the transaction of business at 11707 E. Sprague Avenue, Suite 106, Spokane Valley, Washington 99206; the SPOKANE REGIONAL HEALTH DISTRICT, a municipal corporation of the State of Washington, having offices for the transaction of business at 1101 W. College Avenue, Spokane, Washington 99201; the SPOKANE REGIONAL TRANSPORTATION COUNCIL, a municipal corporation of the State of Washington, having offices for the transaction of business at 221 W. First Avenue, Suite 310, Spokane, Washington 99201; and SPOKANE COUNTY, a political subdivision of the State of Washington having offices for the transaction of business at 1116 West Broadway, Spokane, WA 99260.

The CITY OF SPOKANE, the CITY OF SPOKANE VALLEY, the SPOKANE REGIONAL HEALTH DISTRICT, and the SPOKANE REGIONAL TRANSPORTATION COUNCIL are listed as "Participating Eligible Agencies" in Appendix A to the ESRI/Spokane County, WA Reconsolidated Enterprise License Agreement No. 2004ESL6082, As Amended and Reconsolidated Pursuant to Amendment 7. For purposes of this Agreement, they are hereinafter referred to as "the Participating Agencies." Spokane County is hereinafter referred to as "the County." Collectively, the Participating Agencies and the County are referred to as "the Parties."

WITNESSETH:

WHEREAS, pursuant to the provisions of RCW 36.32.120(6), the Board of County Commissioners of Spokane County has the care of County property and the management of County funds and business; and

WHEREAS, Chapter 39.34 RCW authorizes public agencies to contract with one another to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform; and

WHEREAS, the Parties have cooperated for many years in the use of Geographic Information Systems Resources by standardizing on ESRI GIS software in order to jointly build common interagency GIS data layers that have enabled the parties to providing geographic services that have best met the needs of the community while avoiding duplication of effort and cost; and

WHEREAS, in 2004, the Participating Agencies entered into interlocal agreements with the County to receive and use selected software, data and documentation subject to the terms and conditions set forth in Enterprise License Agreement No. 2004ESL6082 between Environmental Systems Research Institute, Inc.(ESRI), and the County; and

WHEREAS, in 2012, ESRI and the County have entered into the ESRI/Spokane County, WA Reconsolidated Enterprise License Agreement No. 2004ESL6082, as Amended and Reconsolidated pursuant to Amendment 7; and

WHEREAS, the Parties desire to reduce GIS software acquisition costs and continue to improve the efficiency of geographic services provided to the community; and

WHEREAS, the Participating Agencies are desirous of continuing to receive and use selected software, data and documentation subject to the terms and conditions set forth in the ESRI/Spokane County, WA Reconsolidated Enterprise License Agreement No. 2004ESL6082, as Amended and Reconsolidated pursuant to Amendment 7.

WHEREAS, the Parties desire to continue further cooperation by agreement;

NOW, THEREFORE, in consideration for the mutual terms and conditions contained herein the parties hereto covenant and agree as follows:

1. Purpose. The purpose of this Agreement is for the County to provide an opportunity for the Participating Agencies to acquire selected ESRI GIS software licenses, maintenance and other administrative services/benefits as delineated herein and under the terms and conditions of the ESRI/Spokane County, WA Reconsolidated Enterprise License Agreement No. 2004ESL6082, As Amended and Reconsolidated Pursuant to Amendment 7 (hereinafter referred to as "ELA"). Amendment 7 is attached hereto as Addendum A, and incorporated herein by this reference.

2. Participation. The Participating Agencies have been previously authorized to participate in the ELA, and have agreed to abide by the terms and conditions of the ELA applicable to a Licensee by signing this document. ESRI may pursue remedies against a Licensee directly for noncompliance of the terms of the ELA. Rights specifically granted to the County by ESRI are not to be extended to the Participating Agencies.

3. Additional Or Revised Terms. The Participating Agencies agree that additional or revised licensing terms for: (1) upgrades or updates to the Site License Software and Limited Deployment Software or (2) upgrades or updates non-Site License Software terms may be incorporated from time to time. These license revisions/updates shall be provided by the County to the Participating Agencies as they are incorporated into the ELA. Additional or revised terms and conditions for new software, data, documentation, shall be governed by the ELA, and any revised terms found in the then-current General License Terms and Conditions and Exhibit 1, the terms of which will be indicated on ESRI's Web site or enclosed in the deliverable's packaging, depending on the method of delivery. The pricelist(s) for non-Site License Software, Data, Documentation, maintenance for non-Site License Software items, training or services may be revised from time to time, but in no event shall pricing contained therein exceed standard

commercial pricing. Unless revised via mutual written amendment between ESRI and the County, the annual ELA fee paid by the County to ESRI is fixed for the term of the agreement. The items provided by ESRI in exchange for the fee are identified in the ELA and include selected software (type and quantity defined), maintenance for the defined software, limited virtual campus training and a fixed amount of ESRI User Conference registration passes.

4. Agreement Is Non-Exclusive. The Participating Agencies agree to officially name ESRI as their standard and further agrees to act as a reference for other ESRI customers and potential customers as long as this Agreement remains in effect. Notwithstanding, under no circumstances shall this Agreement be construed or interpreted as an exclusive dealings agreement and the Participating Agencies reserve the right to purchase from third parties any of their requirements for GIS software.

5. Scope Of Services. Services provided by the County Information Systems Department's GIS Division (ISD-GIS) are as follows:

- a. The County's ISD-GIS Division shall administer and manage the ESRI ELA for the Participating Agencies. The County will have the authority from ESRI to deploy ESRI Site License Software to the Participating Agencies. Additionally the County or Eligible Agencies may order training, services, custom software, and maintenance for standard licenses, or standard licenses for Software, Data, and Documentation separately under the applicable terms of this Agreement (excluding the Enterprise License Addendum Terms and Conditions, E512M) as further described in ESRI ELA Amendment 4.
- b. The County shall provide Tier 1 Technical Support via a Central GIS Help Desk. The County's ISD-GIS Division shall also maintain the official list of the eight (8) named individuals who may contact ESRI's Technical Support Group directly for Tier 2 Technical Support in Addendum B with at least one individual per Participating Agency.
- c. ESRI Conference Registrations and ESRI Virtual Campus Web-based Training Seats shall be distributed to the Participating Agencies, based on the percentage a given agency is contributing to the annual payment of the ELA and County ELA Administration Fee. The Participating Agencies will be entitled to at least once ESRI Conference Registrations per year upon request.
 - ii. Distributions of the ESRI Conference Registrations and ESRI Virtual Campus Web-based Training Seats will be based on the methods described in Section 6 c4 under INVOICING AND COST SHARING but summed for the entire year.
 - iii. Spokane County's ISD-GIS Division shall notify the Participating Agencies of its ESRI Conference Registrations and ESRI Virtual Campus Web-based Training Seats allocation for the coming year by January 15th of each year that the ELA remains in effect.

6. Invoicing And Cost Sharing. The County shall handle all invoicing associated with the ESRI ELA as follows.

- a. Make annual payments, year nine (\$230,000.00), year ten (\$237,000.00) and eleven (\$244,000.00) and potentially year twelve (\$251,000.00) to ESRI within 45 days of the anniversary date of ESRI ELA of 1 January for the term of the ELA.
- b. The County ELA Administration Fee will be \$5,000 for the administration of ESRI's ELA and include a proportional amount based on Information Systems Department's annual countywide cost allocation rate (Indirect Costs).
- c. Year nine through eleven (and potentially year twelve) proration's of County ELA Administration Fee and ESRI ELA License Fee shall be based on number of ESRI software licenses keyed to a given agency/licensee. An ESRI software license table will be maintained by the County's ISD-GIS Division and updated on a monthly basis for each licensee. Cost allocation of the portion of the ESRI ELA License Fee that a given agency/licensee would be responsible for will be calculated as follows:
 - i. Each individual ESRI software license will be associated with its associated standard ESRI maintenance fee, except for ArcEngine and ArcGIS Runtime (client) licenses which will be tabulated sans the maintenance fees. See Addendum E for Table of Standard ESRI Maintenance Fees.
 - ii. The sum of the standard ESRI maintenance fees for all keyed ESRI software licenses for given agency will then be calculated.
 - iii. The sum of all agencies standard maintenance fees will be calculated.
 - iv. The sum of each agency's individual standard ESRI maintenance fees calculated in Step 2 will be divided by the sum of all agencies standard maintenance fees calculated in Step 3. The result of this calculation will then be turned into a percentage by multiplying by 100. This percentage calculation for each agency will be generated on a monthly basis.
 - v. The sum \$235,000.00 for year nine, \$242,000.00 for year ten, \$249,000.00 eleven, and 255,000.00 for potentially twelve of the annual County ELA Administration Fee (\$5,000.00) and the annual ESRI ELA License Fee depending on the year of the agreement will then be divided by twelve and multiplied by a given agency's monthly percentage calculated in Step 4 and invoiced to that agency on a monthly basis by the County's Information Systems Department (ISD). All calculations for Steps 1-5 will be based on the ESRI software license table maintained by the County's ISD-GIS Division. This table is included in Addendum C. The Participating Agencies shall remit the funds due to the County within 30 days of invoicing. Monthly invoicing for years nine through eleven and potentially twelve begins in January of the preceding year as ESRI requires maintenance payments in advance for software and maintenance.

7. Request, Deployment, & Account Procedures Of Newly-Keyed ESRI AGREEMENT Site License Software. the County's ISD-GIS Division shall maintain the official list authorized individuals (one per licensee) in Addendum D who have the budget authority to request additional ESRI software covered by the ESRI AGREEMENT (as defined ESRI ELA Amendment 4). Requests by a given Eligible Agency for additional ESRI Software License must be sent to gissupport@spokanecounty.org. Newly keyed licenses will be added for that licensee on a monthly basis to the ESRI software license Table maintained by the County's ISD-GIS Division (as initially described in Addendum C). Newly keyed licenses will be incorporated on a monthly basis into the Cost allocation procedures describe in Section 6 c4 under INVOICING AND COST SHARING.

8. Compliance with Laws. Each party shall comply with all federal, state, and local laws and regulations.

9. Assignments. This Agreement 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.

10. Amendments. This Agreement may be amended at any time by mutual written agreement. No modification or amendment of this Agreement shall be valid until the same is reduced to writing and executed with the same formalities as this Agreement.

11. Anti-kickback. No officer or employee of the Participating Agencies, having the power or duty to perform an official act or action related to this Agreement 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.

12. Termination. Either party may terminate this Agreement by thirty (30) days' written notice to the other party. In the event of such termination, the Participating Agencies shall pay for any work completed up to the thirty (30) days or termination date.

13. Severability. In the event any provision of this Agreement should become invalid, the rest of the contract shall remain in full force and effect.

14. Nondiscrimination. No individual shall be excluded from participation in, denied benefit of, subject to discrimination under, or denied employment in the administration of or in connection with this Agreement because of race, color, creed, marital status, familial status, religion, sex, sexual orientation, national origin, Vietnam era or disabled veteran status, age, or disability. The Parties shall comply with all applicable federal, state and local nondiscrimination laws, regulations and policies.

15. Venue. This Agreement has and shall be construed as having been made and delivered in the State of Washington and the laws of the State of Washington shall be applicable to its construction and enforcement. Any action or judicial proceeding for the enforcement of this

Agreement, or any provision thereof, shall be instituted only in a court of competent jurisdiction within Spokane County, Washington.

16. All Writings Contained Herein. This Agreement contains all the terms and conditions agreed upon by the parties. 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.

17. Administration. No new or separate legal or administrative entity is created to administer the provisions of this Agreement.

18. Agreement To Be Filed. The Participating Agencies shall file this agreement with its Participating Agencies Clerk. The County shall file this agreement with the County Auditor.

19. Non-Waiver. No waiver by any the Parties of any of the terms of this Agreement shall be construed as a waiver of the same or other rights of that party in the future.

20. Headings. Headings are inserted for convenience of reference only and are not to be deemed part of or to be used in construing this Agreement.

21. Compliance With Laws. The Parties shall observe all federal, state and local laws, ordinances and regulations, to the extent that they may be applicable to the terms of this Agreement.

22. Relationship Of The Parties. The Parties intend that an independent contractor relationship will be created by this Agreement. The Participating Agencies are interested only in the results that could be achieved, and the conduct and control of all services will be solely with the County. No agent, employee, servant or otherwise of the County shall be deemed to be an employee, agent, servant, or otherwise of the Participating Agencies for any purpose, and the employees of the County are not entitled to any of the benefits that the Participating Agencies provides for the Participating Agencies' employees. The County will be solely and entirely responsible for its acts and the acts of its agents, employees, servants, subcontractors or otherwise, during the performance of this Agreement. The County does not have the power or authority to bind the Participating Agencies in any promise, agreement, or representation other than specifically provided for in this Agreement.

23. Enforcement Costs. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs, and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs, and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

24. Maintenance Of Records. The Parties will maintain, for at least three (3) years after completion of this agreement, all relevant records pertaining to the agreement. The Parties shall make available to other Parties, or the Washington State Auditor, or their duly authorized

representatives, at any time during their normal operating hours, all records, books or pertinent information which the Parties shall have kept in conjunction with this Agreement, and which the Parties may be required by law to include or make part of its auditing procedures, an audit trail, or which may be required for the purpose of funding the services contracted for herein.

25. Remedies. No remedy herein conferred upon the Parties is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any Party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

IN WITNESS WHEREOF, the Parties have caused this Interlocal Agreement to be executed on the date and year opposite their respective signatures.

SPOKANE COUNTY:

Date

Title

CITY OF SPOKANE:

Mayor

Date

CITY OF SPOKANE VALLEY:

City Manager

Date

SPOKANE REGIONAL HEALTH DISTRICT:

Date

Title

SPOKANE REGIONAL TRANSPORTATION COUNCIL:

Date

Title

ADDENDUM A



Amendment No. 7
Contract No. 2004ESL6082

Esri, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

This Amendment No. 7 is entered into by and between **Spokane County, Washington** (hereinafter referred to as "County") and **Environmental Systems Research Institute, Inc.** (hereinafter referred to as "Esri").

WHEREAS, Esri and County entered into an Enterprise License Agreement effective December 22nd, 2004 and Amendments 2, 4 and 5 extended the term until December 31st, 2012 ("Agreement"); and

WHEREAS, the parties desire to amend the Enterprise License Terms and Conditions of the Agreement to (i) update applicable appendices and (ii) extend the term until December 31st, 2015 ("Renewal Term") for an additional seven hundred and eleven thousand dollars (\$711,000);

NOW THEREFORE, the parties agree to the following:

1. Extend the term of this Agreement from January 1st, 2013 until December 31st, 2015 unless terminated earlier as provided in Article 7—Term, Termination, and Expiration ("Renewal Term").
2. Amend Appendix B Software and Deployment Schedule with the attached Renewal Term Appendix B Software and Deployment Schedule, which shall supersede and apply during the Renewal Term.
3. Amend Appendix C ELA Fee Schedule with the attached Renewal Term Appendix C ELA Fee Schedule, which shall supersede and apply during the Renewal Term.
4. Amend Appendix D County Annual Deployment Report with the attached Renewal Term Appendix D County Annual Deployment Report, which shall supersede and apply during the Renewal Term.

Except as may be specifically modified by this Amendment No. 7, all other terms and conditions of the Agreement and any Amendment(s) or Addendum(s) constitute the entire agreement between the parties and supersede all prior and contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 7 as of the date of the last party to sign below.

ACCEPTED AND AGREED:

SPOKANE COUNTY, WASHINGTON
(County)

By: _____

Printed Name: WILLIAM FIEDLER

Title: Information Systems Director

Date: 12-11-2012

ENVIRONMENTAL SYSTEMS
RESEARCH INSTITUTE, INC.
(Esri)

By: _____

Printed Name: WILLIS JOHNSON

Title: Manager, Domestic Contracts

Date: DEC 18, 2012

ADDENDUM A Cont.

RENEWAL TERM APPENDIX B SOFTWARE AND DEPLOYMENT SCHEDULE

County may Deploy the Enterprise License Software up to the total quantity of licenses indicated below during the Renewal Term of this ELA.

Table A-1
Enterprise License Software—Unlimited Quantities

Item	Total Qty./Seats to Be Deployed
ArcGIS for Desktop Software (Single Use or Concurrent Use)	
Basic (ArcView), Standard (ArcEditor), and Advanced (ArcInfo)	<i>unlimited</i>
ArcGIS for Desktop Extension Software (Single Use or Concurrent Use)	
Spatial Analyst, 3D Analyst, Geostatistical Analyst, Network Analyst, Publisher, Schematics, Workflow Manager, and Data Reviewer	<i>unlimited</i>
ArcGIS for Server Software (Basic/Standard/Advanced)	
ArcGIS Server Workgroup, and ArcGIS Server Enterprise	<i>unlimited</i>
ArcGIS for Server Extensions	
Image Extension, Spatial Analyst, 3D Analyst, and Network Analyst	<i>unlimited</i>
ArcGIS Engine	<i>unlimited</i>
ArcGIS Engine Extensions	
3D Analyst, Spatial Analyst, Geodatabase Update, Network Analyst, and Schematics	<i>unlimited</i>
ArcGIS Runtime Standard	<i>unlimited</i>
ArcGIS Runtime Extensions (Single Use)	
3D Analyst, Spatial Analyst, Network Analyst	<i>unlimited</i>

Table A-2
Enterprise License Software—Limited Quantities

Item	Rolled-In Qty. (if applicable)	Qty./Seats to Be Deployed	Total
Esri Developer Network (EDN) Standard annual subscriptions	-	9	9
Data Interoperability Desktop Extension (3 year Term Licenses)	-	2	2
Esri Mapping & Charting: <u>Esri Production Mapping</u>	-	3	3
Esri CityEngine Advanced Concurrent Use	-	2	2
ArcPad	-	12	12

Product	Number of Subscriptions	Named Users per Subscription	Annual Credits per Subscription
ArcGIS Online Subscription	2	50	10,000
Esri Virtual Campus	1	-	10,000

ADDENDUM A Cont.

RENEWAL TERM APPENDIX C ELA FEE SCHEDULE

The ELA Fee is \$711,000. The ELA Fee is in consideration of the Enterprise License Software, ELA Maintenance, Esri Developer Conference registrations and Esri International User Conference registrations.

	January 1 st , 2013 to December 31 st , 2013	January 1 st , 2014 to December 31 st , 2014	January 1 st , 2015 to December 31 st , 2015	ELA Fee
Payments	\$230,000	\$237,000	\$244,000	\$711,000

Optional Year (to be mutually agreed to by amendment):

	January 1 st , 2016 to December 31 st , 2016
Payments	\$251,000

Number of Esri International User Conference Registrations per Year	8
Number of Esri Developer Conference per Year	2
Number of Tier 2 Support Callers	8
Sets of Back-up Media (upon request)	2
Renewal Term of ELA	through December 31 st , 2015

INTERLOCAL AGREEMENT--16

SAMPLE REPORT—This report will be provided to Esri annually as an Excel spreadsheet or in a comparable format.

Page 4 of 4

ADDENDUM B

ELIGIBLE AGENCY STAFF WHO MAY CONTACT ESRI'S TECHNICAL SUPPORT GROUP DIRECTLY

SPOKANE COUNTY

ESRI Customer#	Eligible Agency Name	Authorized Individual	Phone Number	Expertise	Email Address
6505	SPOKANE COUNTY	MIKE STEWART	(509) 477-7253	Database Admin & SDE	mstewart@spokanecounty.org
6506	SPOKANE COUNTY	DAVE RIDEOUT	(509) 477-7251	GIS Transportation - Engineering Apps.	mstewart@spokanecounty.org
19292	SPOKANE COUNTY	SHAWNA ERNST	(509) 477-7531	GIS Web Services, GIS Analysis & Cadastral Apps.	sernst@spokanecounty.org
6505	SPOKANE COUNTY	DARCY HATHAWAY	(509) 477-4142	GIS Web Services	dhathaway@spokanecounty.org

CITY OF SPOKANE

ESRI Customer#	Eligible Agency Name	Authorized Individual	Phone Number	Expertise	Email Address
6742	CITY OF SPOKANE	MIKE SMITH	(509) 625-6457	GIS Utilities	BMSmith@SpokaneCity.org
6742	CITY OF SPOKANE	BILL MYERS	(509) 625-6418	Database Admin & SDE	bmyers@spokanecity.org

CITY OF SPOKANE VALLEY

Under contract w/ Spokane County ISD-GIS. All ESRI Technical Support will be initiated by Spokane County ISD-GIS

SPOKANE REGIONAL HEALTH DISTRICT

ESRI Customer#	Eligible Agency Name	Authorized Individual	Phone Number	Expertise	Email Address
14423	SPOKANE REGIONAL HEALTH DISTRICT	MARK SPRINGER	(509) 324-1448	GIS & Epidemiology	mspringer@spokanecounty.org

SPOKANE REGIONAL TRANSPORTATION COUNCIL

ESRI Customer#	Eligible Agency Name	Authorized Individual	Phone Number	Expertise	Email Address
40540	SPOKANE REGIONAL TRANSPORTATION DISTRICT	Kevin Shipman	(509) 343-6385	GIS & Transportation Planning	kshipman@src.org

ADDENDUM C

EXAMPLE: ESRI 2013 ELA Monthly Cost Allocation Splits for Eligible Agencies

Itemization of ESRI ELA Site License Fee		
ESRI Enterprise Site License	\$	230,000.00
Taxes	\$	19,383.60
ESRI ELA w taxes	\$	249,383.60
Total ESRI ELA Fee	\$	249,383.60
Total ESRI ELA Fee w/ County Fees	\$	261,720.60

Itemization of County Fees & Indirect Costs		2013 ESRI					
		Monthly		Prorated			
		Maintenance Input		County	County Admin	County Indirect	Total County
		Totals	%	Fees/Costs	Fee	Cost (3.19%)	Fees/Costs
Spokane County	\$	49,100.00	34.37%	\$ 4,240.44	\$ 5,000.00	\$ 7,337.00	\$ 12,337.00
City of Spokane	\$	80,650.00	56.46%	\$ 6,965.20			
SRTC	\$	3,500.00	2.45%	\$ 302.27			
Spokane County Health District	\$	1,700.00	1.19%	\$ 146.82			
Spokane Valley	\$	7,900.00	5.53%	\$ 682.27			
	\$	142,850.00	100.00%	\$ 12,337.00			

Itemization By Agency of ESRI ELA Fee & County Admin. Fee		2013 ESRI Monthly						
	Maintenance Input		ESRI ELA Base	ESRI ELA	Enterprise	Prorated	ESRI ELA &	
	Totals	%	Allocation	Splits	Increase Amount	County Fees	County Fees	
Spokane County	\$ 103,300.00	52.42%	\$ 120,573.46	\$ 130,734.97	\$ 27,434.97	\$ 4,240.44	\$ 134,975.41	
City of Spokane	\$ 80,650.00	40.93%	\$ 94,136.01	\$ 102,069.46	\$ 21,419.46	\$ 6,965.20	\$ 109,034.66	
SRTC	\$ 3,500.00	1.78%	\$ 4,085.26	\$ 4,429.55	\$ 929.55	\$ 302.27	\$ 4,731.82	
Spokane County Health District	\$ 1,700.00	0.86%	\$ 1,984.27	\$ 2,151.50	\$ 451.50	\$ 146.82	\$ 2,298.31	
Spokane Valley	\$ 7,900.00	4.01%	\$ 9,221.01	\$ 9,998.12	\$ 2,098.12	\$ 682.27	\$ 10,680.39	
	\$ 197,050.00	100.00%	\$ 230,000.00	\$ 249,383.60	\$ 52,333.60	\$ 12,337.00	\$ 261,720.60	

These table values change month to month based upon the number of software licenses requested by the Participating Agencies.

ADDENDUM C CONT.

EXAMPLE: ESRI 2014 ELA Monthly Cost Allocation Splits for Eligible Agencies

Itemization of ESRI ELA Site License Fee		
ESRI Enterprise Site License	\$	237,000.00
Taxes	\$	19,992.60
ESRI ELA w taxes	\$	256,992.60
 Total ESRI ELA Fee	\$	 256,992.60
Total ESRI ELA Fee w/ County Fees	\$	269,552.90

		2014 ESRI Monthly Maintenance Input		Prorated County Fees/Costs		County Admin Fee	County Indirect Cost (3.19%)	Total County Fees/Costs
Itemization of County Fees & Indirect Costs		Totals	%					
Spokane County	\$	49,100.00	34.37%	\$	4,317.19	\$ 5,000.00	\$ 7,560.30	\$ 12,560.30
City of Spokane	\$	80,650.00	56.46%	\$	7,091.27			
SRTC	\$	3,500.00	2.45%	\$	307.74			
Spokane County Health District	\$	1,700.00	1.19%	\$	149.48			
Spokane Valley	\$	7,900.00	5.53%	\$	694.62			
	\$	142,850.00	100.00%	\$	12,560.30			

		2014 ESRI Monthly Maintenance Input		ESRI ELA Base Allocation	ESRI ELA Splits	Enterprise Increase Amount	Prorated County Fees	ESRI ELA & County Fees
Itemization By Agency of ESRI ELA Fee & County Admin. Fee		Totals	%					
Spokane County	\$	103,300.00	52.42%	\$ 124,243.09	\$ 134,723.85	\$ 31,423.85	\$ 4,317.19	\$ 139,041.05
City of Spokane	\$	80,650.00	40.93%	\$ 97,001.01	\$ 105,183.73	\$ 24,533.73	\$ 7,091.27	\$ 112,275.00
SRTC	\$	3,500.00	1.78%	\$ 4,209.59	\$ 4,564.70	\$ 1,064.70	\$ 307.74	\$ 4,872.44
Spokane County Health District	\$	1,700.00	0.86%	\$ 2,044.66	\$ 2,217.14	\$ 517.14	\$ 149.48	\$ 2,366.61
Spokane Valley	\$	7,900.00	4.01%	\$ 9,501.65	\$ 10,303.18	\$ 2,403.18	\$ 694.62	\$ 10,997.80
	\$	197,050.00	100.00%	\$ 237,000.00	\$ 256,992.60	\$ 59,942.60	\$ 12,560.30	\$ 269,552.90

These table values change month to month based upon the number of software licenses requested by the Participating Agencies.

ADDENDUM C CONT.

EXAMPLE: ESRI 2015 ELA Monthly Cost Allocation Splits for Eligible Agencies

Itemization of ESRI ELA			
Site License Fee			
ESRI Enterprise Site License	\$	244,000.00	
Taxes	\$	20,601.60	
ESRI ELA w taxes	\$	264,601.60	
Total ESRI ELA Fee	\$	264,601.60	
Total ESRI ELA Fee w/ County Fees	\$	277,385.20	

		2015 ESRI					
		Monthly		Prorated		County Admin	
Itemization of County		Maintenance Input		County		County Indirect	
Fees & Indirect Costs		Totals		Fees/Costs		Cost (3.19%)	
		%				Total County	
Spokane County	\$	49,100.00	34.37%	\$	4,393.94	\$	12,783.60
City of Spokane	\$	80,650.00	56.46%	\$	7,217.34		
SRTC	\$	3,500.00	2.45%	\$	313.21		
Spokane County Health District	\$	1,700.00	1.19%	\$	152.13		
Spokane Valley	\$	7,900.00	5.53%	\$	706.97		
	\$	142,850.00	100.00%	\$	12,783.60		

		2015 ESRI							
		Monthly							
Itemization By Agency of		Maintenance Input		ESRI ELA Base		ESRI ELA		Enterprise	
ESRI ELA Fee & County		Totals		Allocation		Splits		Increase Amount	
Admin. Fee		%						Prorated	
Spokane County	\$	103,300.00	52.42%	\$	127,912.71	\$	138,712.74	\$	4,393.94
City of Spokane	\$	80,650.00	40.93%	\$	99,866.02	\$	108,297.99	\$	7,217.34
SRTC	\$	3,500.00	1.78%	\$	4,333.93	\$	4,699.85	\$	313.21
Spokane County Health District	\$	1,700.00	0.86%	\$	2,105.05	\$	2,282.78	\$	152.13
Spokane Valley	\$	7,900.00	4.01%	\$	9,782.29	\$	10,608.23	\$	706.97
	\$	197,050.00	100.00%	\$	244,000.00	\$	264,601.60	\$	12,783.60
						\$	67,551.60	\$	277,385.20

These table values change month to month based upon the number of software licenses requested by the Participating Agencies.

ADDENDUM C CONT.

EXAMPLE: ESRI 2016 ELA Monthly Cost Allocation Splits for Eligible Agencies

Itemization of ESRI ELA		
Site License Fee		
ESRI Enterprise Site License	\$	251,000.00
Taxes	\$	21,210.60
ESRI ELA w taxes	\$	272,210.60
Total ESRI ELA Fee	\$	272,210.60
Total ESRI ELA Fee w/ County Fees	\$	285,217.50

Itemization of County Fees & Indirect Costs		2016 ESRI Monthly Maintenance Input		Prorated County Fees/Costs	County Admin Fee	County Indirect Costs (3.19%)	Total County Fees/Costs
		Totals	%				
Spokane County	\$	49,100.00	34.37%	\$ 4,470.70	\$ 5,000.00	\$ 8,006.90	\$ 13,006.90
City of Spokane	\$	80,650.00	56.46%	\$ 7,343.41			
SRTC	\$	3,500.00	2.45%	\$ 318.68			
Spokane County Health District	\$	1,700.00	1.19%	\$ 154.79			
Spokane Valley	\$	7,900.00	5.53%	\$ 719.32			
	\$	142,850.00	100.00%	\$ 13,006.90			

Itemization By Agency of ESRI ELA Fee & County Admin. Fee		2016 ESRI Monthly Maintenance Input		ESRI ELA Base Allocation	ESRI ELA Splits	Enterprise Increase Amount	Prorated County Fees	ESRI ELA & County Fees
		Totals	%					
Spokane County	\$	103,300.00	52.42%	\$ 131,582.34	\$ 142,701.62	\$ 39,401.62	\$ 4,470.70	\$ 147,172.32
City of Spokane	\$	80,650.00	40.93%	\$ 102,731.03	\$ 111,412.26	\$ 30,762.26	\$ 7,343.41	\$ 118,755.67
SRTC	\$	3,500.00	1.78%	\$ 4,458.26	\$ 4,835.00	\$ 1,335.00	\$ 318.68	\$ 5,153.69
Spokane County Health District	\$	1,700.00	0.86%	\$ 2,165.44	\$ 2,348.43	\$ 648.43	\$ 154.79	\$ 2,503.22
Spokane Valley	\$	7,900.00	4.01%	\$ 10,062.93	\$ 10,913.29	\$ 3,013.29	\$ 719.32	\$ 11,632.61
	\$	197,050.00	100.00%	\$ 251,000.00	\$ 272,210.60	\$ 75,160.60	\$ 13,006.90	\$ 285,217.50

These table values change month to month based upon the number of software licenses requested by the Participating Agencies.

ADDENDUM D
ELGIBLE AGENCY AUTHORIZED INDIVIDUALS
FOR SOFTWARE REQUESTS

(The following individuals have budget authority within their agency to make requests to Spokane County ISD-GIS for ESRI software covered by the ESRI ELA)

CITY OF SPOKANE

ESRI Customer#	Eligible Agency Name	Authorized Individual	Phone Number	Email Address
6742	CITY OF SPOKANE	BILL MYERS	(509) 625-6418	bmvers@spokanecity.org

CITY OF SPOKANE VALLEY

ESRI Customer#	Eligible Agency Name	Authorized Individual	Phone Number	Email Address
	CITY OF SPOKANE VALLEY	MORGAN KOUDELKA	(509) 720-5104	mkoudelka@spokanevalley.org

SPOKANE REGIONAL HEALTH DISTRICT

ESRI Customer#	Eligible Agency Name	Authorized Individual	Phone Number	Email Address
14423	SPOKANE REGIONAL HEALTH DISTRICT	MARK SPRINGER	(509) 324-1448	mspringer@spokanecountv.org

SPOKANE REGIONAL TRANSPORTATION COUNCIL

ESRI Customer#	Eligible Agency Name	Authorized Individual	Phone Number	Email Address
40540	SPOKANE REGIONAL TRANSPORTATION DISTRICT	KEVIN WALLACE	(509) 343-6370	kwallace@src.org

ADDENDUM E

MPA PRICELIST		
E407-4Q12		
Section	Description	Price
1	ArcGIS for Desktop Concurrent Use Licenses Maintenance	
	Primary Maintenance for ArcGIS for Desktop Advanced Concurrent Use License (primary 1st, 11th, 21st, 31st...)	\$3,000.00
	Secondary Maintenance for ArcGIS for Desktop Advanced Concurrent Use License (secondary 2-10, 12-20...)	\$1,200.00
	Primary Maintenance for ArcGIS for Desktop Standard Concurrent Use License	\$1,500.00
	Secondary Maintenance for ArcGIS for Desktop Standard Concurrent Use License	\$1,200.00
	Primary Maintenance for ArcGIS for Desktop Basic Concurrent Use License	\$700.00
	Secondary Maintenance for ArcGIS for Desktop Basic Concurrent Use License	\$500.00
1	ArcGIS Extensions for Desktop Concurrent Use Licenses Maintenance	
	Primary Maintenance for ArcGIS Spatial Analyst for Desktop Concurrent Use License	\$500.00
	Secondary Maintenance for ArcGIS Spatial Analyst for Desktop Concurrent Use License	\$200.00
	Primary Maintenance for ArcGIS 3D Analyst for Desktop Concurrent Use License	\$500.00
	Secondary Maintenance for ArcGIS 3D Analyst for Desktop Concurrent Use License	\$200.00
	Primary Maintenance for ArcGIS Geostatistical Analyst for Desktop Concurrent Use License	\$500.00
	Secondary Maintenance for ArcGIS Geostatistical Analyst for Desktop Concurrent Use License	\$200.00
	Primary Maintenance for ArcGIS Publisher for Desktop Concurrent Use License	\$500.00
	Secondary Maintenance for ArcGIS Publisher for Desktop Concurrent Use License	\$200.00
	Primary Maintenance for ArcGIS Tracking Analyst for Desktop Concurrent Use License	\$500.00
	Secondary Maintenance for ArcGIS Tracking Analyst for Desktop Concurrent Use License	\$200.00
	Primary Maintenance for ArcGIS Data Interoperability for Desktop Concurrent Use License	\$500.00
	Secondary Maintenance for ArcGIS Data Interoperability for Desktop Concurrent Use License	\$200.00
	Primary Maintenance for ArcGIS Network Analyst for Desktop Concurrent Use License	\$500.00
	Secondary Maintenance for ArcGIS Network Analyst for Desktop Concurrent Use License	\$200.00
	Primary Maintenance for ArcGIS Schematics for Desktop Concurrent Use License	\$500.00
	Secondary Maintenance for ArcGIS Schematics for Desktop Concurrent Use License	\$200.00
	Primary Maintenance for ArcGIS Workflow Manager for Desktop Concurrent Use License	\$500.00
	Secondary Maintenance for ArcGIS Workflow Manager for Desktop Concurrent Use License	\$200.00
	Primary Maintenance for ArcGIS Data Reviewer for Desktop Concurrent Use License	\$500.00
	Secondary Maintenance for ArcGIS Data Reviewer for Desktop Concurrent Use License	\$200.00
1	ArcGIS for Desktop Single Use Licenses Maintenance	
	Primary Maintenance for ArcGIS for Desktop Advanced Single Use License (core only)	\$3,000.00
	Secondary Maintenance for ArcGIS for Desktop Advanced Single Use License (core only)	\$1,200.00
	Primary Maintenance for ArcGIS for Desktop Standard Single Use License (without extensions)	\$1,500.00
	Secondary Maintenance for ArcGIS for Desktop Standard Single Use License (without extensions)	\$1,200.00
	Primary Maintenance for ArcGIS for Desktop Standard Single Use License (with extensions)	\$2,100.00
	Secondary Maintenance for ArcGIS for Desktop Standard Single Use License (with extensions)	\$1,800.00
	Primary Maintenance for ArcGIS for Desktop Basic Single Use License (core only)	\$400.00
	Secondary Maintenance for ArcGIS for Desktop Basic Single Use License (core only)	\$300.00
	Primary Maintenance for ArcGIS for Desktop Basic Single Use License (core plus extensions)	\$1,000.00
	Secondary Maintenance for ArcGIS for Desktop Basic Single Use License (core plus extensions)	\$900.00
1	ArcGIS Extensions for Desktop Advanced Single Use Licenses Maintenance	
	Primary Maintenance for ArcGIS Spatial Analyst for Desktop Advanced Single Use License	\$500.00
	Secondary Maintenance for ArcGIS Spatial Analyst for Desktop Advanced Single Use License	\$200.00
	Primary Maintenance for ArcGIS Geostatistical Analyst for Desktop Advanced Single Use License	\$500.00
	Secondary Maintenance for ArcGIS Geostatistical Analyst for Desktop Advanced Single Use License	\$200.00
	Primary Maintenance for ArcGIS Network Analyst for Desktop Advanced Single Use License	\$500.00
	Secondary Maintenance for ArcGIS Network Analyst for Desktop Advanced Single Use License	\$200.00
	Primary Maintenance for ArcGIS 3D Analyst for Desktop Advanced Single Use License	\$500.00
	Secondary Maintenance for ArcGIS 3D Analyst for Desktop Advanced Single Use License	\$200.00
	Primary Maintenance for ArcGIS Tracking Analyst for Desktop Advanced Single Use License	\$500.00
	Secondary Maintenance for ArcGIS Tracking Analyst for Desktop Advanced Single Use License	\$200.00
	Primary Maintenance for ArcGIS Publisher for Desktop Advanced Single Use License	\$500.00
	Secondary Maintenance for ArcGIS Publisher for Desktop Advanced Single Use License	\$200.00
	Primary Maintenance for ArcGIS Schematics for Desktop Advanced Single Use License	\$500.00
	Secondary Maintenance for ArcGIS Schematics for Desktop Advanced Single Use License	\$200.00
	Primary Maintenance for ArcGIS Data Interoperability for Desktop Advanced Single Use License	\$500.00
	Secondary Maintenance for ArcGIS Data Interoperability for Desktop Advanced Single Use License	\$200.00
	Primary Maintenance for ArcGIS Data Reviewer for Desktop Advanced Single Use License	\$500.00
	Secondary Maintenance for ArcGIS Data Reviewer for Desktop Advanced Single Use License	\$200.00
	Primary Maintenance for ArcGIS Workflow Manager for Desktop Advanced Single Use License	\$500.00
	Secondary Maintenance for ArcGIS Workflow Manager for Desktop Advanced Single Use License	\$200.00
	Annual Maintenance for Esri Roads and Highways for Desktop Concurrent Use License	\$2,500.00

ADDENDUM E Cont.

3	Esri CityEngine	
	Primary Maintenance for Esri CityEngine Advanced Concurrent Use License	\$800.00
	Secondary Maintenance for Esri CityEngine Advanced Concurrent Use License	\$675.00
	Primary Maintenance for Esri CityEngine Advanced Single Use License	\$800.00
	Secondary Maintenance for Esri CityEngine Advanced Single Use License	\$675.00
	Primary Maintenance for Esri CityEngine Basic Single Use License	\$100.00
	Secondary Maintenance for Esri CityEngine Basic Single Use License	\$85.00
4	ArcGIS Engine Licenses	
	Annual Maintenance for ArcGIS Engine Single Use License (without extensions)	\$100.00
	Annual Maintenance for ArcGIS Engine Single Use License (with one or more extensions)	\$400.00
	Primary Maintenance for ArcGIS Engine Concurrent Use License	\$250.00
	Secondary Maintenance for ArcGIS Engine Concurrent Use License	\$185.00
4	ArcGIS Extensions for Engine Maintenance	
	Primary Maintenance for ArcGIS 3D Analyst for Engine Concurrent Use License	\$200.00
	Secondary Maintenance for ArcGIS 3D Analyst for Engine Concurrent Use License	\$150.00
	Primary Maintenance for ArcGIS Spatial Analyst for Engine Concurrent Use License	\$200.00
	Secondary Maintenance for ArcGIS Spatial Analyst for Engine Concurrent Use License	\$150.00
	Primary Maintenance for ArcGIS Engine Geodatabase Update Concurrent Use License	\$200.00
	Secondary Maintenance for ArcGIS Engine Geodatabase Update Concurrent Use License	\$150.00
	Primary Maintenance for ArcGIS Schematics for Engine Concurrent Use License	\$200.00
	Secondary Maintenance for ArcGIS Schematics for Engine Concurrent Use License	\$150.00
	Primary Maintenance for ArcGIS Network Analyst for Engine Concurrent Use License	\$200.00
	Secondary Maintenance for ArcGIS Network Analyst for Engine Concurrent Use License	\$150.00
	Primary Maintenance for ArcGIS Tracking Analyst for Engine Concurrent Use License	\$200.00
	Secondary Maintenance for ArcGIS Tracking Analyst for Engine Concurrent Use License	\$150.00
	Primary Maintenance for ArcGIS Data Interoperability for Engine Concurrent Use License	\$200.00
	Secondary Maintenance for ArcGIS Data Interoperability for Engine Concurrent Use License	\$150.00
4	ArcGIS Runtime	
	Annual Maintenance for ArcGIS Runtime Standard 25-Pack Single Use Deployment License	\$1,000.00
4	ArcGIS Extensions for ArcGIS Runtime	
	Annual Maintenance for ArcGIS 3D Analyst for Runtime Standard 25-Pack Single Use Deployment License	\$2,000.00
	Annual Maintenance for ArcGIS Network Analyst for Runtime Standard 25-Pack Single Use Deployment License	\$2,000.00
	Annual Maintenance for ArcGIS Spatial Analyst for Runtime Standard 25-Pack Single Use Deployment License	\$2,000.00
5	ArcGIS for Server Enterprise	
5	ArcGIS for Server Enterprise Advanced	
	Annual Maintenance for ArcGIS for Server Enterprise Advanced (up to four cores)	\$10,000.00
	Annual Maintenance for ArcGIS for Server Enterprise Advanced (additional cores)	\$2,500.00
5	ArcGIS for Server Enterprise Standard	
	Annual Maintenance for ArcGIS for Server Enterprise Standard (up to four cores)	\$5,000.00
	Annual Maintenance for ArcGIS for Server Enterprise Standard (additional cores)	\$1,250.00
5	ArcGIS for Server Enterprise Basic	
	Annual Maintenance for ArcGIS for Server Enterprise Basic (up to four cores)	\$3,000.00
	Annual Maintenance for ArcGIS for Server Enterprise Basic (additional cores)	\$750.00
5	ArcGIS for Server Workgroup Advanced	
	Annual Maintenance for ArcGIS for Server Workgroup Advanced (up to two cores)	\$2,500.00
	Annual Maintenance for ArcGIS for Server Workgroup Advanced (additional cores—maximum four cores per server)	\$1,250.00
5	ArcGIS for Server Workgroup Standard	
	Annual Maintenance for ArcGIS for Server Workgroup Standard (up to two cores)	\$1,250.00
	Annual Maintenance for ArcGIS for Server Workgroup Standard (additional cores—maximum four cores per server)	\$625.00
5	ArcGIS for Server Workgroup Basic	
	Annual Maintenance for ArcGIS for Server Workgroup Basic—(price per server [core pricing does not apply]—minimum	\$1,250.00
5	ArcGIS Extensions for Server Enterprise Advanced	
	Annual Maintenance for ArcGIS Data Interoperability for Server Enterprise Advanced (up to four cores)	\$2,500.00
	Annual Maintenance for ArcGIS Data Interoperability for Server Enterprise Advanced (additional cores)	\$625.00
	Annual Maintenance for ArcGIS Image Extension for Server Enterprise Advanced (up to four cores)	\$2,500.00
	Annual Maintenance for ArcGIS Image Extension for Server Enterprise Advanced (additional cores)	\$625.00
	Annual Maintenance for ArcGIS Workflow Manager for Server Enterprise Advanced (up to four cores)	\$2,500.00
	Annual Maintenance for ArcGIS Workflow Manager for Server Enterprise Advanced (additional cores)	\$625.00
	Annual Maintenance for Data Reviewer for Server Enterprise Advanced (up to four cores)	\$2,500.00
	Annual Maintenance for Data Reviewer for Server Enterprise Advanced (additional cores)	\$625.00
	Annual Maintenance for Esri Roads and Highways for Server Enterprise Advanced (up to four cores)	\$2,500.00
	Annual Maintenance for Esri Roads and Highways for Server Enterprise Advanced (additional cores)	\$625.00

ADDENDUM E Cont.

5	ArcGIS Extensions for Server Enterprise Standard	
	Annual Maintenance for ArcGIS Data Interoperability for Server Enterprise Standard (up to four cores)	\$2,500.00
	Annual Maintenance for ArcGIS Data Interoperability for Server Enterprise Standard (additional cores)	\$625.00
	Annual Maintenance for ArcGIS Workflow Manager for Server Enterprise Standard (up to four cores)	\$2,500.00
	Annual Maintenance for ArcGIS Workflow Manager for Server Enterprise Standard (additional cores)	\$625.00
	Annual Maintenance for ArcGIS Network Analyst for Server Enterprise Standard (up to four cores)	\$2,500.00
	Annual Maintenance for ArcGIS Network Analyst for Server Enterprise Standard (additional cores)	\$625.00
	Annual Maintenance for ArcGIS Image Extension for Server Enterprise Standard (up to four cores)	\$2,500.00
	Annual Maintenance for ArcGIS Image Extension for Server Enterprise Standard (additional cores)	\$625.00
	Annual Maintenance for ArcGIS Data Reviewer for Server Enterprise Standard (up to four cores)	\$2,500.00
	Annual Maintenance for ArcGIS Data Reviewer for Server Enterprise Standard (additional cores)	\$625.00
	Annual Maintenance for Esri Roads and Highways for Server Enterprise Standard (up to four cores)	\$2,500.00
	Annual Maintenance for Esri Roads and Highways for Server Enterprise Standard (additional cores)	\$625.00
5	ArcGIS Extensions for Server Workgroup Advanced	
	Annual Maintenance for ArcGIS Data Interoperability for Server Workgroup Advanced (maximum four cores) License	\$1,250.00
	Annual Maintenance for ArcGIS Workflow Manager for Server Workgroup Advanced (maximum four cores) License	\$1,250.00
	Annual Maintenance for ArcGIS Image Extension for Server Workgroup Advanced (maximum four cores) License	\$1,250.00
	Annual Maintenance for ArcGIS Data Reviewer for Server Workgroup Advanced (maximum four cores) License	\$1,250.00
	Annual Maintenance for Esri Roads and Highways for Server Workgroup Advanced (maximum four cores) License	\$1,250.00
5	ArcGIS Extensions for Server Workgroup Standard	
	Annual Maintenance for ArcGIS Data Interoperability for Server Workgroup Standard (maximum four cores) License	\$1,250.00
	Annual Maintenance for ArcGIS Workflow Manager for Server Workgroup Standard (maximum four cores) License	\$1,250.00
	Annual Maintenance for ArcGIS Network Analyst for Server Workgroup Standard (maximum four cores) License	\$1,250.00
	Annual Maintenance for Image Extension for Server Workgroup Standard (maximum four cores) License	\$1,250.00
	Annual Maintenance for ArcGIS Data Reviewer for Server Workgroup Standard (maximum four cores) License	\$1,250.00
	Annual Maintenance for Esri Roads and Highways for Server Workgroup Standard (maximum four cores) License	\$1,250.00
5	ArcGIS for Server Enterprise Staging Server	
5	ArcGIS for Server Enterprise Advanced Staging Server	
	Annual Maintenance for ArcGIS for Server Enterprise Advanced (up to four cores) Staging Server	\$5,000.00
	Annual Maintenance for ArcGIS for Server Enterprise Advanced (additional cores) Staging Server	\$1,250.00
5	ArcGIS for Server Enterprise Standard Staging Server	
	Annual Maintenance for ArcGIS for Server Enterprise Standard (up to four cores) Staging Server	\$2,500.00
	Annual Maintenance for ArcGIS for Server Enterprise Standard (additional cores) Staging Server	\$625.00
5	ArcGIS for Server Enterprise Basic Staging Server	
	Annual Maintenance for ArcGIS for Server Enterprise Basic (up to four cores) Staging Server	\$1,500.00
	Annual Maintenance for ArcGIS for Server Enterprise Basic (additional cores) Staging Server	\$375.00
5	ArcGIS Extensions for Server Enterprise Staging Server	
5	ArcGIS Extensions for Server Enterprise Advanced Staging Server	
	Annual Maintenance for ArcGIS Data Interoperability for Server Enterprise Advanced (up to four cores) Staging Server	\$1,250.00
	Annual Maintenance for ArcGIS Data Interoperability for Server Enterprise Advanced (additional cores) Staging Server	\$313.00
	Annual Maintenance for ArcGIS Image Extension for Server Enterprise Advanced (up to four cores) Staging Server	\$1,250.00
	Annual Maintenance for ArcGIS Image Extension for Server Enterprise Advanced (additional cores) Staging Server	\$313.00
	Annual Maintenance for ArcGIS Workflow Manager for Server Enterprise Advanced (up to four cores) Staging Server	\$1,250.00
	Annual Maintenance for ArcGIS Workflow Manager for Server Enterprise Advanced (additional cores) Staging Server	\$313.00
	Annual Maintenance for ArcGIS Data Reviewer for Server Enterprise Advanced (up to four cores) Staging Server	\$1,250.00
	Annual Maintenance for ArcGIS Data Reviewer for Server Enterprise Advanced (additional cores) Staging Server	\$313.00
	Annual Maintenance for Esri Roads and Highways for Server Enterprise Advanced (up to four cores) Staging Server	\$1,250.00
	Annual Maintenance for Esri Roads and Highways for Server Enterprise Advanced (additional cores) Staging Server	\$313.00

ADDENDUM E Cont.

5	ArcGIS Extensions for Server Enterprise Standard Staging Server	
	Annual Maintenance for ArcGIS Data Interoperability for Server Enterprise Standard (up to four cores) Staging Server	\$1,250.00
	Annual Maintenance for ArcGIS Data Interoperability for Server Enterprise Standard (additional cores) Staging Server	\$313.00
	Annual Maintenance for ArcGIS Workflow Manager for Server Enterprise Standard (up to four cores) Staging Server	\$1,250.00
	Annual Maintenance for ArcGIS Workflow Manager for Server Enterprise Standard (additional cores) Staging Server	\$313.00
	Annual Maintenance for ArcGIS Network Analyst for Server Enterprise Standard (up to four cores) Staging Server	\$1,250.00
	Annual Maintenance for ArcGIS Network Analyst for Server Enterprise Standard (additional cores) Staging Server	\$313.00
	Annual Maintenance for ArcGIS Image Extension for Server Enterprise Standard (up to four cores) Staging Server	\$1,250.00
	Annual Maintenance for ArcGIS Image Extension for Server Enterprise Standard (additional cores) Staging Server	\$313.00
	Annual Maintenance for ArcGIS Data Reviewer for Server Enterprise Standard (up to four cores) Staging Server	\$1,250.00
	Annual Maintenance for ArcGIS Data Reviewer for Server Enterprise Standard (additional cores) Staging Server	\$313.00
	Annual Maintenance for Esri Roads and Highways for Server Enterprise Standard (up to four cores) Staging Server	\$1,250.00
	Annual Maintenance for Esri Roads and Highways for Server Enterprise Standard (additional cores) Staging Server	\$313.00
12	Other Software	
12	Esri Mapping and Charting	
	Annual Maintenance for Esri Production Mapping Concurrent Use License	\$2,500.00
	Annual Maintenance for Esri Production Mapping Single Use License	\$2,500.00
13	Mobile GIS	
13	ArcPad	
	Annual Maintenance for ArcPad Single Use License	\$250.00



Agenda Sheet for City Council Meeting of: 02/11/2013

Date Rec'd	1/30/2013
Clerk's File #	OPR 2013-0092
Renews #	
Cross Ref #	
Project #	2010102
Bid #	
Requisition #	REVENUE

Submitting Dept	ENGINEERING SERVICES
Contact Name/Phone	MARCIA DAVIS 625-6398
Contact E-Mail	MDAVIS@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	0370-LOAN AGREEMENT-DOE-CSO BASIN 41

Agenda Wording

Loan Agreement between Washington Department of Ecology and the City of Spokane for construction of Combined Sewer Overflow (CSO) Basin 41 Control Facility.

Summary (Background)

This Loan is for the construction of an underground storage tank, flow control features, cleaning system, and connection pipe. However, this loan agreement includes flexibility to use the funding at another location. "The design of the project may change, but the scope of work will remain the same – CSO reduction to the Spokane River." The City applied for construction funding for CSO Basin 41 Control Facility in November 2011, before the integrated strategy for CSO was discussed. (See attached)

Fiscal Impact		Budget Account	
Revenue	\$ 4,968,600.00	#	4370 43390 99999 38271
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
<u>Dept Head</u>	TAYLOR, MIKE	<u>Study Session</u>	
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u>	Public Works 1/28/13
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	BURNS, BARBARA	sdecker@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	pdolan@spokanecity.org	
<u>Additional Approvals</u>		mlesesne@spokanecity.org	
<u>Purchasing</u>	WAHL, CONNIE	mdavis@spokanecity.org	
		kemiller@spokanecity.org	
		mhughes@spokanecity.org	
		htrautman@spokanecity.org	



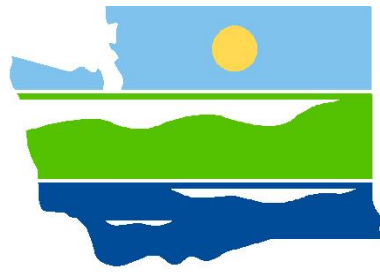
Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

CSO Basin 41 is not part of the Big 6, the six CSO basins with the largest discharges (CSO Basins 6, 12, 24, 26, 33 and 34). The loan agreement includes a task for Wet Weather Integrated Strategic Plan Approach that will prioritize on a cost/benefit basis. As the Integrated Plan develops, another CSO project may be prioritized and this funded used for the greater priority. Funding for the CSO Basin 41 Control Facility will be used to reduce the untreated sewage discharging to the Spokane River.

[illegible]



DEPARTMENT OF ECOLOGY

State of Washington

**WASHINGTON STATE WATER POLLUTION CONTROL REVOLVING FUND
LOAN AGREEMENT
BETWEEN
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
THE CITY OF SPOKANE**

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**WASHINGTON STATE WATER POLLUTION CONTROL REVOLVING FUND
LOAN AGREEMENT
BETWEEN
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
THE CITY OF SPOKANE
FOR
SPOKANE CSO BASIN 41 CONTROL FACILITY PROJECT**

THIS is a binding loan [LOAN] agreement entered into by and between the state of Washington Department of Ecology [DEPARTMENT] and the City of Spokane [RECIPIENT]. The purpose of this LOAN agreement is to provide funds to the RECIPIENT to carry out the activities for the project [PROJECT] described in this LOAN agreement.

This LOAN agreement consists of 12 pages and 8 attachments.

Capitalized terms used, but not otherwise defined, in this LOAN agreement are defined in ATTACHMENT 5.

PART I. GENERAL INFORMATION

PROJECT Title:	CSO Basin 41 Control Facility
PROJECT Period: Effective Date: <i>(See Attachment 4)</i>	July 1, 2012
Completion Date:	December 31, 2016
LOAN Number(s):	L1300014
Standard Interest LOAN Amount:	\$4,968,000
Interest Rate:	2.7%
LOAN Term:	20 years
State Fiscal Year:	2013

RECIPIENT Information

RECIPIENT Name:	City of Spokane
Mailing Address:	808 W Spokane Falls Boulevard Spokane, WA 99201-3334
FEDERAL TAXPAYER ID NUMBER:	91-6001280
Data Universal Numbering System (DUNS) Number:	829976377

PROJECT Contact:
PROJECT Manager:

Marcia Davis
Marcia Davis

Mailing Address:

808 W Spokane Falls Boulevard
Spokane, WA 99201-3334

Email Address:
Phone Number:
Fax Number:

mdavis@spokanecity.org
(509) 625-6398
(509) 343-5760

DEPARTMENT Project Contact Information

PROJECT Manager:
Email Address:
Phone Number:
Fax Number:
Address

Cynthia Wall
cynthia.wall@ecy.wa.gov
(509) 329-3537
(509) 329-3570

Address

<input type="checkbox"/> Northwest WA State Department of Ecology Northwest Regional Office 3190 160 th Ave SE Bellevue, WA 98008-5452 Fax (425) 649-7098	<input type="checkbox"/> Central WA State Department of Ecology Central Regional Office 15 West Yakima Ave, Suite 200 Yakima, WA 98902-3452 Fax (509) 575-2809
<input type="checkbox"/> Southwest WA State Department of Ecology Southwest Regional Office P.O. Box 47775 Olympia, WA 98504-7775 Fax (360) 407-6305	<input checked="" type="checkbox"/> Eastern WA State Department of Ecology Eastern Regional Office N. 4601 Monroe Spokane, WA 99205-1295 Fax (509) 329-3570
<input type="checkbox"/> Bellingham WA State Department of Ecology Bellingham Field Office 1440 10th Street, Suite 102 Bellingham, WA 98225 Fax (360) 715-5225	

Financial Manager:
Email Address:
Phone Number:
Fax Number:
Address

Jeanna Ridner
Jeanna.ridner@ecy.wa.gov
(360) 407-6533
(360) 407-7151
WA State Department of Ecology
Water Quality Program, FMS
P.O. Box 47600
Olympia, WA 98504-7600

Funding Source(s) for This LOAN agreement:

This LOAN agreement may be funded in part or in full with federal funds (Catalog of Federal Domestic Assistance Number 66.458) passed through to the RECIPIENT by the DEPARTMENT. As a “sub-recipient” of federal funds, OMB Circular A-133 contains certain requirements which may apply. Specifically, if the RECIPIENT or sub-recipient has expended a cumulative total (direct or pass through) of \$500,000 or more in federal awards in a fiscal year, an audit may be required in accordance with OMB Circular A-133. If federal funds have been used to reimburse eligible costs incurred for this PROJECT as part of this LOAN agreement, the DEPARTMENT’s fiscal office will provide notification in January of each year that identifies the amount of federal funds that have been expended.

(Federal funding for this AGREEMENT is provided from Capitalization Grants and state match for Clean Water State Revolving Funds; Environmental Protection Agency, Office of Water)

Specific Funding Categories:

Loan for Green Project Reserves: ☐ Yes ☒ No

Green Infrastructure Amount:\$

Water Efficiency Amount: \$

Energy Efficiency Amount: \$

Innovative Amount: \$

TOTAL Amount: \$

Forgivable Principal Subsidy for Green Project Reserves: ☐ Yes ☒ No

Green Infrastructure Amount:\$

Water Efficiency Amount: \$

Energy Efficiency Amount: \$

Innovative Amount: \$

TOTAL Amount: \$

Loan: ☒ Yes ☐ No

Amount: \$4,968,000

Forgivable Principal Subsidy (Hardship): ☐ Yes ☒ No

Amount: \$

State Centennial Loan Funds: ☐ Yes ☒ No

Amount \$

GENERAL LOAN INFORMATION:

Increased Oversight: ☒ Yes ☐ No

Useful life of the PROJECT: 20 years

PROJECT TYPE: *Check all that apply*

Facilities Project: ☒ Yes ☐ No

Stormwater Project: ☐ Yes ☒ No

Green Project Reserves: ☐ Yes ☒ No

Activities Project: ☐ Yes ☒ No

LOAN SECURITY: *Check all that apply*

Does this LOAN agreement and the LOAN to be made constitute Revenue Secured Lien Obligation of the RECIPIENT? ☒ Yes ☐ No

Does this LOAN agreement and the LOAN to be made constitute a general obligation debt of the RECIPIENT or the state of Washington? ☐ Yes ☒ No

Does this LOAN agreement and the LOAN to be made constitute a valid general obligation of the RECIPIENT payable from special assessments? ☐ Yes ☒ No

Is this LOAN secured with dedicated revenue through a Tribal Governmental Enterprise?
☐ Yes ☒ No

IMPORTANT DATES:

Estimated Project Start Date: July 1, 2012

Estimated Initiation of Operation (I of O): ☒ Yes ☐ No If yes, Date: December 31, 2016

Estimated Project Completion Date: December 31, 2016

Other Milestone or Target Dates: ☐ Yes ☒ No

Interim Refinance: ☐ Yes ☒ No If yes, Effective Date:

Post Project Assessment Date (see Part IV and ATTACHMENT 4): December 31, 2019

LOAN Agreement Effective Date: July 1, 2012

PART II. PROJECT SUMMARY

The PROJECT is construction of an underground storage tank, flow control features, cleaning system, and connection pipe. The design of the PROJECT may change, but the scope of work will remain the same – CSO reduction to the Spokane River.

The PROJECT will be constructed to reduce combined sewer overflows (CSO's) to the Spokane River. This PROJECT is part of a larger infrastructure feasibility study that is being initiated by the RECIPIENT's utilities division. All CSO projects, including this PROJECT are being evaluated to ensure the most cost effective, efficient use of federal dollars are applied.

PART III. PROJECT BUDGET

Elements (Tasks)	Total PROJECT Cost	Total Eligible PROJECT Cost	Loan Amount
1. Project Administration/Budget	\$15,000	\$15,000	\$15,000
2. Integrated Planning Approach			
3. Construction	\$ 4,307,000	\$ 4,307,000	\$ 4,307,000
4. Construction Management (Force Account)	\$ 646,000	\$ 646,000	\$ 646,000
Total	\$ 4,968,000	\$ 4,968,000	\$ 4,968,000

*The DEPARTMENT'S Fiscal Office will track to the total eligible LOAN amount. However, the RECIPIENT cannot deviate among elements without DEPARTMENT approval.

Other Funding Sources: ☐ Yes (if Yes, list sources and amounts) ☒ No

PART IV. GOALS, OUTCOMES, AND POST PROJECT ASSESSMENT

(See Important Dates in Part I and Post Project Assessment in Attachment 4)

A. Financial Assistance Water Quality Project Goals: One or more of the selected following goals apply to this project:

- ☐ Severe Public Health Hazard or Public Health Emergency eliminated.
- ☒ Designated beneficial uses will be restored or protected, 303(d)-Listed water bodies restored to water quality standards, and healthy waters prevented from being degraded.
- ☒ Regulatory compliance with a consent decree, compliance orders, TMDL or waste load allocation achieved.

B. Water Quality Project Outcomes: The following are quantitative results anticipated from the project.

1. Reduction of untreated combined sewage to the Spokane River.
2. Minimal maintenance requirements and reduced operation and maintenance.

C. Does this PROJECT address a TMDL: ☒ Yes ☐ No

D. Environmental Mitigation: ☐ Yes ☒ No If Yes, list the environmental mitigation measures:

PART V. SCOPE OF WORK

Task 1 - Project Administration/Management

- A. The RECIPIENT will administer the PROJECT. Responsibilities will include, but not be limited to: maintenance of project records; submittal of payment vouchers, fiscal forms, progress reports, and the final report; compliance with applicable procurement, contracting, and interlocal agreement requirements; attainment of all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.
- B. The RECIPIENT will manage the PROJECT. Efforts will include: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; the DEPARTMENT; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT will carry out this PROJECT in accordance with any completion dates outlined in this LOAN agreement.

Required Performance:

- 1. Effective administration and management of this PROJECT.
- 2. Timely submittal of all required performance items, progress reports, financial vouchers and the final PROJECT report.

Task 2 - Wet Weather Integrated Strategic Plan Approach

- A. This approach will accelerate the projects that have the greatest impact while simultaneously working on Wet Weather Integrated Strategic Plan for remaining CSO and stormwater. Design and construction of CSO 26, CSO 34 and Cochran Stormwater Basin will begin 2012 to reduce 50 percent of CSO and 50 percent of stormwater reaching the river. The Wet Weather Integrated Strategic Plan will be delivered to the DEPARTMENT by December 2013. Stakeholders input will be solicited thru June 2014.
- B. The RECIPIENT will comply with federal cross cutting requirements, and assist the DEPARTMENT with any consultation required by federal resource protection agencies. The RECIPIENT will submit a final Cross Cutter Report to the DEPARTMENT for review and final determination of impacts for each of the required federal cross cutters. Costs incurred for construction activities that occur before federal cross cutter approval will not be eligible for reimbursement.

Required Performance:

- 1. Look at all discharge points.
- 2. Look at all pollutants
- 3. Determine the greatest volumes and pollutants by discharge point.
- 4. Evaluate all viable alternatives within each basin
- 5. Identify opportunities to solve multiple problems with the same dollar.
- 6. Prioritize on a cost/benefit basis.

7. Two copies of final Cross Cutter Report to DEPARTMENT's Project Manager for DEPARTMENT's review and concurrence, prior to starting construction.

Task 3 - Project Construction (Force Account)

- A. The RECIPIENT will construct the PROJECT using its own forces. The RECIPIENT acknowledges that it has the legal authority to perform the work and adequate and technically qualified staff to perform the work without compromising other government functions.
- B. The RECIPIENT will complete the construction in accordance with the approved Plans and Specifications. The construction PROJECT will include:
 1. Construct combined trunk inlet (CTI) channel.
 2. Construct principal storage.
 3. Construct flush system with system fill pipe.
 4. Construct new regulator and vault.
- C. The RECIPIENT will obtain an investment grade efficiency audit (IGEA) for projects involving repair, replacement, or improvement of a wastewater treatment facility or other public works facility. The IGEA must include an analysis of potential energy and water efficiency measures and identify cost-effective measures for the RECIPIENT's facility.

Required Performance:

1. Satisfactory completion of the PROJECT in conformance with the approved Plans and Specifications.
2. Investment Grade Efficiency Audit documentation.
3. Required submittals as described in the General Project Management Guidelines (Attachment 4), including:
 - a. Request for approval to use force account. (Attachment 4, Page 9)
 - b. Documentation of the RECIPIENT's authority and capacity to perform the work using its own forces.

Task 4 – Construction Management

- A. The RECIPIENT will provide adequate and competent construction management and inspection for the PROJECT. This may involve procuring the professional services.
- B. The RECIPIENT will develop a detailed Construction Quality Assurance Plan (WAC 173-240-075) and submit it to the DEPARTMENT for approval. This plan must describe the activities which the RECIPIENT will undertake to achieve adequate and competent oversight of all construction work.
- C. The RECIPIENT will provide a plan of interim operation for the facility while under construction.

- D. 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 the DEPARTMENT. In the absence of any major changes, the RECIPIENT will describe progress of the construction in the quarterly progress reports.
- E. Upon completion of construction, the RECIPIENT will provide the DEPARTMENT's Project Manager with a set of "as-built" plans (i.e., record construction drawings which reflect changes, modifications, or other significant revisions made to the PROJECT during construction).
- F. Upon PROJECT completion, the RECIPIENT will submit the Declaration of Construction Completion form to the DEPARTMENT 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 and specifications and major change orders approved by the DEPARTMENT, and is accurately shown on the as-built plans.

Required Performance:

- 1. Submittal of a copy of all executed contracts for engineering services and construction performed under this task. The RECIPIENT must submit executed contracts before the DEPARTMENT will provide reimbursement for work performed under this task.
- 2. Documentation of the RECIPIENT's process for procuring engineering services.
- 3. Submittal of a Construction Quality Assurance Plan.
- 4. Submittal of "as-built" plans.
- 5. Submittal of a Declaration of Construction completion.

PART VI. LOAN INTEREST RATE AND TERMS

Source and Availability; LOAN Amounts; LOAN Terms

This LOAN agreement will remain in effect until the date of final repayment of the LOAN, unless terminated earlier according to the provisions herein.

Subject to all of the terms, provisions, and conditions of this LOAN agreement, and subject to the availability of funds, the DEPARTMENT will loan to the RECIPIENT the sum of four million, nine hundred sixty-eight thousand dollars (\$4,968,000).

When the PROJECT Completion Date has occurred, the DEPARTMENT and the RECIPIENT will execute an amendment to this LOAN agreement which details the final LOAN amount (Final LOAN Amount), and the DEPARTMENT will prepare a final LOAN repayment schedule, in the form of ATTACHMENT 8. The Final LOAN Amount will 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") will bear interest at the rate of 2.7 percent per annum, calculated on the basis of a 365 day year. Interest on the Estimated LOAN Amount will accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final LOAN Amount will be repaid in equal installments semiannually over a term of 20 years, as provided in ATTACHMENT 8.

PART VII. ALL AGREEMENTS CONTAINED HEREIN

The RECIPIENT will ensure this PROJECT is completed according to the details of this LOAN agreement. The RECIPIENT may elect to use its own forces or it may contract for professional services necessary to perform and complete project-related work, if approved by the DEPARTMENT.

Webpage addresses may be provided throughout this LOAN agreement for your convenience, however, if any of these addresses do not work, it is the responsibility of the RECIPIENT to contact the DEPARTMENT for the updated webpage address or the necessary information.

The following contain 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 LOAN agreement
- ATTACHMENT 1: Opinion of RECIPIENT's Legal Counsel
- ATTACHMENT 2: Authorizing Ordinance or Resolution
- ATTACHMENT 3: Preaward Compliance Review Report for All Applicants Requesting Federal Assistance
- ATTACHMENT 4: General Project Management Requirements
- ATTACHMENT 5: Agreement Definitions
- ATTACHMENT 6: LOAN General Terms and Conditions (Pertaining to Grant and Loan Agreements) of the Department of Ecology
- ATTACHMENT 7: The Federal Funding Accountability and Transparency Act (FFATA) & The Clean Water State Revolving Fund Initial Data Reporting Sheet
- ATTACHMENT 8: Estimated LOAN Repayment Schedule
- The effective edition, at the signing of this LOAN agreement, of the DEPARTMENT's *"Administrative Requirements for Ecology Grants and Loans"*
- The associated funding guidelines that correspond to the Fiscal Year in which the project is funded
- The applicable statutes and regulations
- As a subrecipient of federal funds (Catalogue of Federal Domestic Assistance Number 66.458) , the RECIPIENT must comply with the following federal regulations:
 - OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations
 - OMB Circular A-133, Compliance Supplement
 - OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments
 - OMB Circular A-102, Uniform Administrative Requirements

No changes, additions, or deletions to this LOAN agreement will be authorized without a formal written amendment, EXCEPT that in response to a request from the RECIPIENT, the DEPARTMENT may redistribute the loan budget. The DEPARTMENT or the RECIPIENT may change their respective staff contacts without the concurrence of either party.

By signing this LOAN agreement, the RECIPIENT acknowledges that opportunity to thoroughly review the terms of this LOAN agreement, the attachments, all incorporated or referenced documents, as well as all applicable statutes, rules, or guidelines mentioned in this LOAN agreement was given.

IN WITNESS WHEREOF, the DEPARTMENT and the RECIPIENT have signed this LOAN agreement as of the dates set forth below, to be effective as provided above.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

THE CITY OF SPOKANE

KELLY SUSEWIND, P.E., P.G. DATE
WATER QUALITY PROGRAM MANAGER

DAVID A. CONDON DATE
MAYOR

APPROVED AS TO FORM ONLY
ASSISTANT ATTORNEY GENERAL
(October 29, 2009)

Boilerplate Update July 2, 2012

ATTACHMENT 1: OPINION OF RECIPIENT'S LEGAL COUNSEL

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 RECIPIENT], and I have examined any and all documents and records pertinent to the LOAN agreement.

Based on the foregoing, it is my opinion that:

- A. The RECIPIENT is a duly organized and legally existing municipal corporation or political subdivision under the laws of the state of Washington or a federally recognized Indian tribe;
- B. The RECIPIENT has the power and authority to execute and deliver and to perform its obligations under the LOAN agreement;
- C. The LOAN agreement has been duly authorized and executed by RECIPIENT's authorized representatives and, to my best knowledge and after reasonable investigation, all other necessary actions have been taken to make the LOAN agreement valid, binding, and enforceable against the RECIPIENT in accordance with its terms, except as such enforcement is affected by bankruptcy, insolvency, moratorium, or other laws affecting creditors' rights and principles of equity if equitable remedies are sought;
- D. To my best knowledge and after reasonable investigation, the LOAN agreement does not violate any other agreement, statute, court order, or law to which the RECIPIENT is a party or by which it or its properties are bound;
- E. There is currently no litigation seeking to enjoin the commencement or completion of the PROJECT or to enjoin the RECIPIENT from entering into the LOAN agreement or from accepting or repaying the LOAN. The RECIPIENT is not a party to litigation which will materially affect its ability to repay such LOAN on the terms contained in the LOAN agreement; and
- F. The LOAN agreement constitutes a valid obligation of the RECIPIENT payable from the Net Revenues of the Utility.

Capitalized terms used herein will have the meanings ascribed thereto in the LOAN agreement between the RECIPIENT and the DEPARTMENT.

RECIPIENT's Legal Counsel

Date

ATTACHMENT 2: AUTHORIZING ORDINANCE OR RESOLUTION

ATTACHMENT 3: PREAWARD COMPLIANCE REVIEW REPORT FOR ALL APPLICANTS

REQUESTING FEDERAL ASSISTANCE

Form available electronically at: <http://www.epa.gov/ogd/forms/forms.htm>

(Super crosscutter: required for all loans, except Centennial)

Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance Note: Read instructions on page two of this attachment.		
I. Applicant/Recipient (Name, Address, State, Zip Code).	DUNS No.	
II. Is the applicant currently receiving EPA assistance?		
III. List all civil rights lawsuits and administrative complaints pending against the applicant/recipient that allege discrimination based on race, color, national origin, sex, age, or disability. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7. See instructions on reverse side.)		
IV. List all civil rights lawsuits and administrative complaints decided against the applicant/recipient within the last year that allege discrimination based on race, color, national origin, sex, age, or disability and enclose a copy of all decisions. Please describe all corrective action taken. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7. See instructions on reverse side.)		
V. List all civil rights compliance reviews of the applicant/recipient conducted by any agency within the last two years and enclose a copy of the review and any decisions, orders, or AGREEMENTs based on the review. Please describe any corrective action taken. (40 C.F.R. § 7.80(c)(3))		
VI. Is the applicant requesting EPA assistance for new construction? If no, proceed to VII; if yes, answer (a) and/or (b) below. _ a. If the grant is for new construction, will all new facilities or alterations to existing facilities be designed and constructed to be readily accessible to and usable by persons with disabilities? If yes, proceed to VII; if no, proceed to VI(b). b. If the grant is for new construction and the new facilities or alterations to existing facilities will not be readily accessible to and usable by persons with disabilities, explain how a regulatory exception (40 C.F.R. § 7.70) applies.		
VII.* Does the applicant/recipient provide initial and continuing notice that it does not discriminate on the basis of race, color, national origin, sex, age, or disability in its programs or activities? (40 C.F.R. § 5.140 and § 7.95) _ a. Do the methods of notice accommodate those with impaired vision or hearing? b. Is the notice posted in a prominent place in the applicant's offices or facilities or, for education programs and activities, in appropriate periodicals and other written communications? c. Does the notice identify a designated civil rights coordinator?		
VIII.* Does the applicant/recipient maintain demographic data on the race, color, national origin, sex, age, or handicap of the population it serves? (40 C.F.R. § 7.85(a))		
IX.* Does the applicant/recipient have a policy/procedure for providing access to services for persons with limited English proficiency? (40 C.F.R. Part 7, E.O. 13166)		
X.* If the applicant/recipient is an education program or activity, or has 15 or more employees, has it designated an employee to coordinate its compliance with 40 C.F.R. Parts 5 and 7? Provide the name, title, position, mailing address, e-mail address, fax number, and telephone number of the designated coordinator.		
XI* If the applicant/recipient is an education program or activity, or has 15 or more employees, has it adopted grievance procedures that assure the prompt and fair resolution of complaints that allege a violation of 40 C.F.R. Parts 5 and 7? Provide a legal citation or Internet address for, or a copy of, the procedures. _		
For the Applicant/Recipient _ I certify that the statements I have made on this form and all attachments thereto are true, accurate and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law. I assure that I will fully comply with all applicable civil rights statutes and EPA regulations. _		
A. Signature of Authorized Official _	B. Title of Authorized Official	C. Date
For the U.S. Environmental Protection Agency _ I have reviewed the information provided by the applicant/recipient and hereby certify that the applicant/recipient has submitted all preaward compliance information required by 40 C.F.R. Parts 5 and 7; that based on the information submitted, this application satisfies the preaward provisions of 40 C.F.R. Parts 5 and 7; and that the applicant has given assurance that it will fully comply with all applicable civil rights statutes and EPA regulations._		
A. Signature of Authorized EPA Official _ See ** note on reverse side.	B. Title of Authorized EPA Official	C. Date _

General

Recipients of Federal financial assistance from the U.S. Environmental Protection Agency must comply with the following statutes and regulations.

Title VI of the Civil Rights Acts of 1964 provides that no person in the United States shall, 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. The Act goes on to explain that the statute shall not be construed to authorize action with respect to any employment practice of any employer, employment agency, or labor organization (except where the primary objective of the Federal financial assistance is to provide employment).

Section 13 of the 1972 Amendments to the Federal Water Pollution Control Act provides that no person in the United States shall on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the Federal Water Pollution Control Act, as amended. Employment discrimination on the basis of sex is prohibited in all such programs or activities.

Section 504 of the Rehabilitation Act of 1973 provides that no otherwise qualified individual with a disability in the United States shall solely by reason of disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Employment discrimination on the basis of disability is prohibited in all such programs or activities.

The Age Discrimination Act of 1975 provides that no person on the basis of age shall be excluded from participation under any program or activity receiving Federal financial assistance. Employment discrimination is not covered. Age discrimination in employment is prohibited by the Age Discrimination in Employment Act administered by the Equal Employment Opportunity Commission.

Title IX of the Education Amendments of 1972 provides that no person in the United States on the basis of sex shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Employment discrimination on the basis of sex is prohibited in all such education programs or activities. Note: an education program or activity is not limited to only those conducted by a formal institution.

40 C.F.R. Part 5 implements Title IX of the Education Amendments of 1972.

40 C.F.R. Part 7 implements Title VI of the Civil Rights Act of 1964, Section 13 of the 1972 Amendments to the Federal Water Pollution Control Act, and Section 504 of The Rehabilitation Act of 1973.

The Executive Order 13166 (E.O. 13166) entitled; "Improving Access to Services for Persons with Limited English Proficiency" requires Federal agencies work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.

Items

"Applicant" means any entity that files an application or unsolicited proposal or otherwise requests EPA assistance. 40 C.F.R. §§ 5.105, 7.25.

"Recipient" means any entity, other than applicant, which will actually receive EPA assistance. 40 C.F.R. §§ 5.105, 7.25.

"Civil rights lawsuits and administrative complaints" means any lawsuit or administrative complaint alleging discrimination on the basis of race, color, national origin, sex, age, or disability pending or decided against the applicant and/or entity which actually benefits from the grant, but excluding employment complaints not covered by 40 C.F.R. Parts 5 and 7. For example, if a city is the named applicant but the grant will actually benefit the Department of Sewage, civil rights lawsuits involving both the city and the Department of Sewage should be listed.

"Civil rights compliance review" means any review assessing the applicant's and/or recipient's compliance with laws prohibiting discrimination on the basis of race, color, national origin, sex, age, or disability.

Submit this form with the original and required copies of applications, requests for extensions, requests for increase of funds, etc. Updates of information are all that are required after the initial application submission.

If any item is not relevant to the project for which assistance is requested, write "NA" for "Not Applicable."

In the event applicant is uncertain about how to answer any questions, EPA program officials should be contacted for clarification.

* Questions VII – XI are for informational use only and will not affect an applicant's grant status. However, applicants should answer all questions on this form. (40 C.F.R. Parts 5 and 7).

** Note: Signature appears in the Approval Section of the EPA Comprehensive Administrative Review For Grants/Cooperative AGREEMENTs & Continuation/Supplemental Awards form.

Approval indicates, in the reviewer's opinion, questions I – VI of Form 4700-4 comply with the preaward administrative requirements for EPA assistance.

"Burden Disclosure Statement"

EPA estimates public reporting burden for the preparation of this form to average 30 minutes per response. This estimate includes the time for reviewing instructions, gathering and maintaining the data needed and completing and reviewing the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to:

U.S. EPA, Attn: Collection Strategies Division (MC 2822T), Office of Information Collection, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

The information on this form is required to enable the U.S. Environmental Protection Agency to determine whether applicants and prospective recipients are developing projects, programs and activities on a nondiscriminatory basis as required by the above statutes and regulations.

ATTACHMENT 4: GENERAL PROJECT MANAGEMENT REQUIREMENTS
FOR THE WASHINGTON STATE WATER POLLUTION CONTROL REVOLVING FUND
AND CENTENNIAL CLEAN WATER PROGRAM PROJECTS
(UNLESS MODIFIED BY A SPECIAL TERM AND CONDITION IN PART V.)

ACCOUNTING STANDARDS

The RECIPIENT will maintain accurate records and accounts for the PROJECT ("PROJECT Records") in accordance with Chapter 43.09.200 RCW "Local Government Accounting - Uniform System of Accounting."

These PROJECT Records will be separate and distinct from the RECIPIENT's other records and accounts (General Accounts). Eligible costs will be audited every other year or annually if more than \$500,000 of federal funds are received in any given year. Audits will be performed by an independent, certified accountant or state auditor, which may be part of the annual audit of the General Accounts of the RECIPIENT. If the annual audit includes an auditing of this PROJECT, a copy of such audit, including all written comments, recommendations, and findings, will be furnished to the DEPARTMENT within 30 days after receipt of the final audit report.

ACTIVITIES PROJECTS: TECHNICAL ASSISTANCE

Technical assistance for agriculture activities provided under the terms of this LOAN will be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State. However, technical assistance, proposed practices, or PROJECT designs that do not meet these standards may be accepted if approved in writing by the NRCS and the DEPARTMENT.

ACTIVITIES PROJECTS: BEST MANAGEMENT PRACTICES

Best Management Practices (BMPs) intended primarily for production, operation, or maintenance are not eligible. BMPs must be pre approved by the DEPARTMENT.

AUTHORITY

Authority of RECIPIENT

This LOAN 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 ordinance or resolution attached as ATTACHMENT 2.

Opinion of RECIPIENT's Legal Counsel

The DEPARTMENT has received an opinion of legal counsel to the RECIPIENT in the form and substance of Attachment 1.

CERTIFICATIONS

The RECIPIENT certifies by signing this LOAN agreement that all negotiated interlocal agreements necessary for the PROJECT are, or will be, consistent with the terms of this LOAN agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT will submit a copy of each interlocal agreement necessary for the PROJECT to the DEPARTMENT.

The RECIPIENT certifies by signing this LOAN agreement that all applicable requirements have been satisfied in the procurement of professional services and that eligible and ineligible costs are separated and identifiable. The RECIPIENT will submit a copy of the final negotiated agreement to the DEPARTMENT for eligibility determination.

The RECIPIENT certifies by signing this LOAN agreement that the requirements of Chapter 39.80 RCW, "Contracts for Architectural and Engineering Services," have been, or will be, met in procuring

qualified architectural/engineering services. The RECIPIENT will identify and separate eligible and ineligible costs in the final negotiated agreement and submit a copy of the agreement to the DEPARTMENT.

CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT, 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 is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT will provide immediate written notice to the DEPARTMENT if at any time the RECIPIENT 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. The RECIPIENT may contact the DEPARTMENT for assistance in obtaining a copy of those regulations.
4. The RECIPIENT agrees it will 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 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 is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. The RECIPIENT 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. The RECIPIENT 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 the DEPARTMENT before requests for reimbursements will be approved for payment. The RECIPIENT must run a search in www.sam.gov and print a copy of completed searches to document proof of compliance.

CLEAN WATER STATE REVOLVING FUND DATA REPORTING SHEET (DATA REPORTING SHEET)

The RECIPIENT will submit the completed Data Reporting Sheet to the DEPARTMENT. The completed and signed Data Reporting Sheet will be included in this LOAN agreement as ATTACHMENT 7 (see ATTACHMENT 7 for further instructions).

COMMENCEMENT OF WORK

The DEPARTMENT reserves the right to terminate this LOAN agreement if work does not commence on the project within 4 months after the DEPARTMENT's deadline for signing this LOAN agreement.

COVENANTS AND AGREEMENTS

Acceptance

The RECIPIENT accepts and agrees to comply with all terms, provisions, conditions, and commitments of this LOAN agreement, including all incorporated and referenced documents, and to fulfill all assurances, declarations, representations, and commitments made by the RECIPIENT in its application, accompanying documents, and communications filed in support of its request for a LOAN.

Accounts and Records

The RECIPIENT will keep proper and separate accounts and records in which complete and separate entries will be made of all transactions relating to this LOAN agreement. The RECIPIENT will keep such records for six years after receipt of final LOAN disbursement.

Alteration and Eligibility of PROJECT

During the term of this LOAN agreement, the RECIPIENT (i) will not materially alter the design or structural character of the PROJECT without the prior written approval of the DEPARTMENT and (ii) will 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.

Collection of ULID Assessments (if used to secure the repayment of this LOAN)

All ULID Assessments in the ULID will be paid into the LOAN Fund and used to pay the principal of and interest on the LOAN. The ULID Assessments in the ULID may be deposited into the Reserve Account to satisfy a Reserve Requirement if a Reserve Requirement is applicable.

Free Service

The RECIPIENT will not furnish Utility service to any customer free of charge if providing that free service will affect the RECIPIENT's ability to meet the obligations of this LOAN agreement.

Insurance

The RECIPIENT will at all times carry fire and extended coverage, public liability and property damage, and such other forms of insurance with responsible insurers and with 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 will self-insure or will participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

Levy and Collection of Taxes (if used to secure the repayment of this 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.

Maintenance and Operation of a Funded Utility

The RECIPIENT will at all times maintain and keep a funded Utility in good repair, working order and condition and also will at all times operate the Utility and the business in an efficient manner and at a reasonable cost.

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.

Reserve Requirement

For loans that are Revenue-Secured Debt with terms greater than five years, the RECIPIENT must accumulate a reserve for the LOAN equivalent to at least the Average Annual Debt Service on the LOAN during the first five years of the repayment period of the LOAN. This amount will be deposited in a Reserve Account in the LOAN Fund in approximately equal annual payments commencing within one year after the Initiation of Operation or the PROJECT Completion Date, whichever comes first.

“Reserve Account” means, for a LOAN that constitutes Revenue-Secured Debt, an account of that name created in the LOAN Fund to secure the payment of the principal and interest on the LOAN. The amount on deposit in the Reserve Account may be applied by the RECIPIENT (i) to make, in part or in full, the final repayment to the DEPARTMENT of the LOAN Amount or, (ii) if not so applied, for any other lawful purpose of the RECIPIENT once the LOAN Amount, plus interest and any other amounts owing to the DEPARTMENT, have been paid in full.

Sale or Disposition of Utility

The RECIPIENT will not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities or other part of the Utility, or any real or personal property comprising a part of the Utility unless one of the following applies:

1. The facilities or property transferred are not material to the operation of the Utility; or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the Utility; or are no longer necessary, material, or useful to the operation of the Utility.
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 Utility.
3. The RECIPIENT receives from the transferee 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 Utility from the portion of the Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.

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

CULTURAL AND HISTORIC RESOURCES PROTECTION

The RECIPIENT must comply with all requirements listed in Executive Order 05-05 and, if federally funded, Section 106 of the National Historic Preservation Act prior to implementing any project that involves ground disturbing activities.

The RECIPIENT must conduct and submit a cultural resources survey or complete and submit an EZ-1 Form to the DEPARTMENT’s project manager prior to any ground disturbing activities. The DEPARTMENT will contact the Department of Archaeology and Historic Preservation (DAHP) and affected tribes regarding the proposed project activities in order to fulfill Executive Order 05-05/Section 106 requirements. Any prior communication between the RECIPIENT, the DAHP, and the tribes is not sufficient to meet requirements. Any mitigation measures as an outcome of this process will be requirements of this LOAN agreement.

Another agency’s cultural resources review must have prior approval from the DEPARTMENT in order to meet Executive Order 05-05/Section 106 requirements for the project.

Any ground disturbing activities that occur prior to the completion of the Executive Order 05-

05/Section 106 processes will not be eligible for reimbursement. Activities associated with cultural resources review are loan and grant eligible and reimbursable.

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 LOAN agreement.

Non-discrimination Provision. The RECIPIENT will not discriminate on the basis of race, color, national origin or sex in the performance of this LOAN agreement. The RECIPIENT will 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 LOAN agreement which may result in the termination of this contract or other legally available remedies.

The RECIPIENT will 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 LOAN agreement may be rescinded, canceled, or terminated in whole or in part, and the RECIPIENT may be declared ineligible for further funding from the DEPARTMENT. The RECIPIENT will, however, be given a reasonable time in which to cure this noncompliance.

Fair Share Objective/Goals, 40 CFR, Part 33, Subpart D. If the dollar amount of this LOAN agreement or the total dollar amount of all of the RECIPIENT's financial assistance agreements in the current federal fiscal year from the Revolving Fund is over \$250,000, the RECIPIENT accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the **Office of Minority Women Business Enterprises** as follows:

Construction	10.00% MBE	6.00% WBE
Supplies	8.00% MBE	4.00% WBE
Services	10.00% MBE	4.00% WBE
Equipment	8.00% MBE	8.00% WBE

By signing this LOAN agreement the RECIPIENT is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as **Office of Minority Women Business Enterprises**.

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 LOAN agreement. Records documenting compliance with the following six good faith efforts will be retained:

- 1) Ensuring 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 will include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources. *Qualified Women and Minority business enterprises may be found on the Internet at www.omwbe.wa.gov or by contacting the Washington State Office of Minority and Women's Enterprises at 360-704-1181.*

- 2) Making 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) Considering 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 will 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) Using 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, requiring the subcontractors to take the five good faith efforts in paragraphs 1 through 5 above.

MBE/WBE Reporting, 40 CFR, Part 33, Sections 33.302, 33.502 and 33.503. The RECIPIENT agrees to provide forms: EPA Form 6100-2 DBE Subcontractor Participation Form and EPA Form 6100-3 DBE Subcontractor Performance Form to all its DBE subcontractors, and EPA Form 6100-4 DBE Subcontractor Utilization Form to all its prime contractors. These forms may be obtained from the DEPARTMENT's Water Quality Program financial assistance website.

EPA Form 6100-2 – The RECIPIENT must document that this form was received by DBE subcontractor. DBE subcontractors may submit the completed form to the EPA Region 10 DBE coordinator in order to document issues or concerns with their usage or payment for a subcontract.

EPA Form 6100-3 – This form must be completed by DBE subcontractor(s), submitted with bid, and kept with the contract.

EPA Form 6100-4 – This form must be completed by the prime contractor, submitted with bid, and kept with the contract.

The RECIPIENT also agrees to submit the DEPARTMENT's MBE/WBE 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. The RECIPIENT also agrees to ensure that recipients of identified loans also comply with provisions of 40CFR, Section 33.302. The RECIPIENT will 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 LOAN 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 will 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; and
4. Entity's status as an MBE/WBE or non-MBE/WBE.

EFFECTIVE DATE:

The Effective Date of this LOAN agreement is the date agreed to by the DEPARTMENT and the RECIPIENT during the development of this LOAN agreement and should be no earlier than the date the RECIPIENT began incurring eligible PROJECT costs. Any work performed prior to the Effective Date of this LOAN agreement will be at the sole expense and risk of the RECIPIENT. Reimbursement for eligible costs incurred will not be released by the DEPARTMENT until the LOAN agreement is signed.

FACILITIES PROJECTS: DELIVERABLES (IF APPLICABLE)

Planning documents developed by the RECIPIENT must meet the requirements of Chapter 173-240 WAC, "Submission of Plans and Reports for Construction of Wastewater Facilities" and incorporate the State Environmental Review Process (SERP) review.

State Environmental Review Process (SERP) and Federal Cross-Cutters.

The RECIPIENT must comply with applicable SERP and federal cross cutting requirements. Costs incurred for construction activities prior to DEPARTMENT concurrence are not eligible for reimbursement.

Investment Grade Efficiency Audit (IGEA). The RECIPIENT is required to obtain an IGEA for projects involving repair, replacement, or improvement of a wastewater treatment facility or other public works facility. The IGEA must include an analysis of potential energy and water efficiency measures and identify cost-effective measures for the RECIPIENT's facility.

Plans and Specifications. Plans and specifications developed by the RECIPIENT must be reviewed and approved by Water Quality Program staff of the DEPARTMENT and be consistent with:

1. Requirements stated in Chapter 173-240 WAC, "Submission of Plans and Reports for Construction of Wastewater Facilities," as related to plans and specifications.
2. Good engineering practices and generally recognized engineering standards, including, but not limited to, the *State of Washington's Criteria for Sewage Works Design* (2008 or more recent edition), the *Stormwater Management Manual for Western Washington* (2005), the *Stormwater Management Manual for Eastern Washington* (2001), and the Washington State Department of Transportation *Hydraulics Manual* (2010).
3. The approved facilities plan.
4. Other reports approved by the DEPARTMENT which pertain to the facilities design.

Specification Insert. The RECIPIENT will include the *Washington State Department of Ecology Water Pollution Control Revolving Fund Specifications Insert* as a special condition in the construction contract specifications. Contact the DEPARTMENT for the required specification inserts.

RECIPIENT Approval. The plans, specifications, construction contract documents, and addenda must be approved by the RECIPIENT prior to submittal for DEPARTMENT review.

Bid and Award Submittals (as applicable). The RECIPIENT will submit to the DEPARTMENT the following documents relating to bidding and award of any contract funded by this agreement:

1. A copy of the advertisement for bids.
2. A tabulation of all bids received, and a copy of the bid proposal from the successful bidder,
3. A copy of the Notice of Award, a copy of the executed contract, and a copy of the Notice to Proceed.

Construction Cost Estimate. A current, updated, detailed construction cost estimate will be submitted

along with each plan/specification submittal. The project manager may request a spreadsheet in electronic file format.

Form of Plans. All construction plans submitted to the DEPARTMENT for review and approval will be reduced to no larger than 11" x 17" in size. They may, at the RECIPIENT's option, be bound with the specifications or related construction contract documents or bound as a separate document. All reduced drawings must be completely legible. 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. All PDF documents submitted will be at a resolution of 300 dpi or better.

DEPARTMENT Approval. The RECIPIENT will not proceed with any construction-related activities until all necessary plans and specifications are approved in writing by the DEPARTMENT.

Bids and Awards. DEPARTMENT approval of the plans, specifications, and construction documents authorizes the RECIPIENT to solicit bids and award the construction contract (or reject bids) without further DEPARTMENT authorization or approval. However, any additional costs resulting from successful bid protests or other claims due to improper bid solicitation and award procedures will not be considered eligible for LOAN participation.

Plan of Interim Operation. The plan of interim operation must be updated, as appropriate, throughout the PROJECT.

Construction Quality Assurance Plan. A detailed construction quality assurance plan will be submitted at least 30 days prior to the commencement of construction in compliance with WAC 173-240-075. This plan must describe how adequate and competent construction inspection will be provided for the PROJECT.

Construction Schedule. A construction schedule will be submitted to the DEPARTMENT within 30 days of the start of construction. The construction schedule will be revised and updated whenever major changes occur and resubmitted to the DEPARTMENT. When changes in the construction schedule affect previous cash flow estimates, revised cash flow projections must also be submitted to the DEPARTMENT. The project manager may request this schedule in an electronic file format.

Change Orders. Change orders that are a significant deviation from the approved plans/specifications must be submitted in writing for DEPARTMENT review and approval, prior to execution. All other change orders must be submitted within 30 days after execution.

The DEPARTMENT may approve, through formal amendment to this LOAN agreement, funding for change orders for up to five percent of the eligible portion of the low responsive responsible construction bid(s).

Adjusted Construction Budget. The construction budget, as reflected in the LOAN, will be adjusted once actual construction bids are received. If the low responsive responsible construction bid(s) exceed the engineer's estimate of construction costs, the DEPARTMENT may approve funding increases for up to ten percent of the engineer's original estimate. If the low responsive responsible construction bid(s) are lower than estimated the DEPARTMENT may reduce funding to reflect the low bid amount. The DEPARTMENT may also reassess the LOAN amount based on additional funding from other sources received by the RECIPIENT after negotiation of this LOAN agreement. All changes to the LOAN amount will be done by formal amendment to this LOAN agreement.

Record Drawings. Upon completion of construction, the RECIPIENT will provide the DEPARTMENT's Project Manager with a set of record drawings (i.e., record construction drawings which reflect changes, modifications, or other significant revisions made to the project during construction) in AutoCAD electronic format, and in reduced (11"x17") paper copy format.

Declaration of Construction Completion. Along with the set of record drawings, the RECIPIENT will provide certification in the form contained in WAC 173-240-095, signed by a professional engineer, indicating that the PROJECT was completed in accordance with the plans and specifications and major

change orders approved by the DEPARTMENT.

Final Project Report. The RECIPIENT will complete and submit a Final Project Report upon completion of the PROJECT. A template is available on the DEPARTMENT's website at: <http://www.ecy.wa.gov/programs/wq/funding/GrantLoanMgmtDocs/GrantLoanMgmtTools.html>.

Operations and Maintenance Manual. An Operations and Maintenance Manual ("O&M Manual") will be prepared in conformance with WAC 173-240-080, "Operation and Maintenance Manual" or other applicable guidance and submitted to the DEPARTMENT for approval. The O&M Manual will be updated as necessary following start-up to reflect actual operating experience. The DEPARTMENT's project manager may request the O&M Manual be submitted in either paper format, PDF format, Microsoft Word, or other electronic file format acceptable to the DEPARTMENT's project manager. All PDF documents submitted will be at a resolution of 300 dpi or better.

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

In order to comply with the FFATA, the RECIPIENT must complete the Data Reporting Form (see Attachment 7 for further instructions) and return it to the DEPARTMENT. The DEPARTMENT will report basic agreement information, including the required DUNS number, for all federally-funded agreements at www.fsrs.gov. This information will be made available to the public at www.usaspending.gov. RECIPIENTS who do not have a DUNS number can find guidance at www.grants.gov. Please note that the DEPARTMENT will not sign this LOAN agreement until it has received the completed FFATA Data Collection Form. The RECIPIENT will submit this form electronically as well as provide a hard copy to the DEPARTMENT (see ATTACHMENT 7 for detailed instructions).

Any RECIPIENT that meets each of the criteria below must also report compensation for its five top executives, using the DEPARTMENT's Federal Funding Accountability and Transparency Act (FFATA) Data Collection Form.

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

See www.fsrs.gov for details of this requirement. If your organization falls into this category, you must report the required information to Ecology.

FORCE ACCOUNT

Prior to using its own forces to accomplish eligible PROJECT work, the RECIPIENT must request DEPARTMENT approval. The request must include a dollar amount and general description of the force account work. The request must also include a certification that the RECIPIENT has the legal authority to perform the work and adequate and technically qualified staff to perform the work without compromising other government functions. The RECIPIENT agrees to track and report the force account work submitted to the DEPARTMENT for reimbursement.

FUNDING RECOGNITION

All site-specific projects must have a sign of sufficient size to be seen from nearby roadways acknowledging department financial assistance and left in place throughout the life of the project or facility. Department logos must be on all signs and documents. Logos will be provided as needed.

GROWTH MANAGEMENT PLANNING

The RECIPIENT certifies by signing this LOAN 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 will notify the DEPARTMENT in writing of this change within 30 days.

INCREASED OVERSIGHT (IF APPLICABLE)

The RECIPIENT will submit all backup documentation with each payment request submittal. In addition, the DEPARTMENT's Project Manager will establish a schedule for additional site visits to provide technical assistance to the RECIPIENT and verify progress or payment information.

INTERIM REFINANCE (IF APPLICABLE)

The RECIPIENT agrees to use the funding from this LOAN agreement to pay-off existing debt for eligible costs incurred to complete this PROJECT, and to fund all or part of the remaining tasks outlined for this PROJECT. The RECIPIENT will maintain clear documentation of the debt pay-off and make such documentation available to the DEPARTMENT upon request.

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 of the other agreements and obligations on its part contained herein will be absolute and unconditional, and will not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the LOAN from the DEPARTMENT, 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 will 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 will 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 the DEPARTMENT will hold this LOAN, the RECIPIENT will not be entitled to, and will not affect, an economic Defeasance of the LOAN. The RECIPIENT will not advance refund the LOAN.

If the RECIPIENT defeases or advance refunds the LOAN, it will 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 the DEPARTMENT under this LOAN agreement, unless in its sole discretion the DEPARTMENT 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 the DEPARTMENT's notice to make such repayment will incur Late Charges and will be treated as a LOAN Default.

7. Refinancing or Early Repayment of the PROJECT. So long as the DEPARTMENT will hold this LOAN, the RECIPIENT will give the DEPARTMENT 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 LOAN agreement, the first semiannual payment of principal and interest on this LOAN will be paid no later than one year after the PROJECT Completion Date or Initiation of Operation Date.

Equal payments will be due every six months thereafter.

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

Payments will 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 the DEPARTMENT's Financial Manager.

No change to the amount of the semiannual principal and interest payments will be made without a formal amendment to this LOAN agreement. The RECIPIENT will continue to make semiannual payments based on this LOAN agreement until the amendment is effective, at which time the RECIPIENT's payments will be made pursuant to the amended LOAN agreement.

2. Late Charges. If any amount of the Final LOAN Amount or any other amount owed to the DEPARTMENT pursuant to this LOAN agreement remains unpaid after it becomes due and payable, the DEPARTMENT may assess a Late Charge. The Late Charge will 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 the DEPARTMENT will 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 will 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 will first contact the DEPARTMENT's Revenue/Receivable Manager of the Fiscal Office.

LOCAL LOAN FUND PROJECTS (IF APPLICABLE)

Local Loan Fund. The RECIPIENT will use the funds received from the DEPARTMENT under this LOAN agreement to establish and administer a local loan fund.

Local Loan Fund Servicing. The RECIPIENT will be responsible for local loan servicing and collecting and tracking local loan payments, but may contract for such services through a lending institution. The RECIPIENT will officially approve or deny the local loan request and will establish the local loan interest rate and the repayment period.

Schedule. A schedule for PROJECT completion, including milestone dates for loan marketing activities, numbers of loan applications and closures, disbursements, application deadlines, etc., will be submitted by the RECIPIENT with each quarterly progress report.

MODIFICATIONS TO AGREEMENT

No subsequent amendments to this LOAN agreement will be of any force or effect unless reduced to a writing and signed by authorized representatives of the RECIPIENT and the DEPARTMENT, and made part hereof, except:

Insubstantial modifications may be approved in writing by the Department's Project Manager without a formal amendment. Insubstantial changes include:

- LOAN agreement contact
- Contact for billing/invoice questions
- The DEPARTMENT'S Project Manager or Financial Manager
- Frequency and number of required submittals
- Budget allocations not affecting the total LOAN Amount
- Similar changes requested by the RECIPIENT

No amendment to this LOAN agreement will be effective until accepted or affirmed in writing by the DEPARTMENT. In no event will any oral agreement or oral commitment be effective to amend this LOAN agreement.

PAYMENT REQUEST SUBMITTALS

Equipment Purchase

Equipment not included in a construction plans and specification approval must be pre-approved by the DEPARTMENT's project manager.

Requests for Reimbursement

Instructions for submitting payment requests are found in ADMINISTRATIVE REQUIREMENTS, PART IV. A copy of this document will be furnished to the RECIPIENT.

1. Procedure. Payment requests will be submitted by the RECIPIENT to the Financial Manager of the DEPARTMENT.
2. Cost Reimbursable Basis: Payments to the RECIPIENT will be made on a "reimbursable basis" no more often than once per month unless allowed by the DEPARTMENT's Financial Manager. The DEPARTMENT's Financial Manager may require the RECIPIENT to submit regular payment requests to ensure efficient and timely use of funds.
3. Documentation: Each request for payment will be submitted by the RECIPIENT, along with documentation of the expenses per the DEPARTMENT's ADMINISTRATIVE REQUIREMENTS.
4. Required Forms: The RECIPIENT will submit all forms and supportive documentation to the DEPARTMENT's Financial Manager. Invoice voucher submittals will include:
 - State of Washington Invoice Voucher Form A19-1A
 - Form B2 (ECY 060-7)
 - Form C2 (ECY 060-9)
 - Form D (ECY 060-11)

5. Period of Payment. Payments will only be made for eligible costs of the PROJECT pursuant to the LOAN agreement and performed after the effective date and prior to the expiration date of the LOAN agreement, unless those dates are specifically modified in this LOAN agreement.
6. Ineligible Costs. Payments will be made only for eligible PROJECT costs incurred and will not exceed the Estimated LOAN Amount. If any audit identifies LOAN funds which were used to support ineligible costs, such funds may be immediately due and payable to the DEPARTMENT notwithstanding any provision to the contrary herein.
7. Overhead Costs. No payment for overhead costs in excess of 25 percent of salaries and benefits of the RECIPIENT will be allowed.
8. Certification. Each payment request will 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 will be disclosed in writing to the DEPARTMENT by the RECIPIENT in its request for payment.

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 the DEPARTMENT's Water Quality Program will contact the RECIPIENT to request this data. The DEPARTMENT may also conduct site interviews and inspections, and may otherwise evaluate the PROJECT, as part of this assessment.

PREVAILING WAGE

Prevailing Wage (Davis-Bacon Act):

The RECIPIENT agrees, by signing this LOAN 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 will 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 will 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 will be incorporated into solicitations and any subsequent contracts. The RECIPIENT will 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 will 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 LOAN 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.

PROCUREMENT

The RECIPIENT is responsible for procuring professional, personal, and other services using sound business judgment and good administrative procedures. This includes issuance of invitation of bids, requests for proposals, selection of contractors, award of subagreements, and other related procurement matters. The RECIPIENT will follow State procurement laws.

PROGRESS REPORTS

The RECIPIENT will submit progress reports to the DEPARTMENT at least quarterly or such other schedule as set forth herein. The RECIPIENT will submit a copy of each progress report to both the Financial Manager and the Project Manager of the DEPARTMENT. Quarterly reports will cover the periods:

January 1 through March 31

April 1 through June 30

July 1 through September 30

October 1 through December 31

Quarterly reports are due 15 days following the end of the quarter being reported. Payment requests will not be processed without a current Progress Report. A progress report must be submitted even if no progress has occurred.

A Progress Report Form is available on the DEPARTMENT's website at

<http://www.ecy.wa.gov/programs/wq/funding/GrantLoanMgmtDocs/GrantLoanMgmtTools.html> . At a minimum, all progress reports must contain the items outlined in the DEPARTMENT's Progress Report Form. The DEPARTMENT may request additional information as necessary.

The RECIPIENT will also report in writing to the DEPARTMENT any problems, delays, or adverse conditions which will materially affect its ability to meet PROJECT objectives or time schedules. This disclosure will be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation.

REPRESENTATIONS AND WARRANTIES

The RECIPIENT represents and warrants to the DEPARTMENT as follows:

A. 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 LOAN agreement and to undertake the PROJECT identified herein.

B. Application; Material Information.

All information and materials submitted by the RECIPIENT to the DEPARTMENT in connection with its LOAN application were, when made, and are, as of the date the RECIPIENT executes this LOAN agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the PROJECT, the LOAN, or this LOAN agreement known to the RECIPIENT which has not been disclosed in writing to the DEPARTMENT.

C. Litigation; Authority.

No litigation is now pending or, to the RECIPIENT'S knowledge, threatened, seeking to restrain, or enjoin:

- (i) the execution of this LOAN 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
- (iii) in any manner questioning the proceedings and authority under which the LOAN 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 LOAN agreement has been repealed, revoked, or rescinded.

D. 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 LOAN agreement and the LOAN to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

E. Due Regard

For LOANs secured with a Revenue Obligation: The RECIPIENT has exercised 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, will be available over and above such Maintenance and Operation Expense and those debt service requirements.

SEWER-USER ORDINANCES AND USER-CHARGE SYSTEM (IF APPLICABLE)

Sewer-Use Ordinance or Resolution

If not already in existence, the RECIPIENT will adopt and will enforce a sewer-use ordinance or resolution. 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; 3) require that new sewers and connections be properly designed and constructed; and 4) require all existing and future residents to connect to the sewer system. Such ordinance or resolution will be submitted to the DEPARTMENT upon request by the DEPARTMENT.

User-Charge System

The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and will adopt a system of user-charges to assure that each user of the utility will pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the PROJECT.

In addition, the RECIPIENT will regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the utility, to establish a reserve to pay for replacement, to establish the required LOAN Reserve Account, and to repay the LOAN.

SMALL COMMERCIAL ON-SITE SEWAGE SYSTEM REPAIR AND REPLACEMENT (IF APPLICABLE)

On-site sewage system repair or replacement funding may be provided to eligible small commercial enterprises. The definition of "small commercial" requires that the average daily flows from any one single business cannot exceed 3,500 gallons per day. These enterprises may include public lodging (including motels, hotels, and bed and breakfast establishments), rentals (apartments, duplexes, or houses), small restaurants, stores, or taverns.

The DEPARTMENT may adjust interest rates to below 2.6 percent based on evaluation of the RECIPIENT's total portfolio of local on-site sewage system loans issued to homeowners and small commercial enterprises.

The following is the Revolving Fund interest rate schedule for loans targeted to homeowners at three levels of county median household income:

County Median Household Income*	Revolving fund Adjustable Interest Rate Schedule	
	5-Year Term	20-Year Term
Above 80%	1.4%	2.7 %
50 – 80%	0.7%	1.4%
Below 50%	0%	0.7 %

The following is the Revolving Fund interest rate schedule for loans targeted to small commercial enterprises at three levels of annual gross revenue:

Small Commercial Enterprise Annual Gross Revenue	Revolving Fund Adjustable Interest Rate Schedule	
	5-Year Term	20-Year Term
Above \$100,000	1.4%	2.7 %
\$50,000 - \$100,000	0.7%	1.4%
Below \$50,000	0%	0.7 %

In order for a small commercial enterprise to be considered for extreme hardship, the business must provide documentation to substantiate that annual gross revenue is less than \$100,000.

The RECIPIENT agrees to submit a final compilation of the local loans provided to homeowners and small commercial enterprises throughout the duration of the PROJECT. The list will include information provided by the RECIPIENT regarding the number and final dollar amounts of loans funded in the following respective homeowner income and small commercial enterprise revenue levels:

- County Median Household Income
 - Above 80 %
 - 50 to 80 %
 - Below 50 %
- Small Commercial Enterprise Annual Gross Revenue
 - Above \$100,000
 - \$50,000 to \$100,000
 - Below \$50,000

TERMINATION AND DEFAULT; REMEDIES

A. Termination and Default Events

1. For Insufficient DEPARTMENT or RECIPIENT Funds. This LOAN agreement may be terminated by the DEPARTMENT for insufficient DEPARTMENT or RECIPIENT funds.
2. For Failure to Commence Work. This LOAN agreement may be terminated by the DEPARTMENT for failure of the RECIPIENT to commence PROJECT work.
3. Past Due Payments. The RECIPIENT will 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 the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all of its obligations under this LOAN agreement. The RECIPIENT will be in default of its obligations under this LOAN agreement if, in the opinion of the DEPARTMENT, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this LOAN agreement.

B. Procedures for Termination

If this LOAN agreement is terminated prior to PROJECT completion, the DEPARTMENT will

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 DEPARTMENT will 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").

C. Termination and Default Remedies

1. No Further Payments. On and after the Termination Date, or in the event of a default event, the DEPARTMENT may, in its sole discretion, withdraw the LOAN and make no further payments under this LOAN agreement.
2. Repayment Demand. In response to a DEPARTMENT initiated termination event, or in response to a LOAN default event, the DEPARTMENT may in its sole discretion demand that the RECIPIENT repay the outstanding balance of the LOAN Amount and all accrued interest.
3. Interest after Repayment Demand. From the time that the DEPARTMENT demands repayment of funds, amounts owed by the RECIPIENT to the DEPARTMENT will accrue additional interest at the rate of one percent per month, or fraction thereof.
4. Accelerate Repayments. In the event of a default, the DEPARTMENT 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 Obligations upon the Net Revenue. Repayments not made immediately upon such acceleration will incur Late Charges.
5. Late Charges. All amounts due to the DEPARTMENT and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, will incur Late Charges.
6. Intercept State Funds. In the event of a default event and in accordance with RCW 90.50A.060, "Defaults," any state funds otherwise due to the RECIPIENT may, in the DEPARTMENT's sole discretion, be withheld and applied to the repayment of the LOAN.
7. Property to DEPARTMENT. In the event of a default event and at the option of the DEPARTMENT, any property (equipment and land) acquired under this LOAN agreement may, in the DEPARTMENT's sole discretion, become the DEPARTMENT's property. In that circumstance, the RECIPIENT's liability to repay money will be reduced by an amount reflecting the fair value of such property.
8. Documents and Materials. If this LOAN agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT will, at the option of the DEPARTMENT, become DEPARTMENT property. The RECIPIENT will be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.
9. 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 LOAN agreement.
10. Fees and Expenses. In any action to enforce the provisions of this LOAN agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) will be awarded to the prevailing party as that term is defined in RCW 4.84.330, "Actions on contract or lease . . .—Waiver prohibited."

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

WATER QUALITY MONITORING

Quality Assurance Project Plan (QAPP):

Prior to initiating water quality monitoring activities, the RECIPIENT must prepare a Quality Assurance Project Plan (QAPP). The QAPP must follow the DEPARTMENT's "Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies," (Ecology Publication No. 04-03-030). The RECIPIENT may also reference the "Technical Guidance for Assessing the Quality of Aquatic Environments," revised February 1994 (Ecology Publication No. 91-78).

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ATTACHMENT 5: AGREEMENT DEFINITIONS

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

“Administrative Requirements” means the effective edition of DEPARTMENT's ADMINISTRATIVE REQUIREMENTS FOR ECOLOGY GRANTS AND LOANS at the signing of this LOAN.

“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.

“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 WAC 173-98-730.

“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.

“DEPARTMENT” means the state of Washington, Department of Ecology, or any successor agency or department.

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

“Final LOAN Amount” means all principal of and interest on the LOAN from the PROJECT Start Date through the PROJECT Completion Date.

“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 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 DEPARTMENT's Funding Guidelines that correlate to the State Fiscal Year in which the PROJECT is funded.

“Initiation of Operation” is 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 of that name created by ordinance or resolution of the RECIPIENT for the repayment of the principal of and interest on 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.

“Principal and Interest Account” means, for a LOAN that constitutes Revenue-Secured Debt, the account of that name 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 LOAN agreement.

“PROJECT Completion Date” is the date specified in the LOAN agreement as that on which the Scope of Work will be fully completed.

“PROJECT Schedule” is that schedule for the PROJECT specified in the LOAN agreement.

“Reserve Account” means, for a LOAN that constitutes Revenue-Secured Debt, the account of that name created in the LOAN Fund to secure the payment of the principal of and interest on the LOAN.

“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.

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

“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 RCW 90.50A.020.

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

“Termination Payment Date” means the date on which the RECIPIENT is required to repay to the DEPARTMENT 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 DEPARTMENT grant or loan funding.

“Total PROJECT Cost” means the sum of all costs associated with a water quality project, including costs that are not eligible for DEPARTMENT 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.

(Revised September 2007)

ATTACHMENT 6: LOAN GENERAL TERMS AND CONDITIONS
PERTAINING TO GRANT AND LOAN AGREEMENTS OF
THE DEPARTMENT OF ECOLOGY

A. RECIPIENT PERFORMANCE

All activities for which grant/LOAN Funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT's employees. The RECIPIENT shall only use contractor/consultant assistance if that has been included in the LOAN agreement's final scope of work and budget.

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and conditions of this LOAN agreement.

C. THIRD PARTY BENEFICIARY

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

D. CONTRACTING FOR SERVICES (BIDDING)

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

E. ASSIGNMENTS

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

F. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits. Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.
2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. If the LOAN agreement is federally-funded, the RECIPIENT shall report to the DEPARTMENT the percent of grant/LOAN Funds available to women or minority owned businesses.

3. Wages and Job Safety. The 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.
4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this LOAN agreement for cause as provided in Section K.1, herein.

G. KICKBACKS

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

H. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this LOAN agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object. All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this LOAN agreement shall be maintained by the RECIPIENT.

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.
3. All work performed under this LOAN agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this LOAN agreement and for at least three years following grant/loan termination or dispute resolution hereunder.
4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECIPIENT expends \$500,000 or more in a year in Federal funds. The \$500,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECIPIENT must forward a copy of the audit along with the RECIPIENT'S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. PERFORMANCE REPORTING

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted. Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within thirty (30)

days following the end of the quarter being reported.

J. COMPENSATION

1. Method of compensation. Payment shall normally be made on a reimbursable basis as specified in the LOAN agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and approved as satisfactory by the Project Officer. The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work.

Instructions for submitting the payment requests are found in "Administrative Requirements for Ecology Grants and Loans", part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee. Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this LOAN agreement.

2. Period of Compensation. Payments shall only be made for actions of the RECIPIENT pursuant to the grant/LOAN agreement and performed after the effective date and prior to the expiration date of this LOAN agreement, unless those dates are specifically modified in writing as provided herein.
3. Final Request(s) for Payment. The RECIPIENT should submit final requests for compensation within forty-five (45) days after the expiration date of this LOAN agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.
4. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this LOAN agreement and, as appropriate, upon completion of an audit as specified under section J.6. herein.
5. Unauthorized Expenditures. All payments to the RECIPIENT may be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.
6. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.
7. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this LOAN agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this LOAN agreement, the DEPARTMENT may refuse to pay any further funds there under and/or terminate this LOAN agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this LOAN agreement, at the option of the DEPARTMENT, shall become Department property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

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

2. **Insufficient Funds.** The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. When this LOAN agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be good cause to terminate this LOAN agreement as provided in paragraph K.1 above.

When this LOAN agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent upon appropriation of funds by the RECIPIENT's governing body; provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section O herein.

3. **Failure to Commence Work.** In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this LOAN agreement, or by any date agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this LOAN agreement.

L. WAIVER

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this LOAN agreement is not a waiver of any subsequent breach and will not be construed as a modification of the terms of this LOAN agreement unless stated as such in writing by the authorized representative of the DEPARTMENT.

M. PROPERTY RIGHTS

1. **Copyrights and Patents.** When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT 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. Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.
2. **Publications.** When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.

3. Tangible Property Rights. The DEPARTMENT's current edition of "Administrative Requirements for Ecology Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.
4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
5. Acquisition Projects. The following provisions shall apply if the project covered by this LOAN agreement includes funds for the acquisition of land or facilities:
 - a. Prior to disbursement of funds provided for in this LOAN agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.
 - b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this LOAN 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 contemplated by this LOAN agreement.
6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this LOAN agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this LOAN agreement bear to the total acquisition, purchase or construction costs of such property.

N. SUSTAINABLE PRODUCTS

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is encouraged to implement sustainable practices where and when possible. These practices include use of clean energy, and purchase and use of sustainably produced products (e.g., recycled paper). For more information, see <http://www.ecy.wa.gov/sustainability/>.

O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this LOAN agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this LOAN agreement, the RECIPIENT may, at the DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/LOAN Funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform. Interest shall accrue at the rate of twelve percent (12%) per year from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the

RECIPIENT prior to such termination. Any property acquired under this AGREEMENT, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL

The extent and character of all work and services to be performed under this LOAN agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Officer or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Officer or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

Q. DISPUTES

Except as otherwise provided in this LOAN agreement, any dispute concerning a question of fact arising under this LOAN agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal. In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this LOAN agreement and in accordance with the decision rendered.

R. CONFLICT OF INTEREST

No officer, member, agent, or employee of either party to this LOAN agreement who exercises any function or responsibility in the review, approval, or carrying out of this LOAN agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this LOAN agreement or the proceeds thereof.

S. INDEMNIFICATION

1. The DEPARTMENT shall 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.
2. To the extent that the Constitution and laws of the State of Washington permit, each party shall 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 LOAN agreement.

T. GOVERNING LAW

This LOAN agreement shall be governed by the laws of the State of Washington.

U. SEVERABILITY

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

V. PRECEDENCE

In the event of inconsistency in this LOAN 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) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for Ecology Grants and Loans"; and (e) the General Terms and Conditions.

SS-010 Rev. 04/04

**ATTACHMENT 7: THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY
ACT (FFATA) & EPA DATA REPORTING SHEET (DATA REPORTING SHEET)**

Instructions

The RECIPIENT is required to complete and submit the Data Reporting Sheet to the DEPARTMENT as ATTACHMENT 7 of this LOAN agreement. The information provided in the Data Reporting Sheet 1) fulfills the FFATA reporting requirements (see FFATA Reporting Requirements, ATTACHMENT 4); and 2) gathers additional information required to be reported to the Environmental Protection Agency (EPA)

The RECIPIENT will please:

- 1. Access the Data Reporting Sheet Form on the DEPARTMENT's Water Quality Program financial management website.*
- 2. Fill out the form completely, including compensation information (if all FFATA criteria are met).*
- 3. Print a copy of the completed form.*
- 4. Get the appropriate signature on the form and submit as ATTACHMENT 7 of this LOAN agreement.*
- 5. Send the electronic copy to the DEPARTMENT's Project Manager and Financial Manager.*

ATTACHMENT 8: ESTIMATED LOAN REPAYMENT SCHEDULE

**ESTIMATED LOAN REPAYMENT SCHEDULE****ATTACHMENT 8**

Loan Number L1300014 **Loan Amount** \$ 4,968,000.00

Recipient Name City of Spokane **Term of Loan** 39 Payments

Amortization Method Compound-365 D/Y **Annual Int. Rate** 2.700 %

Project Completion Date 12/31/2016 **Interest Compounded** Monthly

Initiation of Operations 12/31/2016 **Loan Date** 12/31/2016

Loan Number L1300014 **Department of Ecology**

Recipient Name City of Spokane **Date Created** 01/09/2013

Payment #	Due Date	Payment Amount	Interest	Principal	Balance
1	12/31/2017	\$167,120.93	\$134,865.74	\$32,255.19	\$4,935,744.81
SubTotal	2017	\$167,120.93	\$134,865.74	\$32,255.19	
2	06/30/2018	\$167,120.93	\$67,008.49	\$100,112.44	\$4,835,632.37
3	12/31/2018	\$167,120.93	\$65,649.35	\$101,471.58	\$4,734,160.79
SubTotal	2018	\$334,241.86	\$132,657.84	\$201,584.02	
4	06/30/2019	\$167,120.93	\$64,271.75	\$102,849.18	\$4,631,311.61
5	12/31/2019	\$167,120.93	\$62,875.45	\$104,245.48	\$4,527,066.13
SubTotal	2019	\$334,241.86	\$127,147.20	\$207,094.66	
6	06/30/2020	\$167,120.93	\$61,460.20	\$105,660.73	\$4,421,405.40
7	12/31/2020	\$167,120.93	\$60,025.73	\$107,095.20	\$4,314,310.20
SubTotal	2020	\$334,241.86	\$121,485.93	\$212,755.93	
8	06/30/2021	\$167,120.93	\$58,571.79	\$108,549.14	\$4,205,761.06
9	12/31/2021	\$167,120.93	\$57,098.11	\$110,022.82	\$4,095,738.24
SubTotal	2021	\$334,241.86	\$115,669.90	\$218,571.96	
10	06/30/2022	\$167,120.93	\$55,604.42	\$111,516.51	\$3,984,221.73
11	12/31/2022	\$167,120.93	\$54,090.45	\$113,030.48	\$3,871,191.25
SubTotal	2022	\$334,241.86	\$109,694.87	\$224,546.99	
12	06/30/2023	\$167,120.93	\$52,555.93	\$114,565.00	\$3,756,626.25
13	12/31/2023	\$167,120.93	\$51,000.58	\$116,120.35	\$3,640,505.90
SubTotal	2023	\$334,241.86	\$103,556.51	\$230,685.35	
14	06/30/2024	\$167,120.93	\$49,424.11	\$117,696.82	\$3,522,809.08
15	12/31/2024	\$167,120.93	\$47,826.24	\$119,294.69	\$3,403,514.39

Loan Number L1300014

Department of Ecology

Recipient Name City of Spokane

Date Created 01/09/2013

Payment #	Due Date	Payment Amount	Interest	Principal	Balance
SubTotal	2024	\$334,241.86	\$97,250.35	\$236,991.51	
16	06/30/2025	\$167,120.93	\$46,206.68	\$120,914.25	\$3,282,600.14
17	12/31/2025	\$167,120.93	\$44,565.12	\$122,555.81	\$3,160,044.33
SubTotal	2025	\$334,241.86	\$90,771.80	\$243,470.06	
18	06/30/2026	\$167,120.93	\$42,901.29	\$124,219.64	\$3,035,824.69
19	12/31/2026	\$167,120.93	\$41,214.86	\$125,906.07	\$2,909,918.62
SubTotal	2026	\$334,241.86	\$84,116.15	\$250,125.71	
20	06/30/2027	\$167,120.93	\$39,505.54	\$127,615.39	\$2,782,303.23
21	12/31/2027	\$167,120.93	\$37,773.01	\$129,347.92	\$2,652,955.31
SubTotal	2027	\$334,241.86	\$77,278.55	\$256,963.31	
22	06/30/2028	\$167,120.93	\$36,016.96	\$131,103.97	\$2,521,851.34
23	12/31/2028	\$167,120.93	\$34,237.07	\$132,883.86	\$2,388,967.48
SubTotal	2028	\$334,241.86	\$70,254.03	\$263,987.83	
24	06/30/2029	\$167,120.93	\$32,433.02	\$134,687.91	\$2,254,279.57
25	12/31/2029	\$167,120.93	\$30,604.47	\$136,516.46	\$2,117,763.11
SubTotal	2029	\$334,241.86	\$63,037.49	\$271,204.37	
26	06/30/2030	\$167,120.93	\$28,751.10	\$138,369.83	\$1,979,393.28
27	12/31/2030	\$167,120.93	\$26,872.57	\$140,248.36	\$1,839,144.92
SubTotal	2030	\$334,241.86	\$55,623.67	\$278,618.19	
28	06/30/2031	\$167,120.93	\$24,968.54	\$142,152.39	\$1,696,992.53
29	12/31/2031	\$167,120.93	\$23,038.65	\$144,082.28	\$1,552,910.25
SubTotal	2031	\$334,241.86	\$48,007.19	\$286,234.67	
30	06/30/2032	\$167,120.93	\$21,082.57	\$146,038.36	\$1,406,871.89
31	12/31/2032	\$167,120.93	\$19,099.93	\$148,021.00	\$1,258,850.89
SubTotal	2032	\$334,241.86	\$40,182.50	\$294,059.36	
32	06/30/2033	\$167,120.93	\$17,090.37	\$150,030.56	\$1,108,820.33
33	12/31/2033	\$167,120.93	\$15,053.53	\$152,067.40	\$956,752.93
SubTotal	2033	\$334,241.86	\$32,143.90	\$302,097.96	
34	06/30/2034	\$167,120.93	\$12,989.04	\$154,131.89	\$802,621.04
35	12/31/2034	\$167,120.93	\$10,896.52	\$156,224.41	\$646,396.63

Loan Number L1300014

Department of Ecology

Recipient Name City of Spokane

Date Created 01/09/2013

Payment #	Due Date	Payment Amount	Interest	Principal	Balance
SubTotal	2034	\$334,241.86	\$23,885.56	\$310,356.30	
36	06/30/2035	\$167,120.93	\$8,775.59	\$158,345.34	\$488,051.29
37	12/31/2035	\$167,120.93	\$6,625.87	\$160,495.06	\$327,556.23
SubTotal	2035	\$334,241.86	\$15,401.46	\$318,840.40	
38	06/30/2036	\$167,120.93	\$4,446.96	\$162,673.97	\$164,882.26
39	12/31/2036	\$167,120.73	\$2,238.47	\$164,882.26	\$0.00
SubTotal	2036	\$334,241.66	\$6,685.43	\$327,556.23	
Grand Total		\$6,517,716.07	\$1,549,716.07	\$4,968,000.00	



Agenda Sheet for City Council Meeting of:
02/11/2013

Date Rec'd	1/30/2013
Clerk's File #	OPR 2013-0093
Renews #	

Submitting Dept	ENGINEERING SERVICES	Cross Ref #	
Contact Name/Phone	MARCIA DAVIS 625-6398	Project #	2013055
Contact E-Mail	MDAVIS@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	REVENUE
Agenda Item Name	0370-LOAN AGREEMENT-DOE-HAZEL'S CREEK		

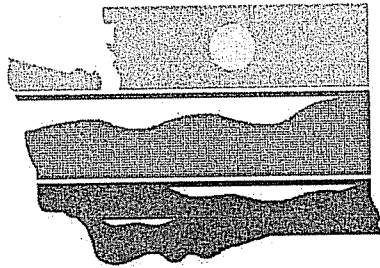
Agenda Wording

Loan Agreement between Washington State Department of Ecology and the City of Spokane for construction of Hazel's Creek Downstream Conveyance.

Summary (Background)

This project involves designing and constructing a gravity piping system to convey stormwater downstream from Hazel's Creek Drainage Facility in south Spokane. The downstream conveyance system will pipe stormwater to the Glenrose paleo-channel near Cuba Street and 36th Avenue, northwest of Chase Middle School. The system will allow additional development to connect to Hazel's Creek. The 37th Avenue stormwater system, currently in design, will also connect to Hazel's Creek Downstream Conveyance.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Revenue	\$ 1,428,600	#	4370 43390 99999 38271
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	TAYLOR, MIKE	<u>Study Session</u>	
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u>	Public Works 1/28/13
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	BURNS, BARBARA	sdecker@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	pdolan@spokanecity.org	
<u>Additional Approvals</u>		mlesesne@spokanecity.org	
<u>Purchasing</u>	WAHL, CONNIE	mdavis@spokanecity.org	
		kemiller@spokanecity.org	
		mhughes@spokanecity.org	
		htrautman@spokanecity.org	



DEPARTMENT OF ECOLOGY

State of Washington

**WASHINGTON STATE WATER POLLUTION CONTROL REVOLVING FUND
LOAN AGREEMENT
BETWEEN
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
CITY OF SPOKANE**

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**WASHINGTON STATE WATER POLLUTION CONTROL REVOLVING FUND
LOAN AGREEMENT
BETWEEN
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
CITY OF SPOKANE
FOR
HAZEL'S CREEK DOWNSTREAM CONVEYANCE**

THIS is a binding loan [LOAN] agreement entered into by and between the state of Washington Department of Ecology [DEPARTMENT] and the City of Spokane [RECIPIENT]. The purpose of this LOAN agreement is to provide funds to the RECIPIENT to carry out the activities for the project Hazel's Creek Downstream Conveyance described in this LOAN agreement.

This LOAN agreement consists of 12 pages and 8 attachments.

Capitalized terms used, but not otherwise defined, in this LOAN agreement are defined in ATTACHMENT 5.

PART I. GENERAL INFORMATION

PROJECT Title:	Hazel's Creek Downstream Conveyance
PROJECT Period: Effective Date: <i>(See Attachment 4)</i>	July 6, 2012
Completion Date:	October 31, 2014
LOAN Number(s):	L1300015
Standard Interest LOAN Amount:	\$1,428,960
Interest Rate:	2.7%
LOAN Term:	20 years
Forgivable Principal Amount:	N/A
Total LOAN Amount:	\$1,428,960
State Fiscal Year:	2013

RECIPIENT Information

RECIPIENT Name:	City of Spokane
Mailing Address:	808 W. Spokane Falls Blvd. Spokane, WA 99201

FEDERAL TAXPAYER ID NUMBER:

91-6001280

Data Universal Numbering System (DUNS)
Number:

829976377

PROJECT Contact:
PROJECT Manager:

Marcia Davis
Marcia Davis

Mailing Address:

808 W. Spokane Falls. Blvd.
Spokane, WA 99201-3334
mdavis@spokanecity.org
509-625-6398
509-343-5760

Email Address:

Phone Number:

Fax Number:

DEPARTMENT Project Contact Information

PROJECT Manager:

Email Address:

Phone Number:

Fax Number:

Address

Cynthia Wall
cynthia.wall@ecy.wa.gov
509-329-3537
509-329-3529
WA State Department of Ecology
Eastern Regional Office
N. 4601 Monroe
Spokane, WA 99205-1295

Financial Manager:

Email Address:

Phone Number:

Fax Number:

Address

Laurie Webster
laurie.webster@ecy.wa.gov
360-407-6542
(360) 407-7151
WA State Department of Ecology
Water Quality Program, FMS
P.O. Box 47600
Olympia, WA 98504-7600

Funding Source(s) for This LOAN agreement:

This LOAN agreement may be funded in part or in full with federal funds (Catalog of Federal Domestic Assistance Number 66.458) passed through to the RECIPIENT by the DEPARTMENT. As a "sub-recipient" of federal funds, OMB Circular A-133 contains certain requirements which may apply. Specifically, if the RECIPIENT or sub-recipient has expended a cumulative total (direct or pass through) of \$500,000 or more in federal awards in a fiscal year, an audit may be required in accordance with OMB Circular A-133. If federal funds have been used to reimburse eligible costs incurred for this PROJECT as part of this LOAN agreement, the DEPARTMENT's fiscal office will provide notification in January of each year that identifies the amount of federal funds that have been expended.

(Federal funding for this AGREEMENT is provided from Capitalization Grants and state match for Clean Water State Revolving Funds; Environmental Protection Agency, Office of Water)

Specific Funding Categories:

Loan for Green Project Reserves: ☐ Yes ☒ No

Green Infrastructure Amount: \$

Water Efficiency Amount: \$

Energy Efficiency Amount: \$

Innovative Amount: \$

TOTAL Amount: \$

Forgivable Principal Subsidy for Green Project Reserves: ☐ Yes ☒ No

Green Infrastructure Amount: \$

Water Efficiency Amount: \$

Energy Efficiency Amount: \$

Innovative Amount: \$

TOTAL Amount: \$

Loan: ☒ Yes ☐ No

Amount: \$1,428,960

Forgivable Principal Subsidy (Hardship): ☐ Yes ☒ No

Amount: \$

State Centennial Loan Funds: ☐ Yes ☒ No

Amount: \$

GENERAL LOAN INFORMATION:

Increased Oversight: ☐ Yes ☒ No

Useful life of the PROJECT: 20 years

PROJECT TYPE: *Check all that apply*

Facilities Project: ☐ Yes ☒ No

Stormwater Project: ☒ Yes ☐ No

Green Project Reserves: ☐ Yes ☒ No

Activities Project: ☐ Yes ☒ No

LOAN SECURITY: *Check all that apply*

Does this LOAN agreement and the LOAN to be made constitute Revenue Secured Lien Obligation of the RECIPIENT? ☐ Yes ☐ No

Does this LOAN agreement and the LOAN to be made constitute a general obligation debt of the RECIPIENT or the state of Washington? ☒ Yes ☐ No

Does this LOAN agreement and the LOAN to be made constitute a valid general obligation of the RECIPIENT payable from special assessments? ☐ Yes ☒ No

Is this LOAN secured with dedicated revenue through a Tribal Governmental Enterprise?
☐ Yes ☒ No

IMPORTANT DATES:

Estimated Project Start Date: July 6, 2012

Estimated Initiation of Operation (I of O): ☐ Yes ☒ No If yes, Date:

Estimated Project Completion Date: October 13, 2013

Other Milestone or Target Dates: ☐ Yes ☒ No

Interim Refinance: ☐ Yes ☒ No If yes, Effective Date:

Post Project Assessment Date (see Part IV and ATTACHMENT 4): October 30, 2016

LOAN Agreement Effective Date: July 6, 2012

PART II. PROJECT SUMMARY

The Hazel's Creek Basin naturally drains to the Glenrose paleo-channel, an ancient river filled with unconsolidated sediments. As the southern part of Spokane has developed, the natural drainage system of wetlands and groundwater drainage has been disrupted. This project restores some of the natural flow patterns within the Hazel's Creek Basin. This project also provides a connection for the drainage system to be constructed in 37th Avenue. This project will eliminate the need for some the evaporation ponds upstream of the Hazel's Creek Facility. The connection with the system in 37th

Avenue allows some flows to be removed from the combined sewer overflow (CSO) system. The connection also allows flows to poorly draining drywells to be conveyed in the new system.

PART III. PROJECT BUDGET

Elements (Tasks)	Total PROJECT Cost	Total Eligible PROJECT Cost	Loan Amount
1. Project Administration/Management	\$54,960	\$54,960	\$54,960
2. Project Design and Permitting	\$109,900	\$109,900	\$109,900
3. Construction Management	\$164,900	\$164,900	\$164,900
4. Construction	\$1,099,200	\$1,099,200	\$1,099,200
Total	\$1,428,960	\$1,428,960	*\$1,428,960

*The DEPARTMENT'S Fiscal Office will track to the total eligible LOAN amount. However, the RECIPIENT cannot deviate among elements without DEPARTMENT approval.

Other Funding Sources: ☐ Yes (if Yes, list sources and amounts) ☒ No

PART IV. GOALS, OUTCOMES, AND POST PROJECT ASSESSMENT

(See Important Dates in Part I and Post Project Assessment in Attachment 4)

A. Financial Assistance Water Quality Project Goals: One or more of the selected following goals apply to this project:

- ☐ Severe Public Health Hazard or Public Health Emergency eliminated.
- ☒ Designated beneficial uses will be restored or protected, 303(d)-Listed water bodies restored to water quality standards, and healthy waters prevented from being degraded.
- ☒ Regulatory compliance with a consent decree, compliance orders, TMDL or waste load allocation achieved.

B. Water Quality Project Outcomes: The following are quantitative results anticipated from the project.

1. Restore natural flow patterns in the drainage basin to provide a conduit for stormwater to flow around the paleochannel restriction and infiltrate in a natural flood plain.
2. Eliminate combined sewer overflow to the Spokane River, flooding in streets and drywells, and large, evaporative lined ponds which create a safety concern as well as a water quality concern.
3. Potentially remove 10,000 lbs/year of phosphorous, 1,400 lbs/year of lead, 2,100 lbs/year of zinc and 20,400 lbs/year of nitrates.

C. Does this PROJECT address a TMDL: ☒ Yes ☐ No

D. Environmental Mitigation: ☐ Yes ☒ No

PART V. SCOPE OF WORK

Task 1 - Project Administration/Management

- A. The RECIPIENT will administer the PROJECT. Responsibilities will include, but not be limited to: maintenance of project records; submittal of payment vouchers, fiscal forms, progress reports, and the final report; compliance with applicable procurement, contracting, and interlocal agreement requirements; attainment of all required permits, licenses, easements, or property rights necessary for the PROJECT; and submittal of required performance items.
- B. The RECIPIENT will manage the PROJECT. Activities will include: conducting, coordinating, and scheduling project activities and assuring quality control. The RECIPIENT will maintain effective communication with the RECIPIENT's designees; the DEPARTMENT; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT will carry out this PROJECT in accordance with any completion dates outlined in this LOAN agreement.

Required Performance:

1. Effective administration and management of this project.
2. Timely submittal of all required performance items, progress reports, financial vouchers and the final project report.

Task 2 -Project Design and Permitting

- A. The RECIPIENT will design the gravity piping conveyance system between Regal Street and the paleochannel located northwest of Chase Middle School. The design must comply with the General Project Management Guidelines (Attachment 4). Elements of the design will include:
- a. 3000 feet of 18 inch pipe
 - b. 4000 feet of 24 inch pipe
 - c. 18 manholes
 - d. Underground injection control facilities
- B. The RECIPIENT will complete the facility designs within one year after the execution of this AGREEMENT.
- C. The RECIPIENT will prepare construction documents for the PROJECT.
- D. The RECIPIENT will prepare all required environmental documents and permits for the project.
- E. The RECIPIENT will prepare a State Environmental Review Process (SERP) report in coordination with the DEPARTMENT's SERP coordinator and regional staff.

Required Performance:

1. Completion of contract documents for construction including plans, specifications, and engineers estimate prepared within budget and in a timely fashion for Ecology to review before bidding for construction.
2. Preparation of stormwater design report documenting calculations, assumptions and conclusions.
3. Submittal of two copies of SERP report, and the cost effectiveness analysis for DEPARTMENT review and concurrence.

Task 3 –Construction Management

- A. The RECIPIENT will inspect the PROJECT during construction for conformance to the construction documents. Inspections will be performed for catch basin, pipe, drywell installation and replacement and repair to damaged infrastructure.
- B. The RECIPIENT will develop a detailed Construction Quality Assurance Plan (WAC 173-240-075) and submit it to the DEPARTMENT for approval. This plan must 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 the DEPARTMENT. In the absence of any major changes, the RECIPIENT will describe progress of the construction in the quarterly progress reports.
- D. Upon completion of construction, the RECIPIENT will provide the DEPARTMENT's Project Manager with a set of "as-built" plans (i.e., record construction drawings which reflect changes, modifications, or other significant revisions made to the project during construction).
- E. Upon project completion, the RECIPIENT will submit the Declaration of Construction Completion form to the DEPARTMENT 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 and specifications and major change orders approved by the DEPARTMENT, and is accurately shown on the as-built plans.
- F. The RECIPIENT will prepare responses to the Contractor, including information requests, field orders and change orders to formally document changes to the original construction documents.

Required Performance:

1. Preparation of inspection reports.
2. Review of shop drawings and documentation of review comments.
3. Prepare responses to Contractor's request for information, field orders, and change orders, as necessary.
4. Submittal of a Construction Quality Assurance Plan.
5. Submittal of "as-built" plans.
6. Submittal of a Declaration of Construction completion.
7. Maintain construction files.

Task 4 –Construction

- A. The RECIPIENT will include the DEPARTMENT's specification insert in the bid documents.
- B. The RECIPIENT will execute a contract with the low responsive responsible bidder to construct the PROJECT.
- C. The RECIPIENT will complete the construction of a conveyance system between Regal Street and the paleochannel located northwest of Chase Middle School in accordance with the approved Plans and Specifications. The construction will include the piping system as well as the catch basins and manholes. This will be a gravity piping system.
- D. The RECIPIENT will conduct a pre-construction conference and invite DEPARTMENT staff.
- E. The RECIPIENT will negotiate any change orders to the construction contract, and submit the change orders to the DEPARTMENT for approval as described in the General Project Management Guidelines (Attachment 4).

Required Performance:

- 1. Successful construction of a gravity piping conveyance system in conformance with the approved Plans and Specifications.
- 2. The RECIPIENT will submit all required submittals as described in the General Project Management Guidelines (Attachment 4), including:
 - a. Bid Tabs, the Notice of Award, and a copy of the executed contract. The RECIPIENT must submit Bid Tabs, the Notice of Award, and a copy of the executed contract before the DEPARTMENT will provide reimbursement for work performed under this task (Construction).
 - b. Copy of the advertisement for bids and the affidavit of publication.
 - c. Copy of the notice to proceed.
 - d. Minutes of the pre-construction meeting.

PART V(a). SPECIAL TERMS AND CONDITIONS

N/A

PART VI. LOAN INTEREST RATE AND TERMS

Source and Availability; LOAN Amounts; LOAN Terms

This LOAN agreement will remain in effect until the date of final repayment of the LOAN, unless terminated earlier according to the provisions herein.

Subject to all of the terms, provisions, and conditions of this LOAN agreement, and subject to the availability of funds, the DEPARTMENT will loan to the RECIPIENT the sum of one million, four hundred and twenty-eight thousand, nine hundred and sixty dollars (\$1,428,960). Of this amount one million, four hundred and twenty-eight thousand, nine hundred and sixty dollars (\$1,428,960)

(Estimated LOAN Amount) is in the form of loan.

When the PROJECT Completion Date has occurred, the DEPARTMENT and the RECIPIENT will execute an amendment to this LOAN agreement which details the final LOAN amount (Final LOAN Amount), and the DEPARTMENT will prepare a final LOAN repayment schedule, in the form of ATTACHMENT 8. The Final LOAN Amount will 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") will bear interest at the rate of 2.7 percent per annum, calculated on the basis of a 365 day year. Interest on the Estimated LOAN Amount will accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final LOAN Amount will be repaid in equal installments semiannually over a term of 20 years, as provided in ATTACHMENT 8.

PART VII. ALL AGREEMENTS CONTAINED HEREIN

The RECIPIENT will ensure this PROJECT is completed according to the details of this LOAN agreement. The RECIPIENT may elect to use its own forces or it may contract for professional services necessary to perform and complete project-related work, if approved by the DEPARTMENT.

Webpage addresses may be provided throughout this LOAN agreement for your convenience, however, if any of these addresses do not work, it is the responsibility of the RECIPIENT to contact the DEPARTMENT for the updated webpage address or the necessary information.

The following contain 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 LOAN agreement
- ATTACHMENT 1: Opinion of RECIPIENT's Legal Counsel
- ATTACHMENT 2: Authorizing Ordinance or Resolution
- ATTACHMENT 3: Preaward Compliance Review Report for All Applicants Requesting Federal Assistance
- ATTACHMENT 4: General Project Management Requirements
- ATTACHMENT 5: Agreement Definitions
- ATTACHMENT 6: LOAN General Terms and Conditions (Pertaining to Grant and Loan Agreements) of the Department of Ecology
- ATTACHMENT 7: The Federal Funding Accountability and Transparency Act (FFATA) & The Clean Water State Revolving Fund Initial Data Reporting Sheet
- ATTACHMENT 8: Estimated LOAN Repayment Schedule
- The effective edition, at the signing of this LOAN agreement, of the DEPARTMENT's "*Administrative Requirements for Ecology Grants and Loans*"
- The associated funding guidelines that correspond to the Fiscal Year in which the project is funded
- The applicable statutes and regulations
- As a subrecipient of federal funds (Catalogue of Federal Domestic Assistance Number 66.458), the RECIPIENT must comply with the following federal regulations:
 - OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations
 - OMB Circular A-133, Compliance Supplement

OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments
OMB Circular A-102, Uniform Administrative Requirements

No changes, additions, or deletions to this LOAN agreement will be authorized without a formal written amendment, EXCEPT that in response to a request from the RECIPIENT, the DEPARTMENT may redistribute the loan budget. The DEPARTMENT or the RECIPIENT may change their respective staff contacts without the concurrence of either party.

By signing this LOAN agreement, the RECIPIENT acknowledges that opportunity to thoroughly review the terms of this LOAN agreement, the attachments, all incorporated or referenced documents, as well as all applicable statutes, rules, or guidelines mentioned in this LOAN agreement was given.

IN WITNESS WHEREOF, the DEPARTMENT and the RECIPIENT have signed this LOAN agreement as of the dates set forth below, to be effective as provided above.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

CITY OF SPOKANE

KELLY SUSEWIND, P.E., P.G. DATE
WATER QUALITY PROGRAM MANAGER

DAVID A. CONDON DATE
MAYOR

APPROVED AS TO FORM ONLY
ASSISTANT ATTORNEY GENERAL
(October 29, 2009)

Boilerplate Update July 2, 2012

ATTACHMENT 1: OPINION OF RECIPIENT'S LEGAL COUNSEL

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 RECIPIENT], and I have examined any and all documents and records pertinent to the LOAN agreement.

Based on the foregoing, it is my opinion that:

- A. The RECIPIENT is a duly organized and legally existing municipal corporation or political subdivision under the laws of the state of Washington or a federally recognized Indian tribe;
- B. The RECIPIENT has the power and authority to execute and deliver and to perform its obligations under the LOAN agreement;
- C. The LOAN agreement has been duly authorized and executed by RECIPIENT's authorized representatives and, to my best knowledge and after reasonable investigation, all other necessary actions have been taken to make the LOAN agreement valid, binding, and enforceable against the RECIPIENT in accordance with its terms, except as such enforcement is affected by bankruptcy, insolvency, moratorium, or other laws affecting creditors' rights and principles of equity if equitable remedies are sought;
- D. To my best knowledge and after reasonable investigation, the LOAN agreement does not violate any other agreement, statute, court order, or law to which the RECIPIENT is a party or by which it or its properties are bound;
- E. There is currently no litigation seeking to enjoin the commencement or completion of the PROJECT or to enjoin the RECIPIENT from entering into the LOAN agreement or from accepting or repaying the LOAN. The RECIPIENT is not a party to litigation which will materially affect its ability to repay such LOAN on the terms contained in the LOAN agreement; and
- F. The LOAN agreement constitutes a valid obligation of the RECIPIENT payable from the Net Revenues of the Utility.

Capitalized terms used herein will have the meanings ascribed thereto in the LOAN agreement between the RECIPIENT and the DEPARTMENT.

RECIPIENT's Legal Counsel

Date

ATTACHMENT 2: AUTHORIZING ORDINANCE OR RESOLUTION

General

Recipients of Federal financial assistance from the U.S. Environmental Protection Agency must comply with the following statutes and regulations.

Title VI of the Civil Rights Acts of 1964 provides that no person in the United States shall, 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. The Act goes on to explain that the statute shall not be construed to authorize action with respect to any employment practice of any employer, employment agency, or labor organization (except where the primary objective of the Federal financial assistance is to provide employment).

Section 13 of the 1972 Amendments to the Federal Water Pollution Control Act provides that no person in the United States shall on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the Federal Water Pollution Control Act, as amended. Employment discrimination on the basis of sex is prohibited in all such programs or activities.

Section 504 of the Rehabilitation Act of 1973 provides that no otherwise qualified individual with a disability in the United States shall solely by reason of disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Employment discrimination on the basis of disability is prohibited in all such programs or activities.

The Age Discrimination Act of 1975 provides that no person on the basis of age shall be excluded from participation under any program or activity receiving Federal financial assistance. Employment discrimination is not covered. Age discrimination in employment is prohibited by the Age Discrimination in Employment Act administered by the Equal Employment Opportunity Commission.

Title IX of the Education Amendments of 1972 provides that no person in the United States on the basis of sex shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Employment discrimination on the basis of sex is prohibited in all such education programs or activities. Note: an education program or activity is not limited to only those conducted by a formal institution.

40 C.F.R. Part 5 implements Title IX of the Education Amendments of 1972.

40 C.F.R. Part 7 implements Title VI of the Civil Rights Act of 1964, Section 13 of the 1972 Amendments to the Federal Water Pollution Control Act, and Section 504 of The Rehabilitation Act of 1973.

The Executive Order 13166 (E.O. 13166) entitled; "Improving Access to Services for Persons with Limited English Proficiency" requires Federal agencies work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.

Items

"Applicant" means any entity that files an application or unsolicited proposal or otherwise requests EPA assistance. 40 C.F.R. §§ 5.105, 7.25.

"Recipient" means any entity, other than applicant, which will actually receive EPA assistance. 40 C.F.R. §§ 5.105, 7.25.

"Civil rights lawsuits and administrative complaints" means any lawsuit or administrative complaint alleging discrimination on the basis of race, color, national origin, sex, age, or disability pending or decided against the applicant and/or entity which actually benefits from the grant, but excluding employment complaints not covered by 40 C.F.R. Parts 5 and 7. For example, if a city is the named applicant but the grant will actually benefit the Department of Sewage, civil rights lawsuits involving both the city and the Department of Sewage should be listed.

"Civil rights compliance review" means any review assessing the applicant's and/or recipient's compliance with laws prohibiting discrimination on the basis of race, color, national origin, sex, age, or disability.

Submit this form with the original and required copies of applications, requests for extensions, requests for increase of funds, etc. Updates of information are all that are required after the initial application submission.

If any item is not relevant to the project for which assistance is requested, write "NA" for "Not Applicable."

In the event applicant is uncertain about how to answer any questions, EPA program officials should be contacted for clarification.

* Questions VII – XI are for informational use only and will not affect an applicant's grant status. However, applicants should answer all questions on this form. (40 C.F.R. Parts 5 and 7).

** Note: Signature appears in the Approval Section of the EPA Comprehensive Administrative Review For Grants/Cooperative AGREEMENTs & Continuation/Supplemental Awards form.

Approval indicates, in the reviewer's opinion, questions I – VI of Form 4700-4 comply with the preaward administrative requirements for EPA assistance.

"Burden Disclosure Statement"

EPA estimates public reporting burden for the preparation of this form to average 30 minutes per response. This estimate includes the time for reviewing instructions, gathering and maintaining the data needed and completing and reviewing the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to:

U.S. EPA, Attn: Collection Strategies Division (MC 2822T), Office of Information Collection, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

The information on this form is required to enable the U.S. Environmental Protection Agency to determine whether applicants and prospective recipients are developing projects, programs and activities on a nondiscriminatory basis as required by the above statutes and regulations.

ATTACHMENT 4: GENERAL PROJECT MANAGEMENT REQUIREMENTS
FOR THE WASHINGTON STATE WATER POLLUTION CONTROL REVOLVING FUND
AND CENTENNIAL CLEAN WATER PROGRAM PROJECTS
(UNLESS MODIFIED BY A SPECIAL TERM AND CONDITION IN PART V.)

ACCOUNTING STANDARDS

The RECIPIENT will maintain accurate records and accounts for the PROJECT ("PROJECT Records") in accordance with Chapter 43.09.200 RCW "Local Government Accounting - Uniform System of Accounting."

These PROJECT Records will be separate and distinct from the RECIPIENT's other records and accounts (General Accounts). Eligible costs will be audited every other year or annually if more than \$500,000 of federal funds are received in any given year. Audits will be performed by an independent, certified accountant or state auditor, which may be part of the annual audit of the General Accounts of the RECIPIENT. If the annual audit includes an auditing of this PROJECT, a copy of such audit, including all written comments, recommendations, and findings, will be furnished to the DEPARTMENT within 30 days after receipt of the final audit report.

ACTIVITIES PROJECTS: TECHNICAL ASSISTANCE

Technical assistance for agriculture activities provided under the terms of this LOAN will be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State. However, technical assistance, proposed practices, or PROJECT designs that do not meet these standards may be accepted if approved in writing by the NRCS and the DEPARTMENT.

ACTIVITIES PROJECTS: BEST MANAGEMENT PRACTICES

Best Management Practices (BMPs) intended primarily for production, operation, or maintenance are not eligible. BMPs must be pre approved by the DEPARTMENT.

AUTHORITY

Authority of RECIPIENT

This LOAN 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 ordinance or resolution attached as ATTACHMENT 2.

Opinion of RECIPIENT's Legal Counsel

The DEPARTMENT has received an opinion of legal counsel to the RECIPIENT in the form and substance of Attachment 1.

CERTIFICATIONS

The RECIPIENT certifies by signing this LOAN agreement that all negotiated interlocal agreements necessary for the PROJECT are, or will be, consistent with the terms of this LOAN agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT will submit a copy of each interlocal agreement necessary for the PROJECT to the DEPARTMENT.

The RECIPIENT certifies by signing this LOAN agreement that all applicable requirements have been satisfied in the procurement of professional services and that eligible and ineligible costs are separated and identifiable. The RECIPIENT will submit a copy of the final negotiated agreement to the DEPARTMENT for eligibility determination.

The RECIPIENT certifies by signing this LOAN agreement that the requirements of Chapter 39.80 RCW, "Contracts for Architectural and Engineering Services," have been, or will be, met in procuring

qualified architectural/engineering services. The RECIPIENT will identify and separate eligible and ineligible costs in the final negotiated agreement and submit a copy of the agreement to the DEPARTMENT.

CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT, 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 is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT will provide immediate written notice to the DEPARTMENT if at any time the RECIPIENT 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. The RECIPIENT may contact the DEPARTMENT for assistance in obtaining a copy of those regulations.
4. The RECIPIENT agrees it will 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 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 is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. The RECIPIENT 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. The RECIPIENT 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 the DEPARTMENT before requests for reimbursements will be approved for payment. The RECIPIENT must run a search in www.sam.gov and print a copy of completed searches to document proof of compliance.

CLEAN WATER STATE REVOLVING FUND DATA REPORTING SHEET (DATA REPORTING SHEET)

The RECIPIENT will submit the completed Data Reporting Sheet to the DEPARTMENT. The completed and signed Data Reporting Sheet will be included in this LOAN agreement as ATTACHMENT 7 (see ATTACHMENT 7 for further instructions).

COMMENCEMENT OF WORK

The DEPARTMENT reserves the right to terminate this LOAN agreement if work does not commence on the project within 4 months after the DEPARTMENT's deadline for signing this LOAN agreement.

COVENANTS AND AGREEMENTS

Acceptance

The RECIPIENT accepts and agrees to comply with all terms, provisions, conditions, and commitments of this LOAN agreement, including all incorporated and referenced documents, and to fulfill all assurances, declarations, representations, and commitments made by the RECIPIENT in its application, accompanying documents, and communications filed in support of its request for a LOAN.

Accounts and Records

The RECIPIENT will keep proper and separate accounts and records in which complete and separate entries will be made of all transactions relating to this LOAN agreement. The RECIPIENT will keep such records for six years after receipt of final LOAN disbursement.

Alteration and Eligibility of PROJECT

During the term of this LOAN agreement, the RECIPIENT (i) will not materially alter the design or structural character of the PROJECT without the prior written approval of the DEPARTMENT and (ii) will 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.

Collection of ULID Assessments (if used to secure the repayment of this LOAN)

All ULID Assessments in the ULID will be paid into the LOAN Fund and used to pay the principal of and interest on the LOAN. The ULID Assessments in the ULID may be deposited into the Reserve Account to satisfy a Reserve Requirement if a Reserve Requirement is applicable.

Free Service

The RECIPIENT will not furnish Utility service to any customer free of charge if providing that free service will affect the RECIPIENT's ability to meet the obligations of this LOAN agreement.

Insurance

The RECIPIENT will at all times carry fire and extended coverage, public liability and property damage, and such other forms of insurance with responsible insurers and with 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 will self-insure or will participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

Levy and Collection of Taxes (if used to secure the repayment of this 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.

Maintenance and Operation of a Funded Utility

The RECIPIENT will at all times maintain and keep a funded Utility in good repair, working order and condition and also will at all times operate the Utility and the business in an efficient manner and at a reasonable cost.

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.

Reserve Requirement

For loans that are Revenue-Secured Debt with terms greater than five years, the RECIPIENT must accumulate a reserve for the LOAN equivalent to at least the Average Annual Debt Service on the LOAN during the first five years of the repayment period of the LOAN. This amount will be deposited in a Reserve Account in the LOAN Fund in approximately equal annual payments commencing within one year after the Initiation of Operation or the PROJECT Completion Date, whichever comes first.

"Reserve Account" means, for a LOAN that constitutes Revenue-Secured Debt, an account of that name created in the LOAN Fund to secure the payment of the principal and interest on the LOAN. The amount on deposit in the Reserve Account may be applied by the RECIPIENT (i) to make, in part or in full, the final repayment to the DEPARTMENT of the LOAN Amount or, (ii) if not so applied, for any other lawful purpose of the RECIPIENT once the LOAN Amount, plus interest and any other amounts owing to the DEPARTMENT, have been paid in full.

Sale or Disposition of Utility

The RECIPIENT will not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities or other part of the Utility, or any real or personal property comprising a part of the Utility unless one of the following applies:

1. The facilities or property transferred are not material to the operation of the Utility; or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the Utility; or are no longer necessary, material, or useful to the operation of the Utility.
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 Utility.
3. The RECIPIENT receives from the transferee 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 Utility from the portion of the Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.

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

CULTURAL AND HISTORIC RESOURCES PROTECTION

The RECIPIENT must comply with all requirements listed in Executive Order 05-05 and, if federally funded, Section 106 of the National Historic Preservation Act prior to implementing any project that involves ground disturbing activities.

The RECIPIENT must conduct and submit a cultural resources survey or complete and submit an EZ-1 Form to the DEPARTMENT's project manager prior to any ground disturbing activities. The DEPARTMENT will contact the Department of Archaeology and Historic Preservation (DAHP) and affected tribes regarding the proposed project activities in order to fulfill Executive Order 05-05/Section 106 requirements. Any prior communication between the RECIPIENT, the DAHP, and the tribes is not sufficient to meet requirements. Any mitigation measures as an outcome of this process will be requirements of this LOAN agreement.

Another agency's cultural resources review must have prior approval from the DEPARTMENT in order to meet Executive Order 05-05/Section 106 requirements for the project.

Any ground disturbing activities that occur prior to the completion of the Executive Order 05-

05/Section 106 processes will not be eligible for reimbursement. Activities associated with cultural resources review are loan and grant eligible and reimbursable.

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 LOAN agreement.

Non-discrimination Provision. The RECIPIENT will not discriminate on the basis of race, color, national origin or sex in the performance of this LOAN agreement. The RECIPIENT will 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 LOAN agreement which may result in the termination of this contract or other legally available remedies.

The RECIPIENT will 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 LOAN agreement may be rescinded, canceled, or terminated in whole or in part, and the RECIPIENT may be declared ineligible for further funding from the DEPARTMENT. The RECIPIENT will, however, be given a reasonable time in which to cure this noncompliance.

Fair Share Objective/Goals, 40 CFR, Part 33, Subpart D. If the dollar amount of this LOAN agreement or the total dollar amount of all of the RECIPIENT's financial assistance agreements in the current federal fiscal year from the Revolving Fund is over \$250,000, the RECIPIENT accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the **Office of Minority Women Business Enterprises** as follows:

Construction	10.00% MBE	6.00% WBE
Supplies	8.00% MBE	4.00% WBE
Services	10.00% MBE	4.00% WBE
Equipment	8.00% MBE	8.00% WBE

By signing this LOAN agreement the RECIPIENT is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as **Office of Minority Women Business Enterprises**.

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 LOAN agreement. Records documenting compliance with the following six good faith efforts will be retained:

- 1) Ensuring 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 will include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources. *Qualified Women and Minority business enterprises may be found on the Internet at www.omwbe.wa.gov or by contacting the Washington State Office of Minority and Women's Enterprises at 360-704-1181.*

- 2) Making 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) Considering 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 will 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) Using 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, requiring the subcontractors to take the five good faith efforts in paragraphs 1 through 5 above.

MBE/WBE Reporting, 40 CFR, Part 33, Sections 33.302, 33.502 and 33.503. The RECIPIENT agrees to provide forms: EPA Form 6100-2 DBE Subcontractor Participation Form and EPA Form 6100-3 DBE Subcontractor Performance Form to all its DBE subcontractors, and EPA Form 6100-4 DBE Subcontractor Utilization Form to all its prime contractors. These forms may be obtained from the DEPARTMENT's Water Quality Program financial assistance website.

EPA Form 6100-2 – The RECIPIENT must document that this form was received by DBE subcontractor. DBE subcontractors may submit the completed form to the EPA Region 10 DBE coordinator in order to document issues or concerns with their usage or payment for a subcontract.

EPA Form 6100-3 – This form must be completed by DBE subcontractor(s), submitted with bid, and kept with the contract.

EPA Form 6100-4 – This form must be completed by the prime contractor, submitted with bid, and kept with the contract.

The RECIPIENT also agrees to submit the DEPARTMENT's MBE/WBE 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. The RECIPIENT also agrees to ensure that recipients of identified loans also comply with provisions of 40CFR, Section 33.302. The RECIPIENT will 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 LOAN 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 will 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; and
4. Entity's status as an MBE/WBE or non-MBE/WBE.

EFFECTIVE DATE:

The Effective Date of this LOAN agreement is the date agreed to by the DEPARTMENT and the RECIPIENT during the development of this LOAN agreement and should be no earlier than the date the RECIPIENT began incurring eligible PROJECT costs. Any work performed prior to the Effective Date of this LOAN agreement will be at the sole expense and risk of the RECIPIENT. Reimbursement for eligible costs incurred will not be released by the DEPARTMENT until the LOAN agreement is signed.

FACILITIES PROJECTS: DELIVERABLES (IF APPLICABLE)

Planning documents developed by the RECIPIENT must meet the requirements of Chapter 173-240 WAC, "Submission of Plans and Reports for Construction of Wastewater Facilities" and incorporate the State Environmental Review Process (SERP) review.

State Environmental Review Process (SERP) and Federal Cross-Cutters.

The RECIPIENT must comply with applicable SERP and federal cross cutting requirements. Costs incurred for construction activities prior to DEPARTMENT concurrence are not eligible for reimbursement.

Investment Grade Efficiency Audit (IGEA). The RECIPIENT is required to obtain an IGEA for projects involving repair, replacement, or improvement of a wastewater treatment facility or other public works facility. The IGEA must include an analysis of potential energy and water efficiency measures and identify cost-effective measures for the RECIPIENT's facility.

Plans and Specifications. Plans and specifications developed by the RECIPIENT must be reviewed and approved by Water Quality Program staff of the DEPARTMENT and be consistent with:

1. Requirements stated in Chapter 173-240 WAC, "Submission of Plans and Reports for Construction of Wastewater Facilities," as related to plans and specifications.
2. Good engineering practices and generally recognized engineering standards, including, but not limited to, the *State of Washington's Criteria for Sewage Works Design* (2008 or more recent edition), the *Stormwater Management Manual for Western Washington* (2005), the *Stormwater Management Manual for Eastern Washington* (2001), and the Washington State Department of Transportation *Hydraulics Manual* (2010).
3. The approved facilities plan.
4. Other reports approved by the DEPARTMENT which pertain to the facilities design.

Specification Insert. The RECIPIENT will include the *Washington State Department of Ecology Water Pollution Control Revolving Fund Specifications Insert* as a special condition in the construction contract specifications. Contact the DEPARTMENT for the required specification inserts.

RECIPIENT Approval. The plans, specifications, construction contract documents, and addenda must be approved by the RECIPIENT prior to submittal for DEPARTMENT review.

Bid and Award Submittals (as applicable). The RECIPIENT will submit to the DEPARTMENT the following documents relating to bidding and award of any contract funded by this agreement:

1. A copy of the advertisement for bids.
2. A tabulation of all bids received, and a copy of the bid proposal from the successful bidder,
3. A copy of the Notice of Award, a copy of the executed contract, and a copy of the Notice to Proceed.

Construction Cost Estimate. A current, updated, detailed construction cost estimate will be submitted

along with each plan/specification submittal. The project manager may request a spreadsheet in electronic file format.

Form of Plans. All construction plans submitted to the DEPARTMENT for review and approval will be reduced to no larger than 11" x 17" in size. They may, at the RECIPIENT's option, be bound with the specifications or related construction contract documents or bound as a separate document. All reduced drawings must be completely legible. 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. All PDF documents submitted will be at a resolution of 300 dpi or better.

DEPARTMENT Approval. The RECIPIENT will not proceed with any construction-related activities until all necessary plans and specifications are approved in writing by the DEPARTMENT.

Bids and Awards. DEPARTMENT approval of the plans, specifications, and construction documents authorizes the RECIPIENT to solicit bids and award the construction contract (or reject bids) without further DEPARTMENT authorization or approval. However, any additional costs resulting from successful bid protests or other claims due to improper bid solicitation and award procedures will not be considered eligible for LOAN participation.

Plan of Interim Operation. The plan of interim operation must be updated, as appropriate, throughout the PROJECT.

Construction Quality Assurance Plan. A detailed construction quality assurance plan will be submitted at least 30 days prior to the commencement of construction in compliance with WAC 173-240-075. This plan must describe how adequate and competent construction inspection will be provided for the PROJECT.

Construction Schedule. A construction schedule will be submitted to the DEPARTMENT within 30 days of the start of construction. The construction schedule will be revised and updated whenever major changes occur and resubmitted to the DEPARTMENT. When changes in the construction schedule affect previous cash flow estimates, revised cash flow projections must also be submitted to the DEPARTMENT. The project manager may request this schedule in an electronic file format.

Change Orders. Change orders that are a significant deviation from the approved plans/specifications must be submitted in writing for DEPARTMENT review and approval, prior to execution. All other change orders must be submitted within 30 days after execution.

The DEPARTMENT may approve, through formal amendment to this LOAN agreement, funding for change orders for up to five percent of the eligible portion of the low responsive responsible construction bid(s).

Adjusted Construction Budget. The construction budget, as reflected in the LOAN, will be adjusted once actual construction bids are received. If the low responsive responsible construction bid(s) exceed the engineer's estimate of construction costs, the DEPARTMENT may approve funding increases for up to ten percent of the engineer's original estimate. If the low responsive responsible construction bid(s) are lower than estimated the DEPARTMENT may reduce funding to reflect the low bid amount. The DEPARTMENT may also reassess the LOAN amount based on additional funding from other sources received by the RECIPIENT after negotiation of this LOAN agreement. All changes to the LOAN amount will be done by formal amendment to this LOAN agreement.

Record Drawings. Upon completion of construction, the RECIPIENT will provide the DEPARTMENT's Project Manager with a set of record drawings (i.e., record construction drawings which reflect changes, modifications, or other significant revisions made to the project during construction) in AutoCAD electronic format, and in reduced (11"x17") paper copy format.

Declaration of Construction Completion. Along with the set of record drawings, the RECIPIENT will provide certification in the form contained in WAC 173-240-095, signed by a professional engineer, indicating that the PROJECT was completed in accordance with the plans and specifications and major

change orders approved by the DEPARTMENT.

Final Project Report. The RECIPIENT will complete and submit a Final Project Report upon completion of the PROJECT. A template is available on the DEPARTMENT's website at: <http://www.ecy.wa.gov/programs/wq/funding/GrantLoanMgmtDocs/GrantLoanMgmtTools.html>.

Operations and Maintenance Manual. An Operations and Maintenance Manual ("O&M Manual") will be prepared in conformance with WAC 173-240-080, "Operation and Maintenance Manual" or other applicable guidance and submitted to the DEPARTMENT for approval. The O&M Manual will be updated as necessary following start-up to reflect actual operating experience. The DEPARTMENT's project manager may request the O&M Manual be submitted in either paper format, PDF format, Microsoft Word, or other electronic file format acceptable to the DEPARTMENT's project manager. All PDF documents submitted will be at a resolution of 300 dpi or better.

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

In order to comply with the FFATA, the RECIPIENT must complete the Data Reporting Form (see Attachment 7 for further instructions) and return it to the DEPARTMENT. The DEPARTMENT will report basic agreement information, including the required DUNS number, for all federally-funded agreements at www.fsrs.gov. This information will be made available to the public at www.usaspending.gov. RECIPIENTS who do not have a DUNS number can find guidance at www.grants.gov. Please note that the DEPARTMENT will not sign this LOAN agreement until it has received the completed FFATA Data Collection Form. The RECIPIENT will submit this form electronically as well as provide a hard copy to the DEPARTMENT (see ATTACHMENT 7 for detailed instructions).

Any RECIPIENT that meets each of the criteria below must also report compensation for its five top executives, using the DEPARTMENT's Federal Funding Accountability and Transparency Act (FFATA) Data Collection Form.

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

See www.fsrs.gov for details of this requirement. If your organization falls into this category, you must report the required information to Ecology.

FORCE ACCOUNT

Prior to using its own forces to accomplish eligible PROJECT work, the RECIPIENT must request DEPARTMENT approval. The request must include a dollar amount and general description of the force account work. The request must also include a certification that the RECIPIENT has the legal authority to perform the work and adequate and technically qualified staff to perform the work without compromising other government functions. The RECIPIENT agrees to track and report the force account work submitted to the DEPARTMENT for reimbursement.

FUNDING RECOGNITION

All site-specific projects must have a sign of sufficient size to be seen from nearby roadways acknowledging department financial assistance and left in place throughout the life of the project or facility. Department logos must be on all signs and documents. Logos will be provided as needed.

GROWTH MANAGEMENT PLANNING

The RECIPIENT certifies by signing this LOAN 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 will notify the DEPARTMENT in writing of this change within 30 days.

INCREASED OVERSIGHT (IF APPLICABLE)

The RECIPIENT will submit all backup documentation with each payment request submittal. In addition, the DEPARTMENT's Project Manager will establish a schedule for additional site visits to provide technical assistance to the RECIPIENT and verify progress or payment information.

INTERIM REFINANCE (IF APPLICABLE)

The RECIPIENT agrees to use the funding from this LOAN agreement to pay-off existing debt for eligible costs incurred to complete this PROJECT, and to fund all or part of the remaining tasks outlined for this PROJECT. The RECIPIENT will maintain clear documentation of the debt pay-off and make such documentation available to the DEPARTMENT upon request.

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 of the other agreements and obligations on its part contained herein will be absolute and unconditional, and will not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the LOAN from the DEPARTMENT, 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 will 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 will 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 the DEPARTMENT will hold this LOAN, the RECIPIENT will not be entitled to, and will not affect, an economic Defeasance of the LOAN. The RECIPIENT will not advance refund the LOAN.

If the RECIPIENT defeases or advance refunds the LOAN, it will 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 the DEPARTMENT under this LOAN agreement, unless in its sole discretion the DEPARTMENT 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 the DEPARTMENT's notice to make such repayment will incur Late Charges and will be treated as a LOAN Default.

7. Refinancing or Early Repayment of the PROJECT. So long as the DEPARTMENT will hold this LOAN, the RECIPIENT will give the DEPARTMENT 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 LOAN agreement, the first semiannual payment of principal and interest on this LOAN will be paid no later than one year after the PROJECT Completion Date or Initiation of Operation Date.

Equal payments will be due every six months thereafter.

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

Payments will 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 the DEPARTMENT's Financial Manager.

No change to the amount of the semiannual principal and interest payments will be made without a formal amendment to this LOAN agreement. The RECIPIENT will continue to make semiannual payments based on this LOAN agreement until the amendment is effective, at which time the RECIPIENT's payments will be made pursuant to the amended LOAN agreement.

2. Late Charges. If any amount of the Final LOAN Amount or any other amount owed to the DEPARTMENT pursuant to this LOAN agreement remains unpaid after it becomes due and payable, the DEPARTMENT may assess a Late Charge. The Late Charge will 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 the DEPARTMENT will 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 will 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 will first contact the DEPARTMENT's Revenue/Receivable Manager of the Fiscal Office.

LOCAL LOAN FUND PROJECTS (IF APPLICABLE)

Local Loan Fund. The RECIPIENT will use the funds received from the DEPARTMENT under this LOAN agreement to establish and administer a local loan fund.

Local Loan Fund Servicing. The RECIPIENT will be responsible for local loan servicing and collecting and tracking local loan payments, but may contract for such services through a lending institution. The RECIPIENT will officially approve or deny the local loan request and will establish the local loan interest rate and the repayment period.

Schedule. A schedule for PROJECT completion, including milestone dates for loan marketing activities, numbers of loan applications and closures, disbursements, application deadlines, etc., will be submitted by the RECIPIENT with each quarterly progress report.

MODIFICATIONS TO AGREEMENT

No subsequent amendments to this LOAN agreement will be of any force or effect unless reduced to a writing and signed by authorized representatives of the RECIPIENT and the DEPARTMENT, and made part hereof, except:

Insubstantial modifications may be approved in writing by the Department's Project Manager without a formal amendment. Insubstantial changes include:

- LOAN agreement contact
- Contact for billing/invoice questions
- The DEPARTMENT'S Project Manager or Financial Manager
- Frequency and number of required submittals
- Budget allocations not affecting the total LOAN Amount
- Similar changes requested by the RECIPIENT

No amendment to this LOAN agreement will be effective until accepted or affirmed in writing by the DEPARTMENT. In no event will any oral agreement or oral commitment be effective to amend this LOAN agreement.

PAYMENT REQUEST SUBMITTALS

Equipment Purchase

Equipment not included in a construction plans and specification approval must be pre-approved by the DEPARTMENT's project manager.

Requests for Reimbursement

Instructions for submitting payment requests are found in ADMINISTRATIVE REQUIREMENTS, PART IV. A copy of this document will be furnished to the RECIPIENT.

1. Procedure. Payment requests will be submitted by the RECIPIENT to the Financial Manager of the DEPARTMENT.
2. Cost Reimbursable Basis: Payments to the RECIPIENT will be made on a "reimbursable basis" no more often than once per month unless allowed by the DEPARTMENT's Financial Manager. The DEPARTMENT's Financial Manager may require the RECIPIENT to submit regular payment requests to ensure efficient and timely use of funds.
3. Documentation: Each request for payment will be submitted by the RECIPIENT, along with documentation of the expenses per the DEPARTMENT's ADMINISTRATIVE REQUIREMENTS.
4. Required Forms: The RECIPIENT will submit all forms and supportive documentation to the DEPARTMENT's Financial Manager. Invoice voucher submittals will include:
 - State of Washington Invoice Voucher Form A19-1A
 - Form B2 (ECY 060-7)
 - Form C2 (ECY 060-9)
 - Form D (ECY 060-11)

5. Period of Payment. Payments will only be made for eligible costs of the PROJECT pursuant to the LOAN agreement and performed after the effective date and prior to the expiration date of the LOAN agreement, unless those dates are specifically modified in this LOAN agreement.
6. Ineligible Costs. Payments will be made only for eligible PROJECT costs incurred and will not exceed the Estimated LOAN Amount. If any audit identifies LOAN funds which were used to support ineligible costs, such funds may be immediately due and payable to the DEPARTMENT notwithstanding any provision to the contrary herein.
7. Overhead Costs. No payment for overhead costs in excess of 25 percent of salaries and benefits of the RECIPIENT will be allowed.
8. Certification. Each payment request will 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 will be disclosed in writing to the DEPARTMENT by the RECIPIENT in its request for payment.

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 the DEPARTMENT's Water Quality Program will contact the RECIPIENT to request this data. The DEPARTMENT may also conduct site interviews and inspections, and may otherwise evaluate the PROJECT, as part of this assessment.

PREVAILING WAGE

Prevailing Wage (Davis-Bacon Act):

The RECIPIENT agrees, by signing this LOAN 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 will 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 will 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 will be incorporated into solicitations and any subsequent contracts. The RECIPIENT will 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 will 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 LOAN 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.

PROCUREMENT

The RECIPIENT is responsible for procuring professional, personal, and other services using sound business judgment and good administrative procedures. This includes issuance of invitation of bids, requests for proposals, selection of contractors, award of subagreements, and other related procurement matters. The RECIPIENT will follow State procurement laws.

PROGRESS REPORTS

The RECIPIENT will submit progress reports to the DEPARTMENT at least quarterly or such other schedule as set forth herein. The RECIPIENT will submit a copy of each progress report to both the Financial Manager and the Project Manager of the DEPARTMENT. Quarterly reports will cover the periods:

January 1 through March 31

April 1 through June 30

July 1 through September 30

October 1 through December 31

Quarterly reports are due 15 days following the end of the quarter being reported. Payment requests will not be processed without a current Progress Report. A progress report must be submitted even if no progress has occurred.

A Progress Report Form is available on the DEPARTMENT's website at <http://www.ecy.wa.gov/programs/wq/funding/GrantLoanMgmtDocs/GrantLoanMgmtTools.html>. At a minimum, all progress reports must contain the items outlined in the DEPARTMENT's Progress Report Form. The DEPARTMENT may request additional information as necessary.

The RECIPIENT will also report in writing to the DEPARTMENT any problems, delays, or adverse conditions which will materially affect its ability to meet PROJECT objectives or time schedules. This disclosure will be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation.

REPRESENTATIONS AND WARRANTIES

The RECIPIENT represents and warrants to the DEPARTMENT as follows:

A. 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 LOAN agreement and to undertake the PROJECT identified herein.

B. Application; Material Information.

All information and materials submitted by the RECIPIENT to the DEPARTMENT in connection with its LOAN application were, when made, and are, as of the date the RECIPIENT executes this LOAN agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the PROJECT, the LOAN, or this LOAN agreement known to the RECIPIENT which has not been disclosed in writing to the DEPARTMENT.

C. Litigation; Authority.

No litigation is now pending or, to the RECIPIENT'S knowledge, threatened, seeking to restrain, or enjoin:

- (i) the execution of this LOAN 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
- (iii) in any manner questioning the proceedings and authority under which the LOAN 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 LOAN agreement has been repealed, revoked, or rescinded.

D. 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 LOAN agreement and the LOAN to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

E. Due Regard

For LOANS secured with a Revenue Obligation: The RECIPIENT has exercised 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, will be available over and above such Maintenance and Operation Expense and those debt service requirements.

SEWER-USER ORDINANCES AND USER-CHARGE SYSTEM (IF APPLICABLE)

Sewer-Use Ordinance or Resolution

If not already in existence, the RECIPIENT will adopt and will enforce a sewer-use ordinance or resolution. 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; 3) require that new sewers and connections be properly designed and constructed; and 4) require all existing and future residents to connect to the sewer system. Such ordinance or resolution will be submitted to the DEPARTMENT upon request by the DEPARTMENT.

User-Charge System

The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and will adopt a system of user-charges to assure that each user of the utility will pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the PROJECT.

In addition, the RECIPIENT will regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the utility, to establish a reserve to pay for replacement, to establish the required LOAN Reserve Account, and to repay the LOAN.

SMALL COMMERCIAL ON-SITE SEWAGE SYSTEM REPAIR AND REPLACEMENT (IF APPLICABLE)

On-site sewage system repair or replacement funding may be provided to eligible small commercial enterprises. The definition of "small commercial" requires that the average daily flows from any one single business cannot exceed 3,500 gallons per day. These enterprises may include public lodging (including motels, hotels, and bed and breakfast establishments), rentals (apartments, duplexes, or houses), small restaurants, stores, or taverns.

The DEPARTMENT may adjust interest rates to below 2.6 percent based on evaluation of the RECIPIENT's total portfolio of local on-site sewage system loans issued to homeowners and small commercial enterprises.

The following is the Revolving Fund interest rate schedule for loans targeted to homeowners at three levels of county median household income:

County Median Household Income*	Revolving fund Adjustable Interest Rate Schedule	
	5-Year Term	20-Year Term
Above 80%	1.4%	2.7 %
50 – 80%	0.7%	1.4%
Below 50%	0%	0.7 %

The following is the Revolving Fund interest rate schedule for loans targeted to small commercial enterprises at three levels of annual gross revenue:

Small Commercial Enterprise Annual Gross Revenue	Revolving Fund Adjustable Interest Rate Schedule	
	5-Year Term	20-Year Term
Above \$100,000	1.4%	2.7 %
\$50,000 - \$100,000	0.7%	1.4%
Below \$50,000	0%	0.7 %

In order for a small commercial enterprise to be considered for extreme hardship, the business must provide documentation to substantiate that annual gross revenue is less than \$100,000.

The RECIPIENT agrees to submit a final compilation of the local loans provided to homeowners and small commercial enterprises throughout the duration of the PROJECT. The list will include information provided by the RECIPIENT regarding the number and final dollar amounts of loans funded in the following respective homeowner income and small commercial enterprise revenue levels:

- County Median Household Income
 - Above 80 %
 - 50 to 80 %
 - Below 50 %
- Small Commercial Enterprise Annual Gross Revenue
 - Above \$100,000
 - \$50,000 to \$100,000
 - Below \$50,000

TERMINATION AND DEFAULT; REMEDIES

A. Termination and Default Events

1. For Insufficient DEPARTMENT or RECIPIENT Funds. This LOAN agreement may be terminated by the DEPARTMENT for insufficient DEPARTMENT or RECIPIENT funds.
2. For Failure to Commence Work. This LOAN agreement may be terminated by the DEPARTMENT for failure of the RECIPIENT to commence PROJECT work.
3. Past Due Payments. The RECIPIENT will 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 the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all of its obligations under this LOAN agreement. The RECIPIENT will be in default of its obligations under this LOAN agreement if, in the opinion of the DEPARTMENT, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this LOAN agreement.

B. Procedures for Termination

If this LOAN agreement is terminated prior to PROJECT completion, the DEPARTMENT will

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 DEPARTMENT will 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").

C. Termination and Default Remedies

1. No Further Payments. On and after the Termination Date, or in the event of a default event, the DEPARTMENT may, in its sole discretion, withdraw the LOAN and make no further payments under this LOAN agreement.
2. Repayment Demand. In response to a DEPARTMENT initiated termination event, or in response to a LOAN default event, the DEPARTMENT may in its sole discretion demand that the RECIPIENT repay the outstanding balance of the LOAN Amount and all accrued interest.
3. Interest after Repayment Demand. From the time that the DEPARTMENT demands repayment of funds, amounts owed by the RECIPIENT to the DEPARTMENT will accrue additional interest at the rate of one percent per month, or fraction thereof.
4. Accelerate Repayments. In the event of a default, the DEPARTMENT 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 Obligations upon the Net Revenue. Repayments not made immediately upon such acceleration will incur Late Charges.
5. Late Charges. All amounts due to the DEPARTMENT and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, will incur Late Charges.
6. Intercept State Funds. In the event of a default event and in accordance with RCW 90.50A.060, "Defaults," any state funds otherwise due to the RECIPIENT may, in the DEPARTMENT's sole discretion, be withheld and applied to the repayment of the LOAN.
7. Property to DEPARTMENT. In the event of a default event and at the option of the DEPARTMENT, any property (equipment and land) acquired under this LOAN agreement may, in the DEPARTMENT's sole discretion, become the DEPARTMENT's property. In that circumstance, the RECIPIENT's liability to repay money will be reduced by an amount reflecting the fair value of such property.
8. Documents and Materials. If this LOAN agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT will, at the option of the DEPARTMENT, become DEPARTMENT property. The RECIPIENT will be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.
9. 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 LOAN agreement.
10. Fees and Expenses. In any action to enforce the provisions of this LOAN agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) will be awarded to the prevailing party as that term is defined in RCW 4.84.330, "Actions on contract or lease . . . —Waiver prohibited."

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

WATER QUALITY MONITORING

Quality Assurance Project Plan (QAPP):

Prior to initiating water quality monitoring activities, the RECIPIENT must prepare a Quality Assurance Project Plan (QAPP). The QAPP must follow the DEPARTMENT's "Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies," (Ecology Publication No. 04-03-030). The RECIPIENT may also reference the "Technical Guidance for Assessing the Quality of Aquatic Environments," revised February 1994 (Ecology Publication No. 91-78).

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ATTACHMENT 5: AGREEMENT DEFINITIONS

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

“Administrative Requirements” means the effective edition of DEPARTMENT's ADMINISTRATIVE REQUIREMENTS FOR ECOLOGY GRANTS AND LOANS at the signing of this LOAN.

“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.

“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 WAC 173-98-730.

“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.

“DEPARTMENT” means the state of Washington, Department of Ecology, or any successor agency or department.

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

“Final LOAN Amount” means all principal of and interest on the LOAN from the PROJECT Start Date through the PROJECT Completion Date.

“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 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 DEPARTMENT's Funding Guidelines that that correlate to the State Fiscal Year in which the PROJECT is funded.

"Initiation of Operation" is 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 of that name created by ordinance or resolution of the RECIPIENT for the repayment of the principal of and interest on 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.

"Principal and Interest Account" means, for a LOAN that constitutes Revenue-Secured Debt, the account of that name 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 LOAN agreement.

"PROJECT Completion Date" is the date specified in the LOAN agreement as that on which the Scope of Work will be fully completed.

"PROJECT Schedule" is that schedule for the PROJECT specified in the LOAN agreement.

"Reserve Account" means, for a LOAN that constitutes Revenue-Secured Debt, the account of that name created in the LOAN Fund to secure the payment of the principal of and interest on the LOAN.

"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.

"Scope of Work" means the tasks and activities constituting the PROJECT.

"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 RCW 90.50A.020.

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

“Termination Payment Date” means the date on which the RECIPIENT is required to repay to the DEPARTMENT 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 DEPARTMENT grant or loan funding.

“Total PROJECT Cost” means the sum of all costs associated with a water quality project, including costs that are not eligible for DEPARTMENT 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.

(Revised September.2007)

ATTACHMENT 6: LOAN GENERAL TERMS AND CONDITIONS
PERTAINING TO GRANT AND LOAN AGREEMENTS OF
THE DEPARTMENT OF ECOLOGY

A. RECIPIENT PERFORMANCE

All activities for which grant/LOAN Funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT's employees. The RECIPIENT shall only use contractor/consultant assistance if that has been included in the LOAN agreement's final scope of work and budget.

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and conditions of this LOAN agreement.

C. THIRD PARTY BENEFICIARY

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

D. CONTRACTING FOR SERVICES (BIDDING)

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

E. ASSIGNMENTS

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

F. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits. Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.
2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. If the LOAN agreement is federally-funded, the RECIPIENT shall report to the DEPARTMENT the percent of grant/LOAN Funds available to women or minority owned businesses.

3. Wages and Job Safety. The 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.
4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this LOAN agreement for cause as provided in Section K.1, herein.

G. KICKBACKS

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

H. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this LOAN agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object. All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this LOAN agreement shall be maintained by the RECIPIENT.
2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.
3. All work performed under this LOAN agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this LOAN agreement and for at least three years following grant/loan termination or dispute resolution hereunder.
4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECIPIENT expends \$500,000 or more in a year in Federal funds. The \$500,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECIPIENT must forward a copy of the audit along with the RECIPIENT'S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. PERFORMANCE REPORTING

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted. Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within thirty (30)

days following the end of the quarter being reported.

J. COMPENSATION

1. Method of compensation. Payment shall normally be made on a reimbursable basis as specified in the LOAN agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and approved as satisfactory by the Project Officer. The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work.

Instructions for submitting the payment requests are found in "Administrative Requirements for Ecology Grants and Loans", part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee. Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this LOAN agreement.

2. Period of Compensation. Payments shall only be made for actions of the RECIPIENT pursuant to the grant/LOAN agreement and performed after the effective date and prior to the expiration date of this LOAN agreement, unless those dates are specifically modified in writing as provided herein.
3. Final Request(s) for Payment. The RECIPIENT should submit final requests for compensation within forty-five (45) days after the expiration date of this LOAN agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.
4. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this LOAN agreement and, as appropriate, upon completion of an audit as specified under section J.6. herein.
5. Unauthorized Expenditures. All payments to the RECIPIENT may be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.
6. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.
7. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this LOAN agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this LOAN agreement, the DEPARTMENT may refuse to pay any further funds there under and/or terminate this LOAN agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this LOAN agreement, at the option of the DEPARTMENT, shall become Department property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

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

2. **Insufficient Funds.** The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. When this LOAN agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be good cause to terminate this LOAN agreement as provided in paragraph K.1 above.

When this LOAN agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent upon appropriation of funds by the RECIPIENT's governing body; provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section O herein.

3. **Failure to Commence Work.** In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this LOAN agreement, or by any date agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this LOAN agreement.

L. WAIVER

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this LOAN agreement is not a waiver of any subsequent breach and will not be construed as a modification of the terms of this LOAN agreement unless stated as such in writing by the authorized representative of the DEPARTMENT.

M. PROPERTY RIGHTS

1. **Copyrights and Patents.** When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT 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. Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.
2. **Publications.** When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.

3. Tangible Property Rights. The DEPARTMENT's current edition of "Administrative Requirements for Ecology Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.
4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the B-4 DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
5. Acquisition Projects. The following provisions shall apply if the project covered by this LOAN agreement includes funds for the acquisition of land or facilities:
 - a. Prior to disbursement of funds provided for in this LOAN agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.
 - b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this LOAN 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 contemplated by this LOAN agreement.
6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this LOAN agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this LOAN agreement bear to the total acquisition, purchase or construction costs of such property.

N. SUSTAINABLE PRODUCTS

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is encouraged to implement sustainable practices where and when possible. These practices include use of clean energy, and purchase and use of sustainably produced products (e.g., recycled paper). For more information, see <http://www.ecy.wa.gov/sustainability/>.

O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this LOAN agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this LOAN agreement, the RECIPIENT may, at the DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/LOAN Funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform. Interest shall accrue at the rate of twelve percent (12%) per year from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the

RECIPIENT prior to such termination. Any property acquired under this AGREEMENT, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL

The extent and character of all work and services to be performed under this LOAN agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Officer or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Officer or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

Q. DISPUTES

Except as otherwise provided in this LOAN agreement, any dispute concerning a question of fact arising under this LOAN agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal. In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this LOAN agreement and in accordance with the decision rendered.

R. CONFLICT OF INTEREST

No officer, member, agent, or employee of either party to this LOAN agreement who exercises any function or responsibility in the review, approval, or carrying out of this LOAN agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this LOAN agreement or the proceeds thereof.

S. INDEMNIFICATION

1. The DEPARTMENT shall 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.
2. To the extent that the Constitution and laws of the State of Washington permit, each party shall 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 LOAN agreement.

T. GOVERNING LAW

This LOAN agreement shall be governed by the laws of the State of Washington.

U. SEVERABILITY

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

V. PRECEDENCE

In the event of inconsistency in this LOAN 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) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for Ecology Grants and Loans"; and (e) the General Terms and Conditions.

SS-010 Rev. 04/04

**ATTACHMENT 7: THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY
ACT (FFATA) & EPA DATA REPORTING SHEET (DATA REPORTING SHEET)**

Instructions

The RECIPIENT is required to complete and submit the Data Reporting Sheet to the DEPARTMENT as ATTACHMENT 7 of this LOAN agreement. The information provided in the Data Reporting Sheet 1) fulfills the FFATA reporting requirements (see FFATA Reporting Requirements, ATTACHMENT 4); and 2) gathers additional information required to be reported to the Environmental Protection Agency (EPA)

The RECIPIENT will please:

- 1. Access the Data Reporting Sheet Form on the DEPARTMENT's Water Quality Program financial management website.*
- 2. Fill out the form completely, including compensation information (if all FFATA criteria are met).*
- 3. Print a copy of the completed form.*
- 4. Get the appropriate signature on the form and submit as ATTACHMENT 7 of this LOAN agreement.*
- 5. Send the electronic copy in Microsoft Word format to the DEPARTMENT's Project Manager and Financial Manager.*



ESTIMATED LOAN REPAYMENT SCHEDULE

ATTACHMENT 8

Loan Number	L1300015	Loan Amount	\$ 1,428,960.00
Recipient Name	City of Spokane	Term of Loan	39 Payments
Amortization Method	Compound-365 D/Y	Annual Int. Rate	2.700 %
Project Completion Date	10/31/2014	Interest Compounded	Monthly
Initiation of Operations		Loan Date	10/31/2014

Loan Number		Department of Ecology			
Recipient Name		Date Created		01/09/2013	
Payment #	Due Date	Payment Amount	Interest	Principal	Balance
1	11/01/2015	\$48,073.02	\$38,900.27	\$9,172.75	\$1,419,787.25
SubTotal	2015	\$48,073.02	\$38,900.27	\$9,172.75	
2	05/01/2016	\$48,073.02	\$19,275.27	\$28,797.75	\$1,390,989.50
3	11/01/2016	\$48,073.02	\$18,884.30	\$29,188.72	\$1,361,800.78
SubTotal	2016	\$96,146.04	\$38,159.57	\$57,986.47	
4	05/01/2017	\$48,073.02	\$18,488.03	\$29,584.99	\$1,332,215.79
5	11/01/2017	\$48,073.02	\$18,086.38	\$29,986.64	\$1,302,229.15
SubTotal	2017	\$96,146.04	\$36,574.41	\$59,571.63	
6	05/01/2018	\$48,073.02	\$17,679.28	\$30,393.74	\$1,271,835.41
7	11/01/2018	\$48,073.02	\$17,266.65	\$30,806.37	\$1,241,029.04
SubTotal	2018	\$96,146.04	\$34,945.93	\$61,200.11	
8	05/01/2019	\$48,073.02	\$16,848.42	\$31,224.60	\$1,209,804.44
9	11/01/2019	\$48,073.02	\$16,424.51	\$31,648.51	\$1,178,155.93
SubTotal	2019	\$96,146.04	\$33,272.93	\$62,873.11	
10	05/01/2020	\$48,073.02	\$15,994.84	\$32,078.18	\$1,146,077.75
11	11/01/2020	\$48,073.02	\$15,559.34	\$32,513.68	\$1,113,564.07
SubTotal	2020	\$96,146.04	\$31,554.18	\$64,591.86	
12	05/01/2021	\$48,073.02	\$15,117.93	\$32,955.09	\$1,080,608.98
13	11/01/2021	\$48,073.02	\$14,670.53	\$33,402.49	\$1,047,206.49
SubTotal	2021	\$96,146.04	\$29,788.46	\$66,357.58	
14	05/01/2022	\$48,073.02	\$14,217.05	\$33,855.97	\$1,013,350.52
15	11/01/2022	\$48,073.02	\$13,757.41	\$34,315.61	\$979,034.91

Loan Number L1300015

Department of Ecology

Recipient Name City of Spokane

Date Created 01/09/2013

Payment #	Due Date	Payment Amount	Interest	Principal	Balance
SubTotal	2022	\$96,146.04	\$27,974.46	\$68,171.58	
16	05/01/2023	\$48,073.02	\$13,291.54	\$34,781.48	\$944,253.43
17	11/01/2023	\$48,073.02	\$12,819.34	\$35,253.68	\$908,999.75
SubTotal	2023	\$96,146.04	\$26,110.88	\$70,035.16	
18	05/01/2024	\$48,073.02	\$12,340.73	\$35,732.29	\$873,267.46
19	11/01/2024	\$48,073.02	\$11,855.62	\$36,217.40	\$837,050.06
SubTotal	2024	\$96,146.04	\$24,196.35	\$71,949.69	
20	05/01/2025	\$48,073.02	\$11,363.93	\$36,709.09	\$800,340.97
21	11/01/2025	\$48,073.02	\$10,865.56	\$37,207.46	\$763,133.51
SubTotal	2025	\$96,146.04	\$22,229.49	\$73,916.55	
22	05/01/2026	\$48,073.02	\$10,360.43	\$37,712.59	\$725,420.92
23	11/01/2026	\$48,073.02	\$9,848.43	\$38,224.59	\$687,196.33
SubTotal	2026	\$96,146.04	\$20,208.86	\$75,937.18	
24	05/01/2027	\$48,073.02	\$9,329.49	\$38,743.53	\$648,452.80
25	11/01/2027	\$48,073.02	\$8,803.50	\$39,269.52	\$609,183.28
SubTotal	2027	\$96,146.04	\$18,132.99	\$78,013.05	
26	05/01/2028	\$48,073.02	\$8,270.37	\$39,802.65	\$569,380.63
27	11/01/2028	\$48,073.02	\$7,730.01	\$40,343.01	\$529,037.62
SubTotal	2028	\$96,146.04	\$16,000.38	\$80,145.66	
28	05/01/2029	\$48,073.02	\$7,182.30	\$40,890.72	\$488,146.90
29	11/01/2029	\$48,073.02	\$6,627.16	\$41,445.86	\$446,701.04
SubTotal	2029	\$96,146.04	\$13,809.46	\$82,336.58	
30	05/01/2030	\$48,073.02	\$6,064.49	\$42,008.53	\$404,692.51
31	11/01/2030	\$48,073.02	\$5,494.17	\$42,578.85	\$362,113.66
SubTotal	2030	\$96,146.04	\$11,558.66	\$84,587.38	
32	05/01/2031	\$48,073.02	\$4,916.12	\$43,156.90	\$318,956.76
33	11/01/2031	\$48,073.02	\$4,330.21	\$43,742.81	\$275,213.95
SubTotal	2031	\$96,146.04	\$9,246.33	\$86,899.71	
34	05/01/2032	\$48,073.02	\$3,736.35	\$44,336.67	\$230,877.28
35	11/01/2032	\$48,073.02	\$3,134.43	\$44,938.59	\$185,938.69

Loan Number L1300015

Department of Ecology

Recipient Name City of Spokane

Date Created 01/09/2013

Payment #	Due Date	Payment Amount	Interest	Principal	Balance
SubTotal	2032	\$96,146.04	\$6,870.78	\$89,275.26	
36	05/01/2033	\$48,073.02	\$2,524.33	\$45,548.69	\$140,390.00
37	11/01/2033	\$48,073.02	\$1,905.96	\$46,167.06	\$94,222.94
SubTotal	2033	\$96,146.04	\$4,430.29	\$91,715.75	
38	05/01/2034	\$48,073.02	\$1,279.19	\$46,793.83	\$47,429.11
39	11/01/2034	\$48,073.02	\$643.91	\$47,429.11	\$0.00
SubTotal	2034	\$96,146.04	\$1,923.10	\$94,222.94	
Grand Total		\$1,874,847.78	\$445,887.78	\$1,428,960.00	

**Agenda Sheet for City Council Meeting of:**

02/11/2013

Date Rec'd

1/30/2013

Clerk's File #

OPR 2013-0094

Renews #**Submitting Dept**

WASTEWATER MANAGEMENT

Cross Ref #

OPR 2000-0255

Contact Name/Phone

DALE ARNOLD 625-7900

Project #**Contact E-Mail**

DARNOLD@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Contract Item

Requisition #**Agenda Item Name**

4310-TERMINATION AND RELEASE OF EASEMENT

Agenda Wording

Termination and Release of Easement between the City of Spokane and Parkwood South Homeowner's Association of Spokane regarding property located at 21st and Ray.

Summary (Background)

In 2000, the Wastewater Management Department acquired property located at 21st and Ray Street in order to construct a large combined sewer overflow (CSO) facility (underground tank) as part of the CSO reduction plan. When the property was deeded to the City, a private access easement was reserved for the sole usage by Parkwood South's predecessor in interest. Parkwood South has requested removal of the access easement on at least two occasions. Removing the road facilitates construction and operation of the CSO facility. The Termination and Release of Easement would clear the encumbrances across this property. The Spokane Fire Department has determined the easement can be permanently taken out of service without causing any fire access delay. The Hearing Examiner has agreed to deletion of the condition. The Agreement provides that the City will pave Fiske Street from 17th Avenue to 19th Avenue in accordance with City standards; complete the road edge along the cul-de-sac at 21st Court and Ray and at the intersection of South Parkwood Drive; and preserve and protect a 25 foot green screen along Parkwood Drive during the construction. Following construction the property will be re-vegetated with native plantings. This item was discussed at the Public Works Committee meetings held on November 26, 2012 and January 14, 2013.

Fiscal Impact

Select \$

Budget Account

#

Select \$

#

ApprovalsDept Head

ARNOLD, DALE

Council NotificationsStudy SessionDivision Director

ROMERO, RICK

Other

Public Works Comm.

Finance

LESESNE, MICHELE

Distribution ListLegal

BURNS, BARBARA

pdolan@spokanecity.org; mtaylor@spokanecity.org

For the Mayor

SANDERS, THERESA

Tax & Licenses; myake@spokanecity.org

Additional ApprovalsPurchasing

rromero@spokanecity.org

darnold@spokanecity.org

kbrooks@spokanecity.org

bburns@spokanecity.org

eschoedel@spokanecity.org

CSO Project #: _____
Address: 21st & Ray Street.
Parcel #: 35272.0016

City Clerk No. _____

TERMINATION AND RELEASE OF EASEMENT

This Agreement is made and entered into by and between the **CITY OF SPOKANE**, a Washington State municipal corporation (the "City") and, **PARKWOOD SOUTH HOMEOWNERS' ASSOCIATION OF SPOKANE**, a Washington non-profit corporation, ("Parkwood") jointly referred to as the "Parties."

WHEREAS, by Statutory Warranty Deed, dated May 15, 2000, and recorded on July 17, 2000, under Auditor's File Number 4498813 (the "Deed"), Parkwood's predecessor in interest, Parkwood Circle Associates, Inc., sold certain real property to the City, which real property is situated in the City and County of Spokane, State of Washington, and legally described in the Deed and in Exhibit "A" to this Agreement, being Assessor's Tax Parcel Number 35272.0016, (the "Property"); and

WHEREAS, in the Deed, Parkwood's predecessor in interest reserved an access easement over, under and across the Property from Ray Street to Parkwood South, as shown on Exhibit "B" to this Agreement (the "Easement"); and

WHEREAS, by Assignment of Easement dated May 5, 2005, and recorded on May 9, 2005, under Auditor's File Number 5213711, Parkwood's predecessor in interest assigned the Easement to Parkwood; and

WHEREAS, the City maintains the right to condemn the Easement for the purpose of the CSO 34-3 Project and in lieu of the attendant uncertainty and expense associated with condemnation, the Parties agree that this Agreement to terminate and release the Easement, and the consideration described herein, is for the benefit to the lots within Parkwood and is made in lieu of condemnation.

NOW, THEREFORE,

The Parties agree as follows:

1. **TERMINATION AND RELEASE OF EASEMENT.** In consideration of the following terms, conditions and covenants and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Parkwood agrees to terminate and release its interest in and to the Easement on the Closing Date. Prior to the Closing Date, Parkwood's rights under the Easement remain unaffected.

2. **CONSIDERATION.** In exchange for Parkwood's release of the Easement, the City agrees as follows:

- 2.1 Pave Fiske Street from 17th Avenue to 19th Avenue in accordance with current city street standards (the "Street Paving Work").
- 2.2 Complete the road edge along the cul-de-sac on 21st Court and Ray Street and at the intersection of South Parkwood Drive and the former access

easement across the property to provide access apron for Wastewater Management Department vehicles.

- 2.3 The City agrees to preserve and protect the twenty-five (25) foot "green screen" area east and parallel to the South Parkwood Drive during construction of the project. If the City impacts the green screen area, then the area will be restored to the condition existing immediately preceding the construction of the project with new growth or native vegetation.

The Parties acknowledge that the above constitutes fair and adequate consideration for Parkwood's release of the Easement.

3. CONDITIONS TO CLOSING. Parkwood's obligation to terminate and release the easement (Paragraph 1) and the City's obligations to complete the work contained in Paragraph 2 is conditioned on the City Council authorizing and awarding the construction contract for the Combined Sewer Overflow (CSO) Tank Facility located along the East property line, abutting Ray Street. (CSO 34-3 Project). Once City Council awards the construction contract for the CSO 34-3 Project, the Fiske Street paving project (Paragraph 2.1) will be bid and the easement will be deemed terminated and released. Should the Spokane City Council not award the CSO 34-3 Project contract by November 1, 2013, this Agreement shall terminate and be null and void. The date of the award of the construction contract for the CSO 34-3 Project by the City Council shall be the "Closing Date. Parkwood hereby releases and terminates all interests in the easement on the Closing Date. A "Release of Easement" as contained in Exhibit "B" will be filed with the Spokane County Auditor's Office on the Closing Date.

4. REPRESENTATIONS OF PARKWOOD. Parkwood, to the best of its knowledge, hereby represents to the City the following:

- A. Parkwood has not received notice of any special assessment affecting the Easement, and;
- B. Except as otherwise described herein, that there is no litigation pending or threatened against Parkwood (or any basis for any claim) that that might materially and detrimentally affect (i) the use or operation of the Easement for the City's intended use, or (ii) the ability of Parkwood to perform its obligations under this Agreement, and;
- C. Parkwood will cooperate with the City and execute all documents necessary to terminate and release the easement; and
- D. Parkwood's interest in the Easement is not subject to any liens or restrictions of any kind except those which have been disclosed on the Commitment for Title Insurance received by the City; and

5. REPRESENTATIONS OF THE CITY. The City hereby represents and warrants that the termination and release of the easement by Parkwood will not create a non-conforming plat/PUD within the City of Spokane.

6. EXPENSES.

- A. Expenses of Parkwood. Parkwood shall pay:

- (i) Parkwood's attorney fees, if any; and
- (ii) all other expenses incurred by Parkwood which relate to the Termination of the Easement.

B. Expenses of City. The City shall pay:

- (i) all recording fees;
- (ii) the City's attorney fees;
- (iii) Processing Fee for Washington State Department of Revenue Real Estate Excise Tax Affidavit (City exempt from Real Estate Excise Tax pursuant to WAC 458-61A-206(1)) if any; and
- (iv) title insurance premiums (plus sales tax), if applicable.

7. **POSSESSION**. The Parkwood shall deliver exclusive possession of the Easement to the City upon the signature of this Agreement.

8. **TIME**. Time is of the essence of this Agreement.

9. **NOTICES**. Any notices required or permitted to be given shall be in writing and delivered either in person or by certified mail, return receipt requested, postage pre-paid, addressed as follows or such other address as may be designated by either party:

City: City of Spokane
Wastewater Management Department
901 East Sprague Avenue.
Spokane, WA 99201

Copy to: Office of the City Attorney
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Parkwood: Parkwood South Homeowners' Association
Carol Neupert
President
2081 S. Parkwood Circle
Spokane, WA 99223

Copy to: Witherspoon Kelley
Nathan G. Smith
422 W. Riverside Ave, Suite 1100
Spokane, WA 99201

Any notice given pursuant to this Agreement, shall be deemed effective the day it is personally delivered or three (3) business days after the date it is deposited in the United States mails.

10. **ENTIRE AGREEMENT/MODIFICATION.** This written Agreement constitutes the entire and complete Agreement between the Parties hereto and supersedes any prior oral or written agreements between the Parties with respect to the Easement. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions herein set forth. No modifications of this Agreement and waiver of any of its terms and conditions shall be effective unless in writing and duly executed by the Parties hereto.

11. **BINDING EFFECT.** All covenants, agreements, warranties and provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, personal representatives, successors and assigns.

12. **ASSIGNMENTS.** Neither party may assign, transfer, or subcontract its interest, in whole or in part, without the other party's prior written consent. In the event of an assignment or transfer, the terms of this Agreement shall continue to be in full force and effect.

13. **DISPUTES.** This Agreement shall be performed under the laws of the State of Washington. Any litigation to enforce this Agreement or any of its provisions shall be brought in Spokane County, Washington. The prevailing party in an action to enforce the provisions of this Agreement shall be entitled to its reasonable attorney fees, costs and other expenses.

14. **CONTRACTS PRIOR TO CLOSING.** Parkwoods shall not enter into any leases, contracts of sale or other Agreements relating to the Easement without City's prior written consent.

15. **GOVERNMENTAL APPROVAL.** Parkwood acknowledges that this Agreement does not bind the City of Spokane until the City Administrator executes this Agreement following appropriate authorizing vote by the City Council of the City of Spokane.

In witness whereof, the parties hereto have signed this Agreement this _____ day of _____, 2012.

PARKWOOD SOUTH

CITY OF SPOKANE

By: Cara Newport
Parkwood South Homeowners' Association
President

By: _____
Title: P

Attest:

City Clerk

Approved as to form:

Assistant City Attorney

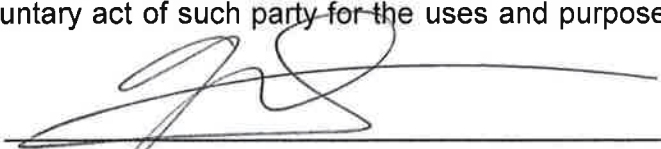
State of Washington)
) ss.
County of Spokane)

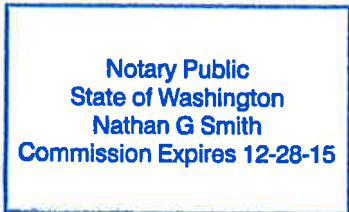
I certify that I know or have satisfactory evidence that _____ and TERRI PFISTER, are the persons who appeared before me and they acknowledged that they signed the document, on oath stated that they were authorized to sign it and acknowledged it as the _____ and the City Clerk, respectively, of the CITY OF SPOKANE, a municipal corporation, to be the free and voluntary act of such party for the uses and purposes therein mentioned.

_____	_____
Date	Notary Public in and for Washington State
[SEAL OR STAMP]	residing at _____
	My appointment expires _____

State of Washington)
) ss.
County of Spokane)

I certify that I know or have satisfactory evidence that Carol Neupert is the person who appeared before me and she acknowledged that she signed the document, on oath stated that she was authorized to sign it and acknowledged it as the President of Parkwood South Home Owner's Association to be the free and voluntary act of such party for the uses and purposes therein mentioned.

<u>December 11, 2012</u>	
Dated	Notary Public in and for Washington State
[SEAL OR STAMP]	residing at <u>Spokane</u>
	My appointment expires <u>December 28, 2015</u>





AFTER RECORDING MAIL TO:
City of Spokane, a Washington State Municipal Corporation
808 W. Spokane Falls Boulevard
Spokane, WA 99201

Filed for Record at Request of
FIRST AMERICAN TITLE
Escrow Number: 13443-COM

142142-KS

Statutory Warranty Deed

Grantor(s): Parkwood Circle Associates, Inc.
Grantee(s): City of Spokane, a Washington State Municipal Corporation
Abbreviated Legal: A portion of the SW Quarter, NW Quarter, S27T25R43
Additional legal(s) on page: 2
Assessor's Tax Parcel Number(s): 35272.0011 (a portion of)

THE GRANTOR Parkwood Circle Associates, Inc., a Washington corporation
for and in consideration of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION
in hand paid, conveys and warrants to City of Spokane, a Washington State Municipal
Corporation
the following described real estate, situated in the County of Spokane, State of Washington:
Legal Description, Items of Record which will remain on title, and Reservations described on Exhibit A
which is attached hereto and made a part hereof.

Dated this 15th day of May, 2000

By Parkwood Circle Associates, Inc.

By John R. Quinlan - Pres.

By _____

By _____

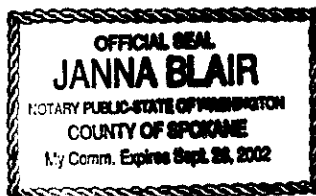
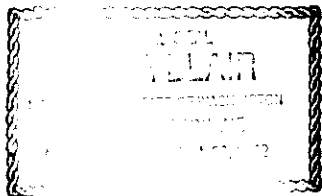
John R. Quinlan,
STATE OF WASHINGTON
County of Spokane

SS:

I certify that I know or have satisfactory evidence that John R. Quinlan
is the person who appeared before
me, and said person acknowledged that he signed this instrument, on oath stated that he is
authorized to execute the instrument and acknowledge it as the President
of Parkwood Circle Associates, Inc.
to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

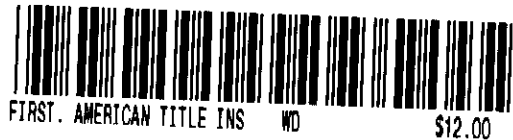
Dated: May 16, 2000

Julie R. Stevenson
Notary Public in and for the State of WASHINGTON
Residing at Spokane Cheney
My appointment expires: 6/19/2001 9/26/02



07/17/2000 CBG

\$2.00 200009957



4498813
Page: 2 of 5
07/17/2000 04:32P
Spokane Co. WA

EXHIBIT "A"

Attached to and made a part hereof Statutory Warranty Deed dated 5/15/00, between Parkwood Circle Associates, Inc., Grantor and City of Spokane, Grantee.

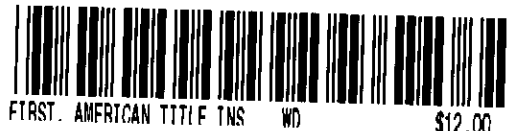
A tract of land being in that portion of the Southwest Quarter of the Northwest Quarter of Section 27, Township 25 North, Range 43 East of the Willamette Meridian, in the City of Spokane, County of Spokane, State of Washington, more particularly described as follows:

COMMENCING at the West Quarter corner of Section 27, Township 25 North, Range 43 east, W.M.; thence North 89°57'28" East along the South line of the Northwest Quarter of said Section 27, a distance of 946.97 feet to the True Point of Beginning; thence North 89°57'28" East along the South line of the Northwest Quarter of said Section 27, a distance of 329.04 feet to a point on the West Right-of-Way line of Ray Street; thence along the West Right-of-Way line of Ray Street, the following courses and distances:

North 0°07'49" East, a distance of 195.50 feet to a point; thence South 89°52'11" East, a distance of 4.04 feet to a point; thence North 0°07'49" East, a distance of 135.50 feet to a point; thence South 89°52'11" East, a distance of 5.00 feet to a point; thence North 0°07'49" East, a distance of 341.31 feet to a point on the West Right-of-Way of Ray Street and the Southeast boundary corner of Markwell Addition, according to plat recorded in Volume 6 of Plats, Page 2, (presently re-zoned as Greenridge Estates); thence South 89°29'38" West (measure) (South 89°27' West, record), a distance of 209.42 feet along the Southerly boundary of said Markwell Addition, to a point; on the easterly margin of Parkwood Drive as shown on the PUD plat of PARKWOOD SOUTH according to the plat thereof recorded in Book 16 of Plats, page 71 in the Spokane County Auditor's Office; thence southerly along said easterly margin the following nine (9) courses: (1) thence South 19°22'27" West, a distance of 16.05 feet to a point; (2) thence along a curve to the left having a radius of 75.00 feet with a central angle of 37°37'35" for an arc distance of 49.25 feet; (3) thence South 18°15'08" East, a distance of 57.27 feet to a point; (4) thence along a curve to the right having a radius of 125.00 feet with a central angle of 44°42'35" for an arc distance of 97.54 feet; (5) thence South 26°27'27" West, a distance of 176.96 feet to a point; (6) thence along a curve to the left having a radius of 175.00 feet with a central angle of 19°15'07" for an arc distance of 58.80 feet; (7) thence South 7°12'20" West, a

distance of 130.16 feet to a point; (8) thence along a curve to the right having a radius of 125.00 feet with a central angle of 29°13'57" for an arc distance of 63.77 feet; (9) thence South 0°01'31" East, a distance of 55.82 feet to a point on the South line of the Northwest Quarter of said Section 27 and the True Point of Beginning; EXCEPT that portion thereof conveyed to the City of Spokane for 21st Court.

EXCEPT therefrom that portion beginning at the Northwest corner of the above described property lying East of said Easterly margin of Parkwood Drive, South of the North property line of the above described property and West of a line whose origin is the intersection of the North property line of said above described property and the extended East line of Green Street extended Southerly 146 feet more or less to the point of intersection with the east line of Parkwood Drive.



4498813
Page: 3 of 5
07/17/2000 04:32P
Spokane Co. WA

Exhibit A

LEGAL DESCRIPTION:

The unplatted portion of the East half of the Southwest quarter of the Northwest quarter, lying East of Parkwood Drive, of Section 27, Township 25 North, Range 43 East, W.M., in the City of Spokane, Spokane County, Washington,

EXCEPT that portion conveyed to the City of Spokane by Deed recorded under recording no 8707290125,

ALSO EXCEPT any portion lying within Ray Street.

ITEMS OF RECORD WHICH WILL REMAIN ON TITLE :

Agreement and the terms and conditions thereof:

Between: **City of Spokane**
Dated: **November 27, 1979**
Recorded: **December 5, 1979**
Recording No.: **7912050207**
Regarding: **Side sewer agreement**

Wherein owner agrees, in consideration of special side sewer agreement, not to protest usual sewer construction to serve said property or assessment therefor.

Protective Covenants and/or Easements, but deleting any covenant, condition or restrictions indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c):

For: **Parkwood South**
Recorded: **May 2, 1980**
Recording No.: **8005020262**

Amendment and/or Modification of Said Covenants:

Recorded: **July 22, 1980**
Recording No.: **8007220128**

Amendment and/or Modification of Said Covenants:

Recorded: **July 7, 1986**
Recording No.: **8607070091**

Amendment and/or Modification of Said Covenants:

Recorded: **October 7, 1993**
Recording No.: **9310070221**

Amendment and/or Modification of Said Covenants:

Recorded: **June 23, 1999**
Recording No.: **4382750**



4498813
Page: 4 of 5
07/17/2000 04:32P
Spokane Co. WA

Exhibit A continued

Easement:

Grantee: The Washington Water Power Company, a corporation, its successors and assigns
Purpose: To erect, construct, reconstruct and maintain an electrical distribution line and appurtenances.
Recorded: June 19, 1980
Recording No.: 8006190092

Easement, including terms and provisions contained therein:

Recorded: July 11, 1980
Recording No.: 8007110021
In favor of: Pacific Northwest Bell Telephone Company, a Washington corporation

For: To place, construct, maintain, inspect, reconstruct, repair, replace, remove and keep obstacles clear from grantee's facilities consisting of underground communication lines.
Affects: A strip of land 10 feet in width lying Southerly of and adjacent to the Green Ridges Estates Condo Plat and extending Westerly from the West line of Ray Street to the East line of Greene Street extended. Also, the West 10 feet of the South 10 feet of the East 410 feet of the Southwest quarter of the Northwest quarter of Section 27, lying Westerly of Ray Street.

Any Assessment now or hereafter levied by applicable Homeowners Association under the Provisions contained in the above mentioned Declaration.

Easement:

Grantee: The Washington Water Power Company, a corporation, its successors and assigns
Purpose: To erect, construct, reconstruct and maintain an electrical distribution line and appurtenances.
Recorded: September 12, 1994
Recording No.: 9409120191
Volume/Page: 1646/1625

RESERVATIONS

The existing access road FROM Ray Street to Parkwood South as shown on Map A, attached hereto and made a part hereof, is reserved by Grantor herein for the exclusive use of the Grantor and the City Wastewater Department for drainage facility access.

Parkwood will be responsible for road maintenance and upkeep. Seller also reserves by deed on behalf of Parkwood the right to place signs to regulate traffic along said private road. It is understood that the City will be using said access road to construct and maintain/operate the storm water facility. Following construction of the City facility, if the City is using the road more than thirty (30) times per month, the City will enter into a joint maintenance agreement with Parkwood. In addition, the construction of the storm water facility may require the relocation (vertically and/or horizontally) of Parkwood's existing access road. In this event, the City will facilitate the road relocation with the consent of Parkwood and reconstruct the relocated portion of the road at City expense. In the future Parkwood Circle Associates, Inc. may assign any rights it possesses under this paragraph to Parkwood South P.U.D.



Exhibit A Continued

RESTRICTION:

The Grantor hereby imposes a deed restriction regarding maximum height on any structures which might be constructed on the subject property so as not to interfere with the view from the houses located in Parkwood South above the subject property.

Said building height to be one story maximum height above the grade of the existing private road unless otherwise agreed by the parties hereto. As provided in the Parkwood South Preliminary P.U.D. Plat dated August, 1992 said building height shall not exceed two stories; provided, however, that no building height will extend one story above the grade of Parkwood Drive which runs along the westerly boundary line of the property.

RESERVATION:

The Grantor reserves the right to retain easements to place and maintain site access signs along Ray Street. Such Easements shall run with the land.

The Grantor reserves the right to maintain the existing fence running along the road to Parkwood South, which is located above the subject property. Such right shall run with the land.

FIRST RIGHT OF REFUSAL:

The Grantor reserves a first right of refusal as follows.
The Grantee herein, its successors and/or assigns;

will not sell the property to a third party without giving Parkwood a right of first refusal. The repurchase price of the referenced property to Parkwood shall be agreed upon by the parties hereto, except within the period of three (3) years from the date of closing of this sale the repurchase price to Parkwood shall not exceed the purchase price provided by this Agreement.

After recording return to:

City of Spokane
Attn: City Clerk
City of Spokane
W. 808 Spokane Falls Blvd.
Spokane, WA 99201

Parcel # 35272.0016

RELEASE OF EASEMENT

In a Statutory Warranty Deed, dated May 15, 2000, and recorded on July 17, 2000, under Auditor's File Number 4498813 (the "Deed"), Parkwood Circle Associates, Inc. reserved an access easement over, under and across the property from Ray Street to Parkwood Drive (the "Easement"). By Assignment of Easement, dated May 5, 2005 and filed for record on May 9, 2005, under Auditor's File Number 5213711, Parkwood Circle assigned the Easement to Parkwood South Homeowners' Association of Spokane, a Washington non-profit corporation (the "HOA"). Pursuant to the Termination and Release of Easement dated _____, 2012 by and between Parkwood South and the City of Spokane, the HOA hereby releases its interest in and to the Easement.

Dated Dec 11, 2012.

PARKWOOD SOUTH HOMEOWNERS'
ASSOCIATION OF SPOKANE, a Washington non-
profit corporation.

By: Carol Neupert
Its: President

STATE OF WASHINGTON)

) ss.

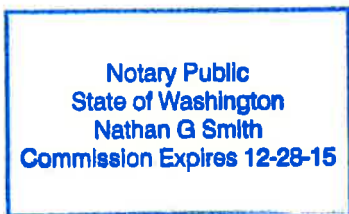
County of Spokane)


I hereby certify that I know or have satisfactory evidence that, on this 11th day
of December, 2012, Coral Newport signed this
(Print name)

Instrument, on oath stated that (she/he/they) is/are authorized to execute the instrument
as the President of Pahwa South Homeowners' Association of Spokane
(Position/Title) (Name of entity)

and acknowledged it to be (her/his/their) free and voluntary act of such party for uses and
purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day
and year first above written.





Notary Public in and for the State of
Washington, residing at Spokane
My commission expires: 12/28/2012

**Agenda Sheet for City Council Meeting of:**

02/11/2013

Date Rec'd

1/30/2013

Clerk's File #

RES 2013-0012

Renews #**Submitting Dept**

PLANNING SERVICES

Cross Ref #**Contact Name/Phone**

SCOTT CHESNEY 625-6061

Project #**Contact E-Mail**

SCHESNEY@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Resolutions

Requisition #**Agenda Item Name**

0650-WEST CENTRAL ACTION PLAN

Agenda Wording

Recognizing planning efforts of West Central Planning Stakeholder Group as a declaration of the neighborhood's desired future condition, providing direction for neighborhood-based improvement activities, and neighborhood priorities for future projects

Summary (Background)

The West Central Neighborhood Action Plan is the neighborhood's vision for future local improvement activities in the West Central Neighborhood and is recognized as written record of the neighborhood's ongoing desire and efforts to continue to build a vibrant, healthy, active, safe and connected neighborhood for all West Central residents.

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

CHESNEY, SCOTT

Study Session**Division Director**

QUINTRALL, JAN

Other

PCED 1/28/13

Finance

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

sdecker@spokanecity.org

For the Mayor

SANDERS, THERESA

schesney@spokanecity.org

Additional Approvals

tblack@spokanecity.org

Purchasing

htrautman@spokanecity.org

RESOLUTION NO. 2013-0012

A RESOLUTION recognizing the planning efforts of the West Central Planning Stakeholder Group as a declaration of the neighborhood's desired future condition, providing direction for neighborhood based-improvement activities, and neighborhood priorities for future projects.

WHEREAS, the City of Spokane officially recognizes neighborhoods through the City's Neighborhood Council process and the Community Assembly; and

WHEREAS, the Spokane City Council allocated \$550,000 toward Neighborhood Planning in 2007; and

WHEREAS, the Community Assembly Neighborhood Planning Action Committee (CA-NPAC) was established to draft guidelines for distribution and use of the funds; and

WHEREAS, the funds were divided 26 ways with each neighborhood receiving approximately \$21,000, with the Riverside Neighborhood Council opting out of the process; and

WHEREAS, the West Central Neighborhood began the Neighborhood Planning process in 2009 and established a Planning Stakeholder Committee; and

WHEREAS, the West Central Neighborhood held an Open House on October 27, 2011 at Holmes Elementary to present their draft Issues and Solutions Report; and

WHEREAS, the West Central Neighborhood held an Open House on May 29, 2012 to present the final draft West Central Neighborhood Action Plan; and

WHEREAS, the West Central Neighborhood Council recognized the work of the West Central Planning Stakeholder Group at the West Central Neighborhood Council meeting of June 13, 2012; and

WHEREAS, the *West Central Neighborhood Action Plan* contains a significant body of work detailing the neighborhood's existing conditions, opportunities, and an outline for many actions designed to develop a better community; and

WHEREAS, the West Central Neighborhood will continue to work toward implementation of the recommendations in the *West Central Neighborhood Action Plan*; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL that the *West Central Neighborhood Action Plan* is recognized as a vision for future neighborhood-based improvement activities in the West Central Neighborhood and is recognized as written

record of the neighborhood's ongoing desire and efforts to continue to build a vibrant, healthy, active, safe and connected neighborhood for all West Central residents.

ADOPTED by the City Council this _____ day of _____, 2013.

City Clerk

Approved as to form:

Assistant City Attorney



Agenda Sheet for City Council Meeting of:
02/11/2013

Date Rec'd	1/30/2013
Clerk's File #	RES 2013-0013
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY COUNCIL
Contact Name/Phone	BEN STUCKART 625.6255
Contact E-Mail	BSTUCKART@SPOKANECITY.ORG
Agenda Item Type	Resolutions
Agenda Item Name	0320 2013 COUNCIL APPOINTMENTS

Agenda Wording

A resolution regarding council member appointments to boards and committees.

Summary (Background)

Council members are appointed to serve on various boards and committees, including Council standing committees, inter-governmental committees and other city boards and committees. This resolution approves the Council's appointments to the various boards and committees for 2013.

Fiscal Impact		Budget Account	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
<u>Dept Head</u>	WESTFALL, JENNIFER	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE		
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			

RESOLUTION NO. 2013-0013

A resolution regarding council member appointments to boards and committees.

WHEREAS, city council members are appointed to serve on various boards and committees, including City Council standing committees, inter-governmental boards and various other boards and committees; and

WHEREAS, City Council standing committee appointments are governed by Chapter 2.005 of the Spokane Municipal Code and Rule 9 of the City Council's Rules of Procedure; and

WHEREAS, SMC 2.005.010(D)(6) provides that standing committee membership shall be determined at the second legislative session of the City Council of each calendar year and memorialized by resolution of the City Council; and

WHEREAS, council members are included as members of several inter-governmental boards and committees and serve on other city boards and committees pursuant to various inter-local agreements, provisions of the SMC and state statutes; - - Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPOKANE that the City Council approves the appointments to the City Council standing committees, inter-governmental boards and other boards and committees as set forth in Attachment A.

BE IT FURTHER RESOLVED that subsequent changes to the boards and committees appointments may be approved by motion of the Council.

ADOPTED by the City Council on _____, 2013.

City Clerk

Approved as to form:

Assistant City Attorney

City of Spokane

City Council

2013 BOARD/COMMISSION/COMMITTEE APPOINTMENTS

Background Information:

Pursuant to Section 24 (8) of the City Charter, the City Council appoints one of its members to a respective board or commission, when an appointee to that board or commission is required to be a Councilperson. In addition to serving on various boards and commissions, Council members serve on inter-governmental agencies and Council standing committees. The City Council appointments for Council Standing Committees, Inter-governmental agencies and Boards and Commissions for 2013 are as follows:

STANDING COMMITTEE REPRESENTATION:

(Standing Committees meet monthly in the fifth floor conference room unless otherwise noted)

Finance Committee (CPR 1981-0037) (Second Wednesday - 3:00 p.m.)

Ben Stuckart, Nancy McLaughlin, Mike Allen, Steve Salvatori, Mike Fagan, Jon Snyder

Planning, Community/Economic Development (PCED) (CPR 1994-0023) (First/Third Monday – 11:00 a.m. - City Council Briefing Center)

Ben Stuckart, Nancy McLaughlin, Mike Allen, Amber Waldref, Steve Salvatori, Mike Fagan, Jon Snyder

Public Safety Committee (CPR 1990-0142) (Third Monday – 1:30 p.m.)

Ben Stuckart, Mike Fagan, Jon Snyder, Amber Waldref, Nancy McLaughlin

Public Works Committee (CPR 1990-0125) (Second/Fourth Mondays – 1:30 p.m.)

Nancy McLaughlin, Mike Allen, Amber Waldref, Steve Salvatori, Mike Fagan, Jon Snyder

OTHER AGENCIES, DEPARTMENTS, JOINT INTERLOCAL AGREEMENTS:

Association of Washington Cities (CPR 1981-0309)

Nancy McLaughlin, Mayor Condon

National League of Cities

Nancy McLaughlin, Amber Waldref

Aging and Long Term Care of Eastern Washington (ALTCEW) (CPR 1981-0449)

Mike Fagan, Jon Snyder

Budget & Performance Committee (CPR 2001-0020) (Chair schedules)

Amber Waldref, Steve Salvatori, Mike Allen

City Plan Commission (CPR 1981-0295) (second/fourth Tues 12:00 noon BC)

Mike Fagan (Advisory Only)

Downtown Spokane Partnership (DSP) (last Weds 3:30 p.m. GSI)

Steve Salvatori, Mayor Condon

Firefighters Pension Board (CPR 1991-0098) (first Thurs 9:00 a.m. 5th)

Ben Stuckart, Amber Waldref

Community, Housing and Human Services Board (CPR 2012-0033) (first Weds. 4:00 p.m. BC)

Amber Waldref

Lodging Tax Advisory Board (CPR 2000-0031) (Chair schedules)

Ben Stuckart

Parks and Recreation Board (CPR 1981-0402) (second Thurs 1:30 p.m. CC)

Mike Allen

Police Pension Board (CPR 1995-0005) (first Thurs 1:30 p.m. 5th)

(Board of Trustees of the Spokane Police Relief and Pension Fund)

Ben Stuckart, Mike Fagan

Spokane Airport Board (CPR 1982-0071) (third Weds 7:30 a.m. Airport)

Nancy McLaughlin

Spokane City/County Local Emergency Planning Committee (CPR 1981-0378) (EMS)

Mike Fagan

Spokane Regional Convention and Visitors Bureau (CPR 1982-0141) (second Thurs 7:30 a.m. GSI)

Ben Stuckart

Spokane County Growth Management Act Steering Committee (GMA)(CPR 1993-0099) (County schedules)

Mike Allen, Amber Waldref, Mike Fagan

Spokane Employees Retirement Board (CPR 1981-0370) (last Weds 1:30 p.m. 5th)

Jon Snyder

Spokane Public Library Board of Trustees (CPR 1981-0400) (third Tues 4:30 p.m. Downtown Library Room 1A)

Ben Stuckart (Advisory Only)

Spokane Police Advisory Committee (CPR 1990-0146)

Mike Fagan

Spokane Regional Health District Board (SRHD) (CPR 1981-0393) (*fourth Thurs. 12:30 p.m. SRHD*)

Ben Stuckart, Jon Snyder, Amber Waldref, Mayor Condon (Mayoral Slot)

Spokane Regional Solid Waste Liaison Board (CPR 1987-0110) (*first Mon 1:30 p.m. Old City Hall*)

Steve Salvatori, Mike Fagan

Human Rights Commission (CPR 1991-0068) (*fourth Thurs. 5:30 p.m. BC*)

Ben Stuckart

Spokane Transit Authority Board (STA) (CPR 1982-0115) (*third Thurs 5:30 p.m. CC*)

Amber Waldref, Nancy McLaughlin, Mike Allen

Spokane Regional Transportation Council (SRTC) (CPR 1993-0113) (*second Thurs 1:00 p.m. SRTC*)

Nancy McLaughlin, Mayor Condon



OFFICE OF THE CITY CLERK
808 W. SPOKANE FALLS BLVD.
SPOKANE, WASHINGTON 99201-3342
(509) 625-6350

January 31, 2013

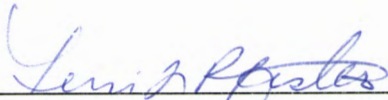
City Clerk File No.:
ORD C34955

COUNCIL ACTION MEMORANDUM

RE: FIRST READING ORDINANCE C34955 RELATING TO MARIJUANA

During its 3:30 p.m. Administrative Session held Monday, January 28, 2013, upon review of the January 28 Current Agenda, the Spokane City Council took the following action:

Motion by Council Member Snyder, seconded by Council Member Waldref, to defer First Reading Ordinance C34955 to February 4, 2013;
carried unanimously.



Terri L. Pfister, MMC
Spokane City Clerk

**Agenda Sheet for City Council Meeting of:**

01/28/2013

Date Rec'd

1/16/2013

Clerk's File #

ORD C34955

Renews #**Submitting Dept**

CITY COUNCIL

Cross Ref #**Contact Name/Phone**JON SNYDER, 509-625-6714
MIKE FAGAN**Project #****Contact E-Mail**

BSTUM@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

0320 MARIJUANA ORDINANCE

Agenda Wording

An ordinance relating to marijuana, amending SMC sections 1.05.210, 10.14.170, 10.14.220, and 10.15.100; and adopting a new section 10.02.065 to chapter 10.02 and a new section 10.15.220 to chapter 10.15 of the Spokane Municipal Code.

Summary (Background)

Provisions of state law regarding possession of marijuana were revised pursuant to passage of I-502. This ordinance amends provisions of the SMC to be consistent with state law. The revisions amend the definition of marijuana to include the references to "marijuana," "usable marijuana," and "marijuana-infused products." The amendments also include an exception to possession of marijuana for a person 21 or older; and creates a civil infraction for open possession/consumption of marijuana.

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

STUCKART, BEN

Study Session

Jan 2013

Division Director**Other****Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

For the Mayor

SANDERS, THERESA

Additional Approvals**Purchasing**

Ordinance No. C34955

An ordinance relating to marijuana, amending SMC sections 1.05.210, 10.14.170, 10.14.220, and 10.15.100; and adopting a new section 10.02.065 to chapter 10.02 and a new section 10.15.220 to chapter 10.15 of the Spokane Municipal Code.

The City of Spokane does ordain:

Section 1. That SMC section 10.14.170 is amended to read as follows:

10.14.170 Water Skiing

- A. Any person who shall operate a vessel which has in tow another person or persons on water skis, aquaplane or other similar device, and any person who shall operate such water skis, aquaplane or similar device in tow behind a vessel shall be deemed engaged in water skiing.
- B. Any vessel engaged in water ski operations shall have, in addition to the vessel operator, an observer of at least ten years of age on board for the safety of the person or persons in tow.
- C. It shall be unlawful to engage in water skiing during the period from one hour after sunset until one hour prior to sunrise.
- D. No person or persons shall engage in water skiing within fifty feet of any boat launching ramp, motionless vessel, anchored vessel, trolling vessel, swimmer, safety buoy or shoreline.
- E. Except on take-offs, no person or persons shall engage in water skiing operations between the safety buoy line and the shoreline. Any take-off from within the safety buoy line must be made outward and at right angles to the shoreline. At no time can such take-off cause risk or hazard to other vessels or persons on the water.
- F. No vessel shall follow behind a person being towed on water skis, aquaplane or other similar device closer than three hundred feet, nor cross the towing vessel's bow by less than two hundred feet, nor come within one hundred feet of the person being towed.
- G. The safety buoy line shall not be used as a slalom course.
- H. No person shall operate any vessel, tow rope or other device by which the direction or location of a person on water skis, aquaplane or similar device may be affected or controlled in such a negligent manner as to endanger or be likely to endanger any person or property.

- I. No person shall engage in water skiing while under the influence of any intoxicating liquor, narcotic drug, barbiturate, marijuana, usable marijuana, a marijuana-infused product or controlled substance as defined under chapter 69.50 RCW.
- J. No person shall operate or permit to be operated any vessel used for towing water skiers or similar devices in which person(s) or objects are being towed above, in or on any waterway unless it shall have on board and display a warning flag.
 - 1. A warning flag shall be bright red in color, measuring twelve inches on each side, mounted on a handle not less than twenty-four inches long and displayed as to be visible from every direction.
 - 2. When anyone being towed by a vessel becomes disengaged from the tow line and is down in the water, a person in the vessel shall immediately hold the warning flag aloft, visible from all sides, as an indicator to other vessel in the area that a person is down in the water. As long as such person is in the water, the flag shall remain displayed to prevent danger to that person and hazards to passing vessels.
 - 3. Such warning flag shall be displayed only under the conditions set forth in this section or when other imminent dangers exist.
- K. Any vessel engaged in water skiing, aquaplaning or similar activity shall proceed in a counterclockwise direction of travel according to the waterway's topography.

Section 2. That SMC section 10.14.220 is amended to read as follows:

10.14.220 Operating a Vessel While ((Intoxicated)) Under the Influence – Prohibited

- A. No person shall operate any vessel while under the influence of any intoxicating liquor, narcotic drug, barbiturate, marijuana, usable marijuana, a marijuana-infused product or any other substance as defined under chapter 69.50 RCW.
- B. Determination of intoxication shall be by the same criteria as provided in RCW 46.61.506, or otherwise in the same manner as when an individual is alleged to be under the influence of an intoxicating liquor or drug while operating a motor vehicle.

Section 3. That SMC section 10.15.100 is amended to read as follows:

10.15.100 Possession of Marijuana

It is unlawful for any person to possess forty grams or less of marijuana, except as provided pursuant to RCW 69.51(A) as now or hereafter amended. A person who violates this section is guilty of a misdemeanor. A conviction under this section shall be sentenced in accordance with the penalties prescribed under RCW 69.50.425 as now or hereafter amended. The possession, by a person twenty-one years of age or older, of useable marijuana or marijuana-infused products in amounts that do not exceed (a) one ounce of useable marijuana; (b) sixteen ounces of marijuana-infused product in solid form; or (c) seventy-two ounces of marijuana-infused product in liquid form is not a violation of this section.

Section 4. That there is adopted a new section 10.02.065 to chapter 10.02 of the Spokane Municipal Code to read as follows:

10.02.065 Marijuana, Useable Marijuana or a Marijuana-Infused Product

The terms “marijuana”, “useable marijuana”, or “a marijuana-infused product” shall have the meaning as defined in RCW 69.50.101 as now or hereafter amended.

Section 5. That there is adopted a new section 10.15.220 to chapter 10.15 of the Spokane Municipal Code to read as follows:

10.15.220 Open Possession/Consumption of Marijuana, Usable Marijuana or a Marijuana-Infused Product

It is unlawful to open a package containing marijuana, useable marijuana, or a marijuana-infused product, or consume marijuana, useable marijuana, or a marijuana-infused product, in view of the general public. A person who violates this section is guilty of a class 3 civil infraction.

Section 6. That SMC section 1.05.210 is amended to read as follows:

1.05.210 Penalty Schedule – Personal Conduct

- A. For each subsequent violation by a person the classification of infraction advances by one class.
- B. Infraction/Violation Class.

SMC 1.05.210 Penalty Schedule - Personal Conduct	
Infraction	Violation Class

IFC 307.1	Open Burning	1
SMC 1.06.040	Act of Discrimination	1
SMC 10.03.060	Barking Dog	1
SMC 10.03.100	Offenses Relating to Safety and Sanitation	4
SMC 10.03.110	Allow Animal in Riverfront Park or Special Permitted Event Area when Banned	3
SMC 10.08.010	Deposit of Tobacco Product Capable of Being Lit	\$500
SMC 10.08.010	Littering, Unlawful Disposal of Rubbish	1
SMC 10.08D.080 SMC 10.08D.090(C) SMC 10.08D.120 – First violation within a one year period	Noise Control	2
SMC 10.08.055	Purchase, Possession of Tobacco by Minor	3
SMC 10.08.100 SMC 10.08.120 SMC 10.08.140(B-D)	Homeless Encampment	1
SMC 10.08.246	Liquor Purchase by Apparently Intoxicated Person	\$500
SMC 10.08A.040(D)	Failure to Respond – Chronic Nuisance	1
SMC 10.10.040 SMC 12.06.050 – SMC 12.06.080	Offending Peace and Order in Public Park	1
SMC 10.11.042	Not Having or Displaying Concealed Pistol License	1
SMC 10.15.115	Selling or Giving Drug Paraphernalia	1
<u>SMC 10.15.220</u>	<u>Open Possession/Consumption of Marijuana, Usable Marijuana or Marijuana-Infused Products</u>	<u>3</u>
SMC 10.17.030	Helmet Safety – Failure to Wear Approved Helmet	4
SMC 10.17.040	Helmet Safety – Failure to Require Wearing of Approved Helmets at Special Events	4
SMC 10.17.050	Helmet Safety – Failure to Rent, Lease, or Loan Approved Helmet	4
SMC 10.17.060	Helmet Safety – Failure to Sell or Offer to Sell Approved Helmet	4
SMC 10.24.010	Harbor Dog or Cat Without License	3
SMC 10.24.020	Permit Animal to Run at Large	3
SMC 10.24.040	Rabies	3
SMC 10.24.060	Property Damage by Animal	3

SMC 10.24.090	Sale of Animals	2
SMC 10.33A.055	Sell, Use, Discharge Fireworks	1
SMC 12.02.910 SMC 12.02.914	No Tree Permit; Destroy, Injure Street Tree, or Other Violations	1
SMC 17F.100.050	Disposal of Liquid Waste in Unapproved Place or Manner	1
SMC 17G.050.050	Ex Parte Contact with Adjudicative Officer	2

PASSED BY THE CITY COUNCIL ON _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

**Agenda Sheet for City Council Meeting of:**

02/04/2013

Date Rec'd

1/23/2013

Clerk's File #

ORD C34956

Renews #**Submitting Dept**

FINANCE

Cross Ref #**Contact Name/Phone**

KIM ORLOB 6369

Project #**Contact E-Mail**

KORLOB@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

0410 - ORDINANCE - BUSINESS LICENSING PROCESS

Agenda Wording

An ordinance relating to the business licensing process; amending SMC sections 8.01.020; 8.01.130; 8.01.180; 8.01.190; 8.02.0206; 8.02.0207; 8.01.230; and 8.01.280

Summary (Background)

The City recently contracted with the Washington State Department of Revenue to operate and maintain its Business Licensing Program effective Fall 2012, resulting in the need to amend the City's municipal code to reflect the change in processing.

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

DUNIVANT, TIMOTHY

Study Session**Division Director**

DUNIVANT, TIMOTHY

Other

Finance Committee - multiple

Finance

LESESNE, MICHELE

Distribution List**Legal**

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SANDERS, THERESA

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Additional Approvals

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Purchasing

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mlewis@spokanecity.org

ORDINANCE NO. _____

AN ORDINANCE relating to the business licensing process; amending SMC sections 8.01.020; 8.01.130; 8.01.180; 8.01.190; 8.02.0206; 8.02.0207; 8.01.230; and 8.01.280.

WHEREAS, the City of Spokane recently contracted with the Washington State Department of Revenue for operating and maintaining its Business Licensing Program, effective Fall 2012; and

WHEREAS, as a result of this contract, it is necessary to amend the Spokane Municipal Code to reflect the change in processing; -- Now, Therefore,

The City of Spokane does ordain:

Section 1. That SMC section 8.01.020 is amended as follows:

8.01.020 Definitions

Words are to be given their usual meaning except the following terms and their derivations have the meaning given when used in this chapter. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

- A. "Business" includes all activities, occupations, trades, pursuits, professions, and matters located or engaged in within the City with the object of gain, benefit, or advantage to the registrant or to another person or class, directly or indirectly.
- B. "Engaging in business" means commencing, conducting, or continuing in business, including delivery of goods and services, and the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
- C. "Gross income" means the total income to the registering entity from engaging in business within the City without any deductions for taxes, bad debt, or other deductions. It is not computed separately for each individual partner, principal, employee, or other constituent part of the registrant.
- D. "Itinerant Vendor", as used in this section is defined in SMC 10.40.010.
- E. "Non Profit Corporation" or "Non Profit Organization", means a corporation or organization:

1. in which no part of the income can be distributed to its members, directors, or officers; and
2. that holds a income tax exemption status as provided in Section 501(c)(3) of the Internal Revenue Code, and as hereafter amended; or
3. that is specifically exempted from the requirement to apply for its tax exempt status under Section 501(c)(3) of the Internal Revenue Code, and as hereafter amended.

Where the term non profit organization is used, it is meant to include a non profit corporation.

E. (~~E.~~) "Personnel" means any person employed by or working for any business located within the City, and/or persons who perform any part of their duties within the City. This includes officer, owner, agent, or other staff function.

1. All officers, agents, dealers, LLC members, etc., of a corporation or business trust, and all partners of a partnership are counted as personnel within this definition.
2. A sole proprietor, owner, or spouse are counted as personnel.
3. Each part-time or each temporary person must be counted as one personnel.
4. Volunteers are not counted as personnel in determining the business registration fee.

G. (~~E.~~) "Registrant" includes any person who:

1. engages in business,
2. is required to have a business license and/or registration,
3. is liable for any license fee, registration fee, or tax, or
4. performs any act for which a license fee, registration fee, or tax is imposed by this chapter.

Section 2. That SMC section 8.01.130 is amended as follows:

8.01.130 Term of Registration

- A. A business registration is good for twelve months and must be renewed before expiration for the next twelve months.
- B. In order to convert to the Washington State business licensing (~~(license)~~) service, the existing expiration date may be changed and the respective registration fees may be pro-rated to coincide with the state system. Thereafter, all new registrations will be issued for a term of twelve months after which the renewal of the registration may be pro-rated in order to comply with the common expiration date setting of the business licensing service.

Section 3. That SMC section 8.01.180 is amended as follows:

8.01.180 Computation of Business Registration Fee

- A. As fixed in SMC 8.02.0206, in addition to the basic registration fee, the total business registration fee due includes a per-person fee amount applied to (~~(is measured by)~~) the total number of personnel of the business.
- B. All persons employed at each business location as of the time of a business registration renewal are to be counted in the number of personnel for registration fee purposes. As appropriate, such as in the case of a business with seasonal fluctuations in the work force, the number of personnel by which the fee is measured is the number shown upon the business payroll for each of the payroll periods during that year, added together and divided by the number of payroll periods.
- C. In the case of a new business, the fee for the initial business registration is based upon the registrant's estimated number of personnel.

Section 4. That SMC section 8.01.190 is amended as follows:

8.01.190 Fee Reduction

A reduced fee for renewal of a business registration in an amount stated in SMC 8.02.0206 may be granted to persons upon application under either of the following circumstances:

- A. Low Gross Income.
Registrants whose gross income does not exceed eighteen thousand dollars per calendar year or prorated for a partial calendar year are entitled to a reduced business registration fee as specified in SMC 8.02.0206. Any applicant for a reduced fee registration must present sufficient proof of gross income to the City of Spokane taxes and licenses division that income earned from business

activities in the City is below required limits. Proof of income must be shown by filed tax returns from the prior year.

- B. Non-Profit ~~((Entities))~~ Corporations or Organizations as defined in SMC 8.01.020E.
Effective June 1, 2013, businesses to which SMC 8.01.090 does not apply, and which are required to hold a city business registration under this chapter, but meet the definition of a non profit corporation or organization as defined in SMC 8.01.020E ~~((Non-profit entities which have received certification from the state and/or federal government))~~ are entitled to be issued a "nonprofit" business registration with a reduced business registration fee as specified in SMC 8.02.0206. Any applicant claiming ~~((for))~~ a reduced fee nonprofit registration must present sufficient proof of status as a 501(c)(3) organization under the Internal Revenue Code. ~~((non-profit status as granted by the state or federal government.))~~

Section 5. That SMC section 8.01.230 is amended as follows:

8.01.230 Name or Location Change

If a business changes names or locations during a registration year, it must notify the Washington State business licensing ~~((license))~~ service and obtain a new registration document to display in the place of business which reflects the change of name or location. A change of location may require the filing of a new application through the business licensing ~~((license))~~ service, as described in this chapter.

Section 6. That SMC section 8.01.280 is amended as follows:

8.01.280 Delinquent Payment

If a registration is not renewed on time, a penalty may be assessed by the Washington State business licensing ~~((license))~~ service as provided in RCW 19.02.085.

Section 7. That SMC section 8.02.0206 is amended as follows:

8.02.0206 Business Registration

- A. A regular business registration basic fee is one hundred ten dollars per twelve-month period. ~~((The fee to register each unique name that identifies the business is twenty dollars per twelve-month period.))~~
- B. The basic fee for a nonresident business registration is one hundred ten dollars per twelve-month period.

- C. In addition to the basic registration fee, each business must pay an additional fee for each personnel, per license year, as follows (all personnel of a business are charged the same amount corresponding to the respective category of the total number of personnel defined below):
1. Businesses with fewer ~~((Fewer))~~ than six personnel in total: Ten dollars per person.
 2. Businesses with ~~((From))~~ six to ten personnel in total: Fifteen dollars per person.
 3. Businesses with more ~~((More))~~ than ten personnel in total: Twenty dollars per person.
- D. Whenever there is a change of ownership, the holder of the registration must notify the Washington State business licensing ~~((license))~~ service within thirty days of such event. The new owner must file an application with the Washington State business licensing ~~((license))~~ service to acquire a new registration, as provided in chapter 8.01 SMC.
- E. For businesses qualifying under SMC 8.01.190(A) for a reduced registration fee, the reduced business registration fee is one-half the basic registration fee, but all ~~((in addition to any))~~ applicable personnel, inspection, or other applicable fees or charges apply in full.
- F. For businesses qualifying under SMC 8.01.190(B) for a reduced registration fee, the reduced business registration fee is one-half the basic registration fee and the applicable personnel fee is one-half of the amounts outlined in subsection C.
- G. Annual Fee Adjustment.
Effective January 1, 2011, and the first of January of each year thereafter, the various business registration fees set forth above shall be adjusted by the City of Spokane treasurer's office for an amount equal to the consumer price index adjustment of the previous July - July U.S. All City Average (CPI-U and CPI-W). The newly determined amount shall be rounded up to the nearest dollar. In addition, the adjusted fees shall be presented to the city council for approval and a copy of the approved fees filed with the city treasurer before becoming effective. The annual fee adjustment shall not apply to the additional fee per personnel set forth in subsection (C) of this section.

Section 8. That SMC section 8.02.0207 is amended as follows:

8.02.0207 New Business – Fire Department Safety Evaluations

- A. The safety evaluation fee((s)) for fire department safety evaluations of new businesses; ~~((are the following:))~~ Ninety dollars.

~~((1. Processing fee for evaluation of low hazard general office operations:
Twenty-five dollars.~~

~~a. Exceptions:~~

~~i. Home businesses where customers do not come to the residence.~~

~~ii. Peddlers or vendors operating carts or booths where no ignition sources, flammable liquids, gases, or solids are present.~~

~~2. Safety evaluation fee (which includes the processing fee): Ninety dollars))~~

1. ((a.)) Exceptions:

a. ((i.)) Home businesses where customers do not come to the residence.

b. ((ii)) ((Peddlers)) Itinerant Vendors or vendors operating carts or booths where no ignition sources, flammable liquids, gases, or solids are present.

c. ((iii)) Low hazard is defined as "general business office" operations where no ignition sources, flammable liquids, gases, or solids are present (i.e.: insurance office, tax consultant, attorney, accountant, therapy, hair/nail salon, coffee/ espresso stands, photography studios, etc.).

- B. Businesses originally categorized as low hazard general office operations that were later determined to be a higher hazard by the fire department will be charged a sixty-five dollar safety evaluation fee in addition to the processing fee for the fire safety site inspection.

Passed by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

**Agenda Sheet for City Council Meeting of:**

02/04/2013

Date Rec'd

1/23/2013

Clerk's File #

ORD C34957

Renews #**Submitting Dept**SPOKANE REGIONAL SOLID WASTE
SYSTEM**Cross Ref #****Contact Name/Phone**

KEN GIMPEL 625-6532

Project #**Contact E-Mail**

KGIMPEL@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

4490 ADJUSTING SOLID WASTE DISPOSAL RATES

Agenda Wording

Adjusting solid waste disposal rates at the waste to energy facility and transfer stations from \$107 per ton to \$98 per ton, and increasing the minimum charge from \$7 to \$15.

Summary (Background)

In an effort to control cost and reduce solid waste disposal fees, the Spokane Regional Solid Waste System (SRSWS) has proposed a \$9 per ton fee reduction. There will continue to be an additional \$5 per ton fee for waste delivered to the Valley and North County Transfer Stations, making the fee \$103 per ton at the transfer stations. These are the same tipping fees that were in place from 2002 until 2011 and will be the first tipping fee decrease since SRSWS was formed in 1989.

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

GIMPEL, KEN

Study SessionPublic Works Cmte
1/14/13**Division Director**

ROMERO, RICK

Other**Finance**

LESESNE, MICHELE

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Purchasing

ORDINANCE NO. C34957

AN ORDINANCE relating to solid waste disposal fees; amending SMC sections 13.02.0528 and 13.02.0560, repealing SMC section 13.02.0564, and setting an effective date.

The City of Spokane does ordain:

Section 1. That SMC 13.02.0528 is amended to read as follows:

13.02.0528 Rates for Equipment and Labor – Packer and Nonpacker Trucks

- A. Department vehicle and labor service is supplied with two kinds of vehicles: Single-axle nonpacker trucks and tandem-axle packer trucks.
1. Disposal fees are charged in addition to equipment and labor charges.
 2. Regular garbage collection vehicles are also called “packer” trucks because they operate with a compaction facility that pushes or packs in waste. For some disposal needs, such as odd-shaped debris or materials, regular open bed trucks are more suitable. These vehicles are called “nonpacker” trucks.
 3. Department packer trucks are all larger tandem-axle design. Department nonpacker trucks are all smaller single-axle design.
 4. Distinguished from this service is rolloff service, where a rolloff box is loaded by the customer, rather than with department labor. (See SMC 13.02.0506)
- B. Rates.
Rates in this section are stated based on fifteen-minute increments. The minimum charge is fifteen minutes.
1. Nonpacker, single-axle, truck, and driver: Twenty-one dollars forty-nine cents.
 - a. Each extra person: Seventeen dollars eighty-nine cents.
 2. Tandem-axle truck, driver, and loader: Twenty-nine dollars eighty-five cents.
- C. In addition to the labor and equipment charges, there is added to subsection (B) of this section a charge for waste disposal, ~~((based on one hundred four dollars per ton when delivered to the waste-to-energy plant.))~~ as shown in SMC

13.02.0560, except that the minimum charge for waste disposal shall be equal to one-quarter of the applicable tonnage fee.

- ~~((1. Minimum disposal charge will be twenty six dollars (one quarter of one hundred four dollars) if delivered at the waste to energy plant.~~
- ~~2. Fees at the Colbert and Sullivan Road transfer stations are five dollars per ton more, to help pay the costs associated with moving the tonnage to the regional waste to energy facility.~~

~~[Cross Reference: SMC 13.02.0224(D)]~~

D. Overtime Periods.

When a customer requests service on holidays, Saturdays, or Sundays, or other overtime periods, an additional charge equal to the total labor paid plus the normal hauling fee shall apply.

Section 2. That SMC 13.02.0560 is amended to read as follows:

13.02.0560 General Mixed Solid Waste – Tonnage Fee

~~((For solid waste delivered to a City disposal facility (landfill, transfer station, or waste-to-energy plant), the following charges shall be made:))~~

- A. ~~((Minimum charge of seven dollars per vehicle (for a load up to one hundred twenty pounds), thereafter charged at a rate of:~~

~~2012: one hundred four dollars per ton;~~

~~2013: one hundred seven dollars per ton;~~

~~2014: one hundred ten dollars per ton.))~~

For solid waste delivered to the waste-to-energy plant, the charge shall be ninety-eight dollars per ton, with a minimum charge of fifteen dollars per vehicle.

- B. ~~((For debris to be placed in lined landfill:~~

~~2012: one hundred four dollars per ton;~~

~~2013: one hundred seven dollars per ton;~~

~~2014: one hundred ten dollars per ton.))~~

For solid waste delivered to the northside landfill, the charge shall be ninety-eight dollars per ton, with a minimum charge of fifteen dollars per vehicle.

C. ~~((For waste from nonprofit generator accounts:~~

~~2012: sixty seven dollars sixty cents per ton;~~

~~2013: sixty nine dollars fifty five cents per ton;~~

~~2014: seventy one dollars fifty cents per ton.~~

~~Provided,~~

- ~~1. such generators identify themselves as IRC Section 501(c)(3) approved nonprofit enterprises or similar proof of qualification to the department; and~~
- ~~2. the waste is the product of the nonprofit business activities, which include waste reduction or recycling as a major component of their operations:))~~

For solid waste delivered to a transfer station, the charge shall be one hundred three dollars per ton, with a minimum charge of fifteen dollars per vehicle.

D. ~~((One hundred sixty five dollars per ton for waste requiring special handling, as determined by the director of the Spokane regional solid waste system:))~~ For solid waste delivered to any of the above facilities, which the director determines requires special handling, the charge shall be one hundred sixty five dollars per ton, with a minimum charge of twenty dollars per vehicle.

E. ~~((For general mixed solid waste delivered to transfer stations by state-certified haulers, other non-generator haulers, or commercial business generators:~~

~~2012: one hundred nine dollars per ton;~~

~~2013: one hundred twelve dollars per ton;~~

~~2014: one hundred fifteen dollars per ton:--))~~

For solid waste delivered to any of the above facilities, from nonprofit generator accounts, the applicable tonnage charge shall be reduced by thirty-five percent, with a minimum charge of fifteen dollars per vehicle,

1. The generator shall identify itself as a section 501(c)(3) of the Internal Revenue Code approved nonprofit enterprise or provide similar proof of qualification to the department.

2. The waste shall be the product of the nonprofit business activities, which include waste reduction or recycling as a major component of its operations.

F. The above rates are effective from May 1, 2013 through December 31, 2013. Effective January 1, 2014 and each year thereafter, the above rates and minimum charges will each be adjusted to reflect increases in the Consumer Price Index for All Urban Consumers (CPI-U), US City Average, all items, not seasonally adjusted, as published by the Bureau of Labor Statistics, United States Department of Labor (hereafter the Index). In the event the Index stays the same or decreases, no rate adjustment will be made. The period for computing the change will be the first half of the just completed year, compared to the first half of 2012 (Base Index). The value of the Index for the first half of 2012, the Base Index, was 228.850.

Example calculation of rate for year n :

<u>Assume Index for first half of year $n-1$</u>	<u>236.000</u>
<u>Divided by Base Index</u>	<u>228.850</u>
<u>Equals</u>	<u>1.03124</u>

This means that the base price will be increased by 3.124 percent.

<u>Base Price</u>	<u>\$98.00</u>
<u>Multiplied by</u>	<u>1.03124</u>
<u>Equals adjusted price</u>	<u>\$101.06</u>

Section 3. That SMC section 13.02.0564 is repealed.

Section 4. Effective Date. This ordinance shall take effect and be in force on May 1, 2013.

PASSED BY THE CITY COUNCIL ON _____

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

**Agenda Sheet for City Council Meeting of:**

02/11/2013

Date Rec'd

1/30/2013

Clerk's File #

ORD C34960

Renews #**Submitting Dept**

MAYOR

Cross Ref #**Contact Name/Phone**

JONATHAN 6734

Project #**Contact E-Mail**

JMALLAHAN@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

AMENDMENT TO ORDINANCE RELATING TO THE CHASE YOUTH COMMISSION

Agenda Wording

Amending ordinance relating to the Chase Youth Commission; amending SMC sections 4.23.020, 4.23.030 and 4.23.080

Summary (Background)

The request for this amendment came from the Chase Youth Commission. This recommendation from Chase Youth Commission is a result of a year-long conversation with board members about the future of the board. A letter dated December 10th, 2012 from Susan Lane, Chase Youth Foundation Director, outlines the organization's motives and recommendations to phase in this change upon the expiration of current adult members' terms in January 2013. Adults will continue to be involved in program as advisors

Fiscal Impact

Neutral \$ na

Select \$

Select \$

Select \$

Budget Account

na

#

#

#

Approvals**Dept Head**

FEIST, MARLENE

Division Director**Finance**

LESESNE, MICHELE

Legal

BURNS, BARBARA

For the Mayor

SANDERS, THERESA

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bburns@spokanecity.org

chaseyouthspokane@gmail.com

ORDINANCE NO. C34960

AN ORDINANCE relating to the Chase Youth Commission; amending SMC sections 4.23.020, 4.23.030 and 4.23.080.

The City of Spokane does ordain:

Section 1. That SMC section 4.23.030 is amended as follows:

4.23.030 Membership

- A. The commission consists of ~~((fifteen))~~ ten members of the Spokane community.
1. ~~((Seven))~~ Five members are residents of the City of Spokane, nominated by the mayor and appointed by the council~~((;))~~ ; and
 2. ~~((Seven))~~ Five members are residents of other cities in the county and of the unincorporated areas of Spokane County, appointed by the board of county commissioners~~((; and~~
 3. ~~One member may be a resident anywhere in the county, appointed by the commission with the approval of the city council and the board of county commissioners)).~~
- B. The commission is comprised of ~~((;))~~ youths, thirteen through eighteen years of age.
- ~~((1. seven "youths," thirteen through eighteen years of age; and~~
- ~~2. eight "adults", nineteen and over)).~~
- C. The council president serves as official liaison between the commission and the city council and the chair of the board of county commissioners serves as official liaison to the board.

Section 2. That SMC section 4.23.030 is amended as follows:

4.23.030 Term

- A. Except that a member may be removed for cause by the appointing authority, ~~((adult members serve staggered terms of three years, and))~~ youth members serve terms of one year, and until his successor assumes office.

- B. Terms end on June 30th of the appropriate year from time of appointment to the commission.
- C. No ~~((adult may serve more than two consecutive terms, to a maximum of six years. No))~~ youth may serve more than six consecutive terms, to a maximum of six years.

Section 3. That SMC section 4.23.080 is amended as follows:

4.23.080 Staff Support

Under the direction of the mayor the commission receives staff support as necessary. ~~((In particular, the director of the youth department serves as executive secretary of the commission and provides direct staff support.))~~ The city attorney provides legal counsel.

Passed by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

BRIEFING PAPER
City of Spokane
PCED Committee
Monday, January 14, 2013

Subject

An amendment to the Spokane Municipal Code section 4.23.020 (Chase Youth Commission) eliminating adult commission positions.

Background

The request for this amendment came from the Chase Youth Commission. This recommendation from Chase Youth Commission is a result of a year long conversation with board members about the future of the board. A letter (attached) dated December 10th, 2012 from Susan Lane, Chase Youth Foundation director, outlines the organization's motives and recommendation to phase in this change upon the expiration of current adult members' terms in January of 2013.

Adults will continue to be involved in the program as advisors. This recommendation was made through a unanimous vote of the commission.

Impact

Reduces board membership from 15 to 10 through eliminating 8 adult positions and adding 3 youth positions.

Current Board Membership: 7 Youth, 8 adults (7 City, 7 County, 1 All County)

Proposed Board Membership: 10 Youth (5 City, 5 County)

Action

Amend SMC 4.23.020, 4.23.030 and 4.23.080

Funding

N/A

**Agenda Sheet for City Council Meeting of:**

02/11/2013

Date Rec'd

1/30/2013

Clerk's File #

ORD C34961

Renews #**Submitting Dept**

PLANNING SERVICES

Cross Ref #**Contact Name/Phone**

JULIE NEFF 625-6082

Project #**Contact E-Mail**

JNEFF@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

0650-SMC AMENDMENTS RELATING TO STREET DEVELOPMENT STANDARDS

Agenda Wording

An ordinance relating to street development standards to clarify language with regard to sidewalks, planting strips, and street trees; amending SMC sections 17C.110.410, 17C.120.230, 17C.122.110, 17C.124.230, 17C.130.230, 17C.200.040, 17C.200.050, 17H.010.050 and 17H.010.190; and repealing SMC section 17C.122.140.

Summary (Background)

The Plan Commission and the Urban Forestry Citizen Advisory Committee have reviewed these proposed changes to the SMC relating to Sidewalk, Pedestrian Buffer Strips and Street Tree Standards. These code revisions are proposed in order to align the zoning code, engineering design standards and arboricultural standards for greater clarity and consistency.

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

CHESNEY, SCOTT

Study Session**Division Director**

QUINTRALL, JAN

OtherPC 12/19/12 PCED
1/7/13**Finance**

LESESNE, MICHELE

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Additional Approvals

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Purchasing

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ORDINANCE NO. C34961

An ordinance relating to street development standards to clarify language with regard to sidewalks, planting strips, and street trees; amending SMC sections 17C.110.410, 17C.120.230, 17C.122.110, 17C.124.230, 17C.130.230, 17C.200.040, 17C.200.050, 17H.010.050 and 17H.010.190; and repealing SMC section 17C.122.140.

The City of Spokane does ordain

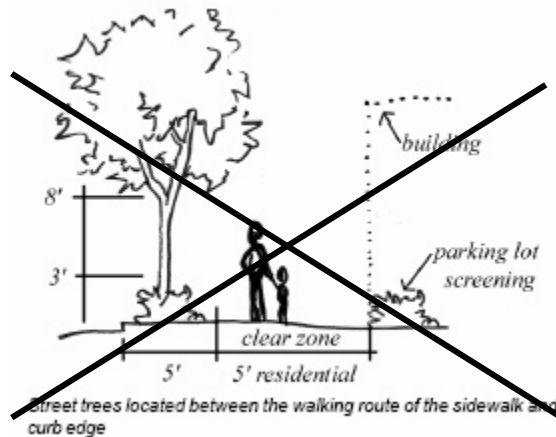
Section 1. That SMC 17C.110.410 is amended to read as follows:

17C.110.410 Sidewalks

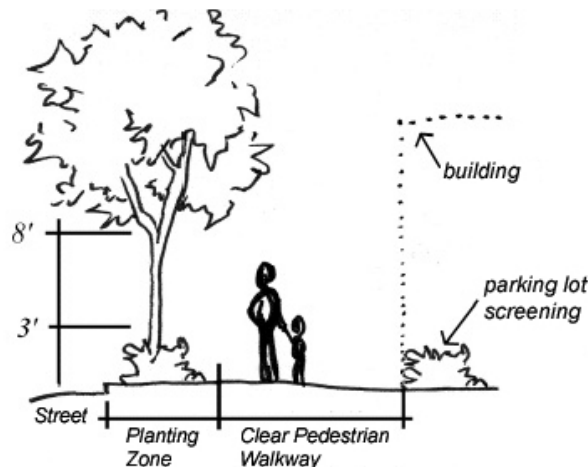
A. Purpose.

To provide continuous, safe, and consistent pedestrian system with connectivity to the street right-of-way and the neighborhood.

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B. Sidewalk Implementation.

1. Sidewalks shall have the minimum dimension of five feet, even if part of the width is located on private property. This dimension shall be applied to the clear, unobstructed pathway between the planting zone for street trees per SMC 17C.200.050 ~~((behind the curb))~~ and building facades or parking lot screening. (R)
2. Sidewalks shall be continuous, without gaps between developments. (R)
3. Unless otherwise required or where larger plaza areas are provided, sidewalk paving materials shall be consistent with the street frontage improvements of adjacent developments. (P)
4. Sidewalks within the public right-of-way shall be concrete, two-foot grid, standard sidewalk color and float finish. (R)
- ~~((5. Landscape areas between the curb and sidewalk shall be maintained, or plant material shall be chosen to maintain a clear zone between three and eight feet from ground level. (P)))~~

~~((Delete graphic below))~~



Section 2. That SMC 17C.120.230 is amended to read as follows:

17C.120.230 Setbacks and Sidewalks

A. Purpose.

The required structure setbacks promote streetscapes that are consistent with the desired character of the different commercial zones. The setback requirements for areas that abut single-family residential zones promote commercial development that will maintain light, air and the potential for privacy for adjacent single-family residential zones. The sidewalk standards provide a

continuous, safe, and consistent street frontage character along the street right-of-way.

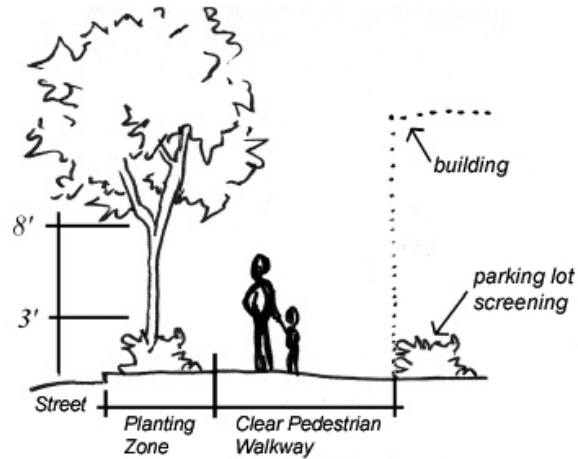
B. Setback and Required Sidewalk Width Standards.

1. The setback standards for all structures are stated in [Table 17C.120-2](#) and as stated below.
2. Structures shall be no closer than twelve feet from the back of the curb except as provided in subsection (B)(4) of this section.
3. Sidewalks are required to be constructed and shall be at least twelve feet wide and consist of a clear walking path at least seven feet wide (in addition to ~~((a minimum five foot wide))~~ planting zone for street trees per SMC 17C.200.050). Part of the sidewalk width may be located on private property. The sidewalk dimension shall be measured from back of curb to ~~((applied to the clear, unobstructed pathway between the planting behind the curb and))~~ building facades or parking lot screening.
4. The required sidewalk width may be reduced by approval of the planning director if the existing sidewalk (distance between the curb and the building) is less than twelve feet wide between the back of curb and the existing building setback line of adjacent building(s). In no case shall the setback be reduced below nine feet from the back of the curb unless on-street parking exists between the building and the street.
5. Unless otherwise required or where larger plaza areas are provided, sidewalk paving material shall be concrete, two-foot grid, standard sidewalk color, and float finish.

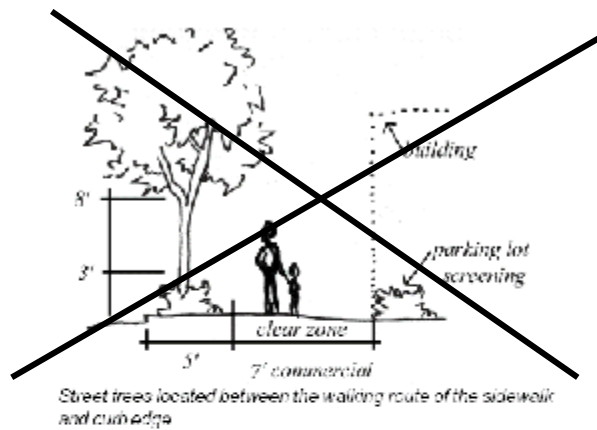
C. Exception to the Setback Standards.

1. Where a site is split between more than one zone and a structure is proposed that will cross an internal lot line that is also a zoning line, no setbacks are required from that lot line.
2. Detached Accessory Structures.
The setback standards for detached accessory structures are stated in [SMC 17C.120.300](#). Fences are addressed in [SMC 17C.120.310](#). Sign standards are in [chapter 11.17 SMC](#), Sign Code.

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- D. Extensions Into Required Structure Setbacks.
The following features attached to structures are allowed as exceptions to the setback standards except they shall not reduce the required sidewalk width of subsection (B) of this section.

1. Minor Projections of Features Attached to Structures.
 - a. Minor Projections Allowed.

Minor features of a structure, such as eaves, chimneys, fire escapes, bay windows, uncovered stairways, wheelchair ramps and uncovered decks or balconies, may extend into a required structure setback up to twenty percent of the depth of the setback. However, they may not be within three feet of a lot line when a setback is required. Bays and bay windows extending into the setback also must meet the following requirements:

 - i. Each bay and bay window may be up to twelve feet long, but the total area of all bays and bay windows on a building facade cannot be more than thirty percent of the area of the facade.
 - ii. At least thirty percent of the area of the bay which faces the property line requiring the setback must be glazing or glass block.
 - iii. Bays and bay windows must cantilever beyond the foundation of the structure; and
 - iv. The bay may not include any doors.
 - b. Full Projection Allowed.

In addition to subsection (D)(1)(a) of this section, the following features are allowed to project farther into required structure setbacks:

 - i. Canopies, marquees, awnings and similar features may fully extend into a street setback and may extend into the public right-of-way subject to the requirements of [SMC 17F.040.140](#).
 - ii. Uncovered stairways and wheelchair ramps that lead to one entrance on the street-facing facade of a building may fully extend into a street setback.
 - iii. Uncovered decks and stairways that are no more than forty-two inches above the ground may fully extend into a required structure setback; and
 - iv. On lots that slope down from the street, vehicular and pedestrian entry bridges that are no more than forty-two

inches above the average sidewalk elevation may fully extend into a required structure setback.

- v. Balconies may extend into public rights-of-way as allowed in the building code.

- c. Projections Not Allowed.
Attached mechanical structures such as heat pumps, air conditioners, emergency generators and water pumps are allowed in a street setback but not in a required setback from an abutting residential zone.

- 2. Underground structures are permitted in all setbacks.

Section 3. That SMC 17C.122.110 is amended to read as follows:

17C.122.110 Setbacks and Required Sidewalk Width

- A. The minimum setback from street lot lines is zero feet and buildings shall be no closer than twelve feet from the back of the curb except as provided in subsection (C) of this section.
- B. Sidewalks shall be at least twelve feet wide and consist of a clear walking path at least eight feet wide (in addition to a ~~((minimum four foot wide))~~) planting zone for street trees per SMC 17C.200.050) except as provided in subsection (C) of this section.
- C. This width may be reduced, by approval of the planning director, if the existing sidewalk is less than twelve feet wide between the back of curb and the existing building setback line of adjacent building(s). In no case shall the setback be reduced below nine feet from the back of the curb unless on-street parking exists between the building and the street.
- D. Other development standards are found in Table 17C.122-4, Development Standards.

Table 17C.122-4 Development Standards [1]			
Standard	Type 1	Type 2	Type 4
Minimum setback from street lot line	0 ft. [2]	0 ft. [2]	0 ft. [3]
Minimum setback from single-family and two-family zoned lots [4]	10 ft.	10 ft.	10 ft.

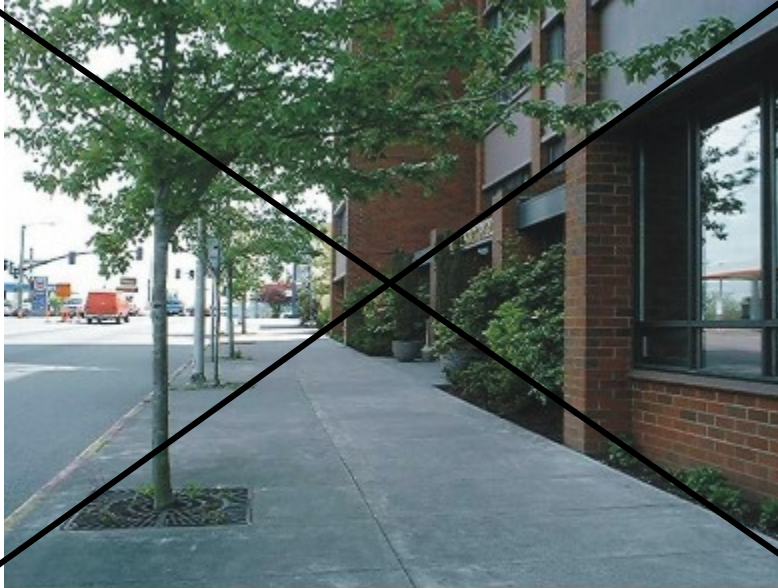
Setback from lot line abutting an O, OR, NR, NMU, CB, GC, Downtown, CC, LI or HI zoned lot [4]	0 ft.	0 ft.	0 ft.
Minimum front lot line	10 ft.	10 ft.	10 ft.
Landscaping required [5]	Yes	Yes	Yes
Parking required [6]	Yes	Yes	Yes
<p>Notes:</p> <p>[1] Plan district or overlay zone standards may supersede these standards.</p> <p>[2] Buildings over seventy feet tall must follow chapter 17C.250 SMC.</p> <p>[3] When abutting single-family and two-family residential zoning, the minimum structure setback from the street lot line is the same as the abutting residential zoning district for the first sixty feet from the boundary of the abutting residential zoning district. See SMC 17C.120.230 for additional standards and exceptions. This does not apply when a zone boundary is within the public right-of-way.</p> <p>[4] Structure setbacks are measured from the lot line.</p> <p>[5] This part of the table is for general information purposes only; see chapter 17C.200 SMC, Landscaping and Screening, for the specific standards.</p> <p>[6] This part of the table is for general information purposes only; see chapter 17C.230 SMC, Parking and Loading, for the specific standards.</p>			

Section 4. That SMC section 17C.122.140 is repealed:

~~((17C.122.140 Street Trees~~

- ~~A. Street trees shall be planted between the curb and the walking path of the sidewalk.~~
- ~~B. Large trees with overhanging canopies or branches are desirable. However, species of street trees shall be of a type approved by the City.~~
- ~~C. Street trees should be located in planting areas or in tree wells with a minimum width of four feet.~~
- ~~D. Street trees shall be a minimum of two and one half inch caliper at time of planting and shall be spaced no further apart than twenty five feet (thirty feet for sidewalks twelve feet wide or greater).~~
- ~~E. Street tree planting shall consider the location of existing utilities, lighting and proposed signs.~~
- ~~F. Along arterial streets, tree grates shall be used. On other streets, either tree grates or a continuous planting strip along the curb are acceptable.))~~

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Tree grates are required for street trees along arterial streets.

Section 5. That SMC 17C.124.230 is amended to read as follows:

17C.124.230 Structure Setbacks, Sidewalks, and Street Trees

- A. Purpose.
The required structure setbacks promote streetscapes that are consistent with the desired character of the different downtown zones and the character of the complete street designation of the adjacent street. The sidewalk standards provide a continuous, safe, and consistent street frontage character along the street right-of-way.
- B. Structure Setbacks – Setback and Required Sidewalk Width Standards.
 - 1. The setback standards for all structures are stated in [Table 17C.124-2](#) and as stated below.
 - 2. When the existing sidewalk width is less than twelve feet structures shall be allowed no closer than twelve feet from the back of the curb.
 - a. Exception to Maintain Existing Historic Character.

The required sidewalk width may be reduced by approval of the planning director if the existing sidewalk (distance between the curb and the building) is less than twelve feet wide between the back of curb and the existing historic building setback line of existing adjacent building(s). In no case shall the setback be reduced below nine feet from the back of the curb unless on-street parking exists between the building and the street. In no case shall the building encroach into the public right-of-way.

3. When the existing sidewalk width is greater than the bare minimum of twelve feet the sidewalk environment shall be designed to meet the intent of the complete street designation of the street. Existing sidewalk width shall not be reduced or encroached upon by new development.
4. For buildings facing the streets designated in Table 17.124.-3 and not containing residential units on the ground floor, at least seventy percent of the first floor of the front of buildings must come up to the edge of the property line.

Exceptions:

- a. The building may be setback from the edge of the property line for the purpose of providing a publicly accessible “plaza,” “courtyard,” or recessed pedestrian entrance that contains landscaping and/or other pedestrian-oriented amenities. Building setbacks may not be used for automobile parking or storage.
- b. One hundred percent of the building along a street lot line may be recessed up to twelve feet for an arcade if the second floor comes up to edge of the property line.

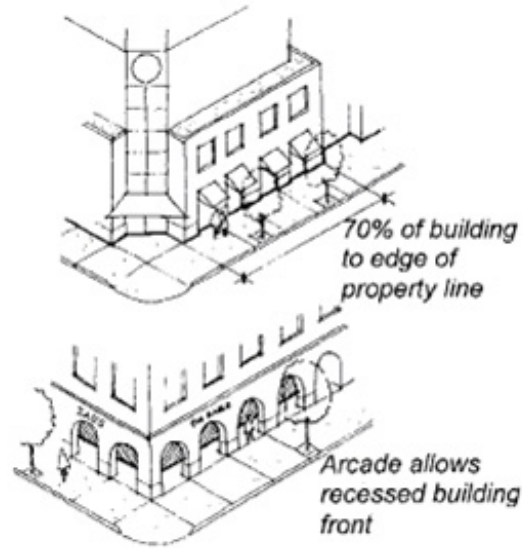


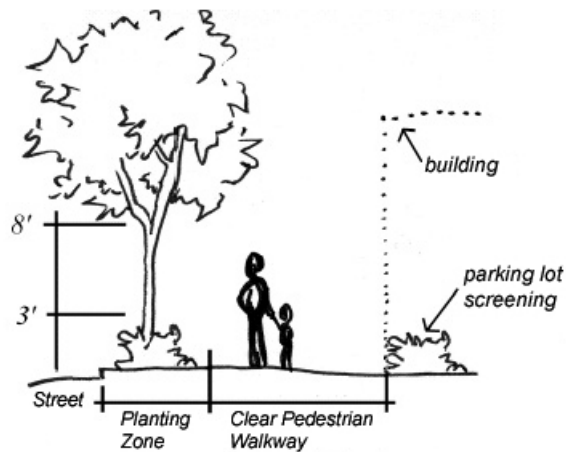
Table 17C.124-3 Building Setbacks & Complete Streets [1]

DTC (Downtown Core)	DTG (Downtown General)	DTU (Downtown University)	DTS (Downtown South)
All Streets	Type I, II	Type I, II, IV	Type I, II, IV
Notes: [1] Plan district or overlay zone standards may supersede these standards.			

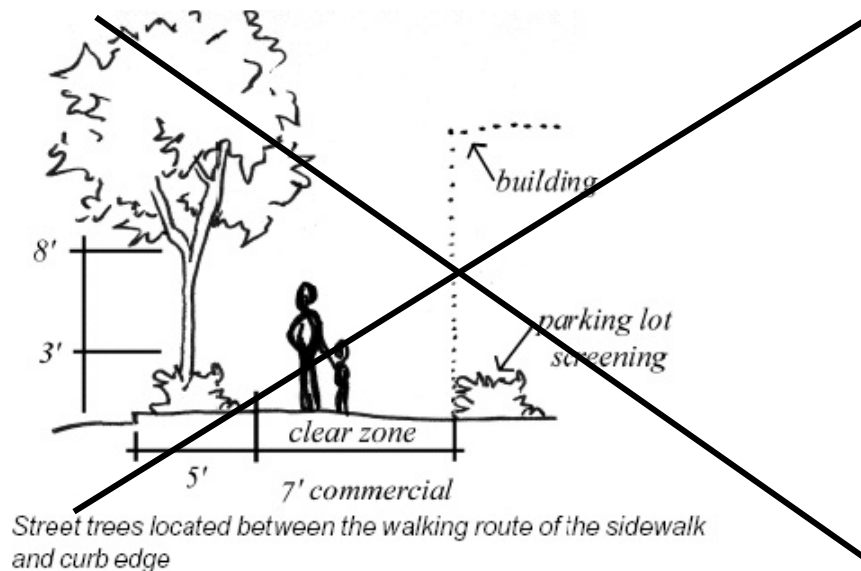
- C. Sidewalks are required to be constructed and shall be at least twelve feet wide and consist of a clear walking path at least seven feet wide (in addition to a ~~((minimum five foot wide))~~ pedestrian buffer zone and planting zone for street trees per SMC 17C.200.050). Part of the sidewalk width may be located on private property. The sidewalk dimension shall be measured from back of curb to ~~((applied to the clear, unobstructed pathway between the planting behind the curb and))~~ building facades or parking lot screening and other landscaping.
1. A clear distance (unobstructed width) is required for all sidewalks along public streets. For sidewalks fourteen feet or wider the minimum clear distance is eight feet. For sidewalks with a width of less than twelve feet the minimum clear distance is six feet.

2. Within the clear walking path sidewalk paving material shall be concrete, two-foot grid, standard sidewalk color, and float finish. Variations from this standard must seek a design deviation as specified in [SMC 17C.124.015](#).

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- D. **Street Trees.**
Street trees must be installed and maintained by the adjacent property in all streets bordering development. Requirements for street trees and landscaping are stated in [chapter 17C.200 SMC](#), Landscaping and Screening.

E. Exception to the Setback Standards.

1. Where a site is split between more than one zone and a structure is proposed that will cross an internal lot line that is also a zoning line, no setbacks are required from that lot line.
2. Detached Accessory Structures.
The setback standards for detached accessory structures are stated in [SMC 17C.124.300](#). Fences are addressed in [SMC 17C.124.310](#). Sign standards are in [chapter 17C.240 SMC](#), Sign Code.

F. Extensions Into Required Structure Setbacks.

The following features attached to structures are allowed as exceptions to the setback standards except they shall not reduce the required sidewalk width of subsection (B) of this section.

1. Minor Projections of Features Attached to Structures.
 - a. Minor projections, such as eaves, fire escapes, and balconies are allowed to extend into the right-of-way when they are greater than fourteen feet above the adjacent right-of-way grade and comply with the building code and the requirements of [SMC 17F.040.140](#).
 - b. Minor features of a structure, such as bay windows, uncovered stairways, wheelchair ramps, and uncovered decks or balconies, may extend into a required structure setback up to twenty percent of the depth of a required setback. However, they may not extend off the site. Bays and bay windows extending into the setback also must meet the following requirements:
 - i. Each bay and bay window may be up to twelve feet long, but the total area of all bays and bay windows on a building facade cannot be more than thirty percent of the area of the facade.
 - ii. At least thirty percent of the area of the bay which faces the property line requiring the setback must be glazing or glass block.
 - iii. Bays and bay windows must cantilever beyond the foundation of the structure; and
 - iv. The bay may not include any doors.
 - c. Full Projection Allowed.

In addition to subsection (F)(1)(b) of this section, the following features are allowed to project farther into required structure setbacks:

- i. Canopies, marquees, awnings, and similar features may fully extend into a street setback and may extend into the public right-of-way subject to the requirements of [SMC 17F.040.140](#).
 - ii. Uncovered stairways and wheelchair ramps that lead to one entrance on the street-facing facade of a building may fully extend into a street setback, but not into the public right-of-way.
 - iii. Uncovered decks and stairways that are no more than forty-two inches above the ground may fully extend into a required structure setback; and
 - iv. On lots that slope down from the street, vehicular and pedestrian entry bridges that are no more than forty-two inches above the average sidewalk elevation may fully extend into a required structure setback.
 - v. Balconies may extend into public rights-of-way as allowed in the building code.
- d. Projections Not Allowed.
Attached mechanical structures such as heat pumps, air conditioners, emergency generators, and water pumps are not allowed between the street lot line and buildings or within any required setback from an abutting residential zone.

2. Underground structures are permitted in required setbacks.

Section 6. That SMC 17C.130.230 is amended to read as follows:

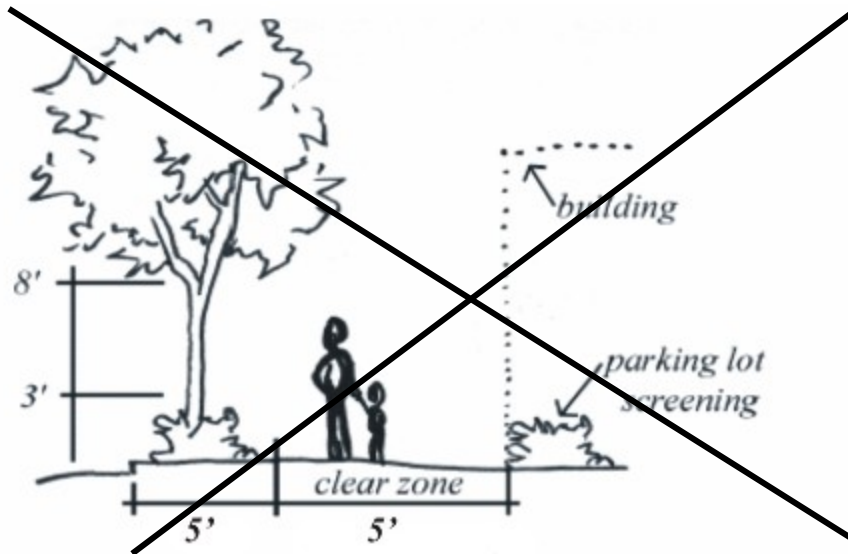
17C.130.230 Setbacks and Sidewalks

- A. Purpose.
The required structure setbacks promote streetscapes that are consistent with the desired character of the different industrial zones. The setback requirements for areas that abut single-family residential zones promote commercial development that will maintain light, air, and the potential for privacy for adjacent single-family residential zones. The sidewalk standards provide a continuous, safe, and consistent street frontage character along the street right-of-way.

B. Setback and Required Sidewalk Width Standards.

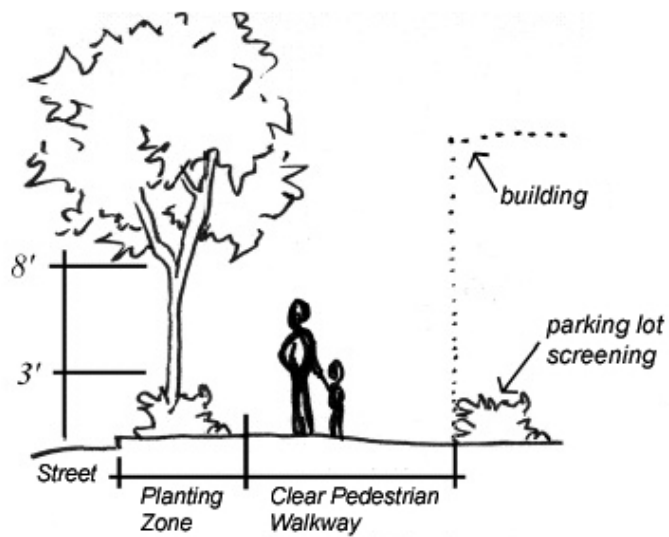
1. The setback standards for all structures are stated in [Table 17C.130-2](#) and as stated below.
2. Structures shall be no closer than twelve feet from the back of the curb except as provided in subsection (B)(4) of this section.
3. Sidewalks are required to be constructed and shall consist of a clear walking path at least five feet wide (in addition to a ~~((minimum five foot wide))~~) planting zone for street trees per SMC 17C.200.050). Part or all of the sidewalk width may be located on private property. The sidewalk dimension shall be applied to the clear, unobstructed pathway between the planting zone behind the curb and building facades or parking lot screening.
4. The required sidewalk width may be reduced by approval of the planning director if the existing sidewalk (distance between the curb and the building) is less than twelve feet wide between the back of curb and the existing building setback line of adjacent building(s). In no case shall the setback be reduced below nine feet from the back of the curb unless on-street parking exists between the building and the street.
5. Unless otherwise required or where larger plaza areas are provided, sidewalk-paving material shall be concrete, two-foot grid, standard sidewalk color and float finish.

~~((Delete graphic below))~~



Street trees located between the walking route of the sidewalk and curb edge

(Add new graphic below)





C. Exceptions to the Setback Standards.

1. Where a site is split between more than one zone and a structure is proposed that will cross an internal lot line that is also a zoning line, no setbacks are required from that lot line.
2. Detached Accessory Structures.
The setback standards for detached accessory structures are stated in [SMC 17C.130.300](#). Fences are addressed in [SMC 17C.130.310](#). Sign standards are in [chapter 17C.240 SMC](#), Sign Code.

D. Extensions into Required Structure Setbacks.

The following features attached to structures are allowed as exceptions to the setback standards except they shall not reduce the required sidewalk width of [SMC 17C.130.230](#).

1. Minor Projections of Features Attached to Structures.
 - a. Minor Projections Allowed.
Minor features of a structure, such as eaves, chimneys, fire escapes, bay windows, uncovered stairways, wheelchair ramps, and uncovered decks or balconies may extend into a required structure setback up to twenty percent of the depth of the setback. However, they may not be within three feet of a lot line when a setback is required. Bays and bay windows extending into the setback also must meet the following requirements:

- i. Each bay and bay window may be up to twelve feet long, but the total area of all bays and bay windows on a building facade cannot be more than thirty percent of the area of the facade.
 - ii. At least thirty percent of the area of the bay which faces the property line requiring the setback must be glazing or glass block.
 - iii. Bays and bay windows must cantilever beyond the foundation of the structure; and
 - iv. The bay may not include any doors.
- b. Full Projection Allowed.
In addition to subsection (D)(1)(a) of this section, the following features are allowed to project farther into required structure setbacks:
 - i. Canopies, marquees, awnings, and similar features may fully extend into a street setback and may extend into the public right-of-way subject to the requirements of [SMC 17F.040.140](#).
 - ii. Uncovered stairways and wheelchair ramps that lead to one entrance on the street-facing facade of a building may fully extend into a street setback.
 - iii. Uncovered decks and stairways that are no more than forty-two inches above the ground may fully extend into a required structure setback; and
 - iv. On lots that slope down from the street, vehicular and pedestrian entry bridges that are no more than forty-two inches above the average sidewalk elevation may fully extend into a required structure setback.
 - v. Balconies may extend into public rights-of-way as allowed in the building code.
- c. Projections Not Allowed.
Attached mechanical structures such as heat pumps, air conditioners, emergency generators, and water pumps are allowed in a street setback but not in a required setback from an abutting residential zone.

2. Underground structures are permitted in all setbacks.

Section 7. That SMC 17C.200.040 is amended to read as follows:

17C.200.040 Site Planting Standards

Sites shall be planted in accordance with the following standards:

A. Street Frontages.

1. The type of plantings as specified below shall be provided inside the property lines:
 - a. along all commercial, light industrial, and planned industrial zoned properties except where buildings are built with no setback from the property line: a six-foot wide planting area of L2 see-through buffer, including street trees as prescribed in [SMC 17C.200.050](#). Remaining setback areas shall be planted in L3.
 - b. along all downtown, CC1, CC2, and CC4 zoned properties except where buildings are built with no setback from the property line: a five-foot wide planting area of L2 see-through buffer, including street trees as prescribed in [SMC 17C.200.050](#), Street Tree Requirements. Remaining setback areas shall be planted in L3. Living ground cover shall be used, with non-living materials (gravel, river rock, etc.) as accent only. In addition, earthen berms, trellises, low decorative masonry walls, or raised masonry planters (overall height including any plantings shall not exceed three feet) may be used to screen parking lots from adjacent streets and walkways.
 - c. in the heavy industrial zone, along a parking lot, outdoor sales, or
 - d. outdoor display area that is across from a residential zone: a six-foot wide planting area of L2 see-through buffer, including street trees as prescribed in [SMC 17C.200.050](#). Remaining setback areas shall be planted in L3.
 - e. in industrial zones, all uses in the commercial categories (see [chapter 17C.190 SMC](#), Use Category Descriptions, Article III, Commercial Categories) are subject to the standards for uses in the general commercial (GC) zone.
 - f. along all RA, RSF, RTF, RMF, and RHD zones, except for single-family residences and duplexes: six feet of L3 open area landscaping, including street trees as prescribed in SMC

17C.200.050. For residential development along principal and minor arterials, a six-foot high fence with shrubs and trees may be used for screening along street frontages. The fence and landscaping shall comply with the standards of [SMC 17C.120.310](#) for the clear view triangle and must be placed no closer than twelve feet from the curb line. A minimum of fifty percent of the fence line shall include shrubs and trees. The landscaping is required to be placed on the exterior (street side) of the fence.

2. Except for attached and detached single-family residences and duplexes, plantings may not exceed ~~((thirty))~~ thirty-six inches in height or hang lower than ninety-six inches within the clear view triangle at street intersections on corner lots and at driveway entries to public streets. The clear view triangle is defined in [SMC 17C.120.310](#). The director of engineering services may further limit the height of plantings, landscaping structures, and other site development features within the clear view triangle or may expand the size of the clear view triangle as conditions warrant.



B. Other Property Perimeters.

A planting strip of five feet in width shall be provided along all other property lines except where buildings are built with no setback from the property line or where a parking lot adjoins another parking lot. The type of planting in this strip varies depending upon the zone designation of the properties sharing the property line (with or without an intervening alley) as indicated in the matrix below. Where properties with dissimilar zones share a common boundary, the property with the more intense zone shall determine the required type of planting. The owners of adjacent properties may agree to consolidate their perimeter plantings along shared boundaries. Therefore, instead of each property providing a five-foot wide planting strip, they together could provide one five-foot wide planting strip, so long as the required planting type, as indicated in the matrix, is provided. Types of landscaping to be provided in planting strips alongside and rear property lines:

	ADJACENT PROPERTY ZONE (horizontal)												
SUBJECT PROPERTY ZONE (vertical)	RA	RSF	RTF	RMF	RHD	O, OR	NR, NMU	CB	GC	CC	LI, PI	HI	DT
RA	--	--	--	--	--	--	--	--	--	--	--	--	--
RSF	--	--	--	--	--	--	--	--	--	--	--	--	--
RTF	--	--	--	--	--	--	--	--	--	--	--	--	--
RMF	L2	L2	L2	L3	L2	L2	L2	L1	L1	L1	--	--	L1
RHD	L2	L2	L2	L2	L3	L2	L2	L2	L2	L2	--	--	L2
O, OR	L2	L2	L2	L2	L2	L3	L2	L2	L2	--	--	--	L2
NR, NMU	L2	L1	L2	L2	L2	L2	L3	L3	L2	--	--	--	L3
CB	L1	L1	L1	L1	L2	L2	L3	L3	L3	--	--	--	L3
GC	L1	L1	L1	L1	L2	L2	L2	L3	L3	--	--	--	L3
CC	L1	L1	L1	L1	L2	--	--	--	--	--	--	--	--
LI, PI [1]	L1	L1	L1	L1	L1	L1	L2	--	--	--	--	--	--
HI [1]	L1	L1	L1	L1	L1	L1	L1	--	--	--	--	--	--
DT	L1	L1	L1	L1	L1	L2	L2	L3	L3	--	--	--	--
[1] In the industrial zones, all uses in the commercial categories (see chapter 17C.190 SMC, Use Category Descriptions, Article III, Commercial Categories) are subject to the standards for uses in the general commercial (GC) zone.													

C. Planning Director Discretion.

The planning director shall have the discretion to waive or reduce the requirements of subsections (A)(1) and (B) of this section based on the following factors:

1. No useable space for landscaping exists between the proposed new structure and existing structures on adjoining lots or alleys because of inadequate sunlight or inadequate width.
2. The building setback provided in front of the new structure is less than six feet or is developed as a plaza with decorative paving/pavers, trees, planters, or other amenities.

3. Xeriscape landscaping is utilized in designated stormwater control areas.
4. When existing trees and other vegetation serves the same or similar function as the required landscaping, they may be substituted for the required landscaping if they are healthy and appropriate for the site at mature size. When existing trees are eight inches or more in diameter, they shall be equivalent to three required landscape trees. If necessary, supplemental landscaping shall be provided in areas where existing vegetation is utilized to accomplish the intent of this chapter.

D. Other Areas.

All other portions of a site not covered by structures, hard surfaces, or other prescribed landscaping shall be planted in L3 open area landscaping until the maximum landscape requirement threshold is reached (see [SMC 17C.200.080](#)).

E. Parking Lot Landscaping Design.

1. Purpose.

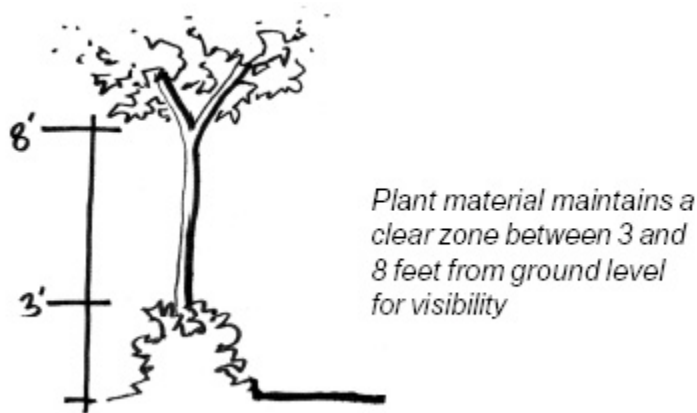
To reduce the visual impact of parking lots through landscaped areas, trellises, and/or other architectural features that complement the overall design and character of developments.

2. Parking Lot Landscaping Design Implementation.

This section is subject to the provisions of [SMC 17C.120.015](#), Design Standards Administration.



3. The parking lot landscape shall reinforce pedestrian and vehicle circulation, especially parking lot entrances, ends of driving aisles, and pedestrian walkways leading through parking lots. (P)
4. Planted areas next to a pedestrian walkways and sidewalks shall be maintained or plant material chosen to maintain a clear zone between three and eight feet from ground level. (R)

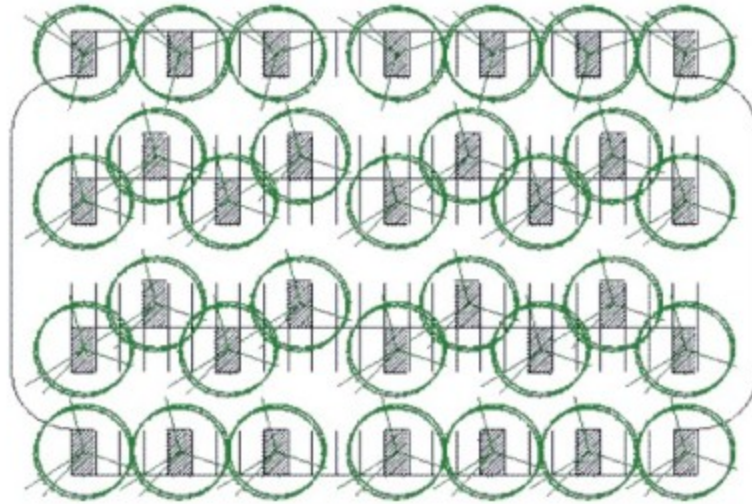


5. Low walls and raised planters (a maximum height of three feet), trellises with vines, architectural features, or special interest landscape features shall be used to define entrances to parking areas. Where signs are placed on walls, they shall be integrated into the design and complement the architecture or character of other site features. (P)
6. Landscape plant material size, variety, color, and texture within parking lots should be integrated with the overall site landscape design. (C)

F. Parking, Outdoor Sales, and Outdoor Display Areas.

1. In residential, commercial and center and corridor zones, a six-foot wide planting area of L2 see-through buffer landscaping shall be provided between any parking lot, outdoor sales, outdoor display area, and a street right-of-way. Living ground cover shall be used, with non-living materials (gravel, river rock, etc.) as accent only. In addition, earthen berms, trellises, low decorative masonry walls, raised masonry planters, or L1 visual screen landscaping shall be used to screen parking lots from adjacent streets and walkways (overall height including any plantings or structures shall not exceed three feet). Trees required as a part of the L2 landscape strip shall be located according to the standards for street trees in [SMC 17C.200.050](#), Street Tree Requirements.

2. In residential, commercial and center and corridor zones all parking stalls shall be within sixty feet of a planted area with L3 open area landscaping. All individual planting areas within parking lots shall be at least one hundred fifty square feet in size.
3. In residential, commercial and center and corridor zones all paved parking areas on a site with more than fifty cumulative parking spaces shall have plantings that satisfies one of the following options:
 - a. Option 1.
Interior landscaping consisting of L3 open area landscaping, including trees amounting to at least ten percent of the total area of the paved parking area, excluding required perimeter and street frontage strips. A minimum of one interior tree shall be planted for every six parking spaces.
 - b. Option 2.
Tree plantings shall be spaced in order that tree canopies cover a minimum of seventy percent of the entire paved area of the parking lot within fifteen years of project completion. Canopy coverage shall be measured in plan view, and be based on projected mature size of the selected tree species. All individual planting areas within parking lots shall be a minimum of eight feet in width, be at least one hundred fifty square feet in size, and in addition to the required trees, shall be planted with a living groundcover. See the "Landscape Plants for the Inland Northwest" issued by the Washington State University Cooperative Extension and the U.S. Department of Agriculture, available from the City planning services department, for acceptable mature tree size to be used when calculating canopy size.



**Example of 70% shade cover option.
(8.4% interior space used)**

4. Where parking lots are located between the building and a street, the amount of required interior landscaped area shall be increased by fifty percent and the minimum amount of tree shade cover shall increase to eighty percent. Where parking lots are behind buildings, the amount of interior landscaping may be decreased by fifty percent of what the code requires and the minimum amount of tree shade cover shall decrease to fifty percent.
5. A planting strip of five feet in depth with L1 visual screen landscaping or site-obscuring decorative wood, iron, etc. fences or masonry walls at least six feet in height shall be installed along property lines where any adjacent single-family residential zone would have views of parking or service areas.
6. A minimum of two-foot setback shall be provided for all trees and shrubs where vehicles overhang into planted areas.



Landscape used to define vehicular circulation

7. In industrial zones, parking lots, outdoor sales, and outdoor display areas that are abutting or across the street from residential zones are subject to all of the requirements of subsections (E) and (F) of this section.
8. In industrial zones, all uses in the commercial categories (see [chapter 17C.190 SMC](#), Use Category Descriptions, Article III, Commercial Categories) are subject to the standards for uses in the general commercial (GC) zones.
9. In downtown zones an applicant must demonstrate to the director that the following required elements meet the intent of the Downtown Design Guidelines. Key design elements for these features include integrating storm water facilities, improving the pedestrian environment, and adding public amenities next to surface parking; outdoor sales and outdoor display areas so that they help to define space and contribute to a more active street environment.
 - a. **Surface Parking Lot Liner Walls in the Downtown Zones.**
 Surface parking lots must have a solid, decorative concrete or masonry wall adjacent to a complete street and behind a sidewalk. The wall must have a minimum height above the surface of the parking lot of two and one-half feet and a maximum height of three feet. The wall shall screen automobile headlights from surrounding properties. A wrought iron fence may be constructed on top of the wall for a combined wall and fence height of six feet. An area with a minimum width of two feet, measured from the property line, must be provided, landscaped and maintained on the exterior of the required wall. Such walls, fences, and landscaping shall not

interfere with the clear view triangle. Pedestrian access through the perimeter wall shall be spaced to provide convenient access between the parking lot and the sidewalk. There shall be a pedestrian access break in the perimeter wall at least every one hundred fifty feet and a minimum of one for every street frontage. Any paving or repaving of a parking lot over one thousand square feet triggers these requirements.



Parking Liner Walls With Plantings Contribute an Interesting Pedestrian Environment. This parking liner wall and screen is enhanced by larger wall sections near automobile crossing points and a change in sidewalk scoring pattern. Both give cues to pedestrians and drivers.



- b. Surface parking lots in the Downtown zones are subject to the interior parking lot landscaping standard sections (F)(2) through (F)(6).
- c. The exterior boundary of all surface parking lots adjacent to any public right-of-way must include trees spaced no more than twenty-five feet apart. The leaves of the trees or any other landscaping features at maturity shall not obscure vision into the parking lot from a height of between three and eight feet from the ground. The species of trees shall be selected from the city's street tree list. If street trees exist or are provided consistent with [SMC 17C.200.050](#) then this landscaping strip may be omitted.
- d. Outdoor sales and display areas shall contribute to an interesting streetscape by providing the following:
 - i. Monument Features or Artistic Elements Along the Street Edge between the Outdoor Display Area and the Sidewalk. These shall be integrated with display area lighting and pedestrian amenities.
 - ii. Additional Streetscape Features in the Sidewalk Environment.
Items may include elements that improve the health of street trees and plantings, improve storm water management, or artistic features that improve the pedestrian environment. This may include items such as permeable pavers in the

pedestrian buffer strip, increased soil volumes for street trees, suspended sidewalks around the street tree to increase the amount of uncompacted soils, and engineered soils to support larger and healthier trees.

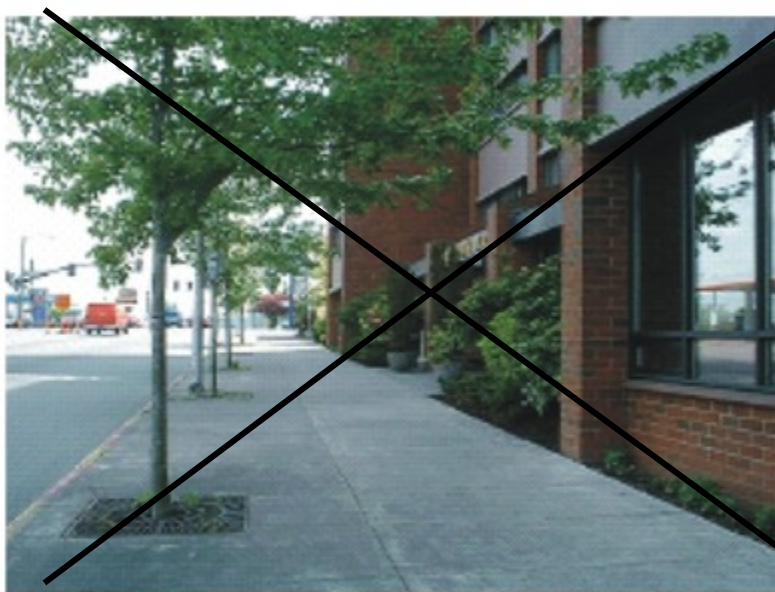
Section 8. That SMC 17C.200.050 is amended to read as follows:

17C.200.050 Street Tree Requirements

A. Purpose.

To provide consistent street frontage character within the street right-of-way. The street tree standards also maintain and add to Spokane's tree canopy and enhance the overall appearance of commercial and neighborhood development. Trees are an integral aspect of the Spokane landscape and add to the livability of Spokane. They provide aesthetic and economic value to property owners and the community at large.

~~((Delete graphic below))~~



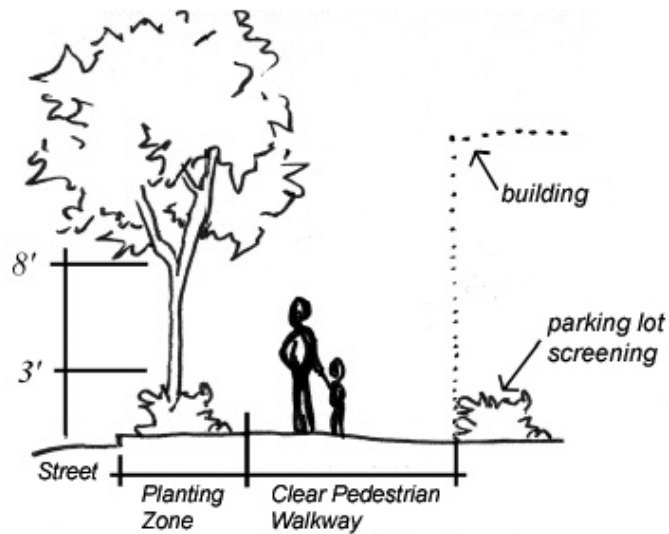
Trees within tree vaults

B. Street Tree Implementation.

1. Street trees are required along all City streets in downtown, commercial, center and corridor, industrial zones, and ~~((along arterials))~~ in residential zones.

2. Street trees shall be planted between the curb and the walking path of the sidewalk. ~~((Either five-foot by five-foot pits with tree grates or a continuous planting strip with groundcover that is at least five feet wide may be used. Where tree grates are used, they shall be ADA accessible and have a similar size and material as tree grates found in adjacent developments.))~~

(Add new graphic below)



- ~~((3. Larger shade trees with spreading canopies or branches are desirable where possible. Species of street trees within the public rights-of-way shall be approved by the City urban forester and reviewed by the director of engineering services. Refer to the urban forester's list of appropriate street trees for available planting strip widths. See the "Landscape Plants for the Inland Northwest" issued by the Washington State University Cooperative Extension and the U.S. Department of Agriculture, available from the City planning services department.))~~

~~((Delete graphic below))~~



Trees within planting strip

- ~~((4. Street trees shall meet the most recent ANSI standards for a two-inch caliper tree at the time of planting and shall be spaced in order to provide continuous canopy coverage within ten years of planting.~~
- ~~5. Street tree plantings shall consider the location of existing utilities, lighting, and existing and proposed signs.~~
- ~~6. If overhead power lines are present, street trees shall be limited to a mature height of twenty five feet to avoid conflict with utility lines and maintenance crews.))~~
- 3. Street trees and other landscaping shall be maintained and irrigated by the adjacent property owner.
- 4. ((7.)) If a street has a uniform planting of street trees or a distinctive species within the right-of-way, then new street trees should ((match the)) be of a similar form, character and planting pattern ((and species)).
- 5. For a full list of approved trees in the City of Spokane, see the urban forestry program's approved street tree list. Species selection should be

guided by individual site conditions including hydrology, soil, solar orientation, and physical constraints.

~~((8. Landscape areas between the curb and sidewalk shall be maintained or plant material chosen to maintain a clear view zone between three and eight feet from ground level.))~~

C. Planting Zones

1. Provide continuous planting strips or individual planting areas per Table 17C.200.050-1.

<u>Table 17C.200.050-1</u> <u>Tree Planting Area Dimensional Standards</u>							
<u>Zone</u>	<u>Downtown</u>	<u>CC</u>	<u>Commercial</u>	<u>Industrial</u>	<u>RA, RSF, RTF</u>	<u>RMF, RHD</u>	<u>School/Church Loading Zone</u>
<u>Continuous Planting Strip</u> – minimum width as measured from back of curb.	Individual Planting Areas (tree vaults) required [1]	5 feet	5 feet	6 feet	6 feet	6 feet	Not Applicable [4]
<u>Individual Planting Area</u> - width as measured from back of curb	4 ft min. 6 ft max. [2]	4 ft min. 6 ft max. [2]	4 ft min. 6 ft max. [2]	Continuous Planting Strip required [3]	Continuous us Planting Strip required	Continuous Planting Strip required [3]	4 ft min. 6 ft max. [2][4]
Notes: <u>[1] Individual Planting Areas (tree vaults) are the standard for the Downtown Zones. Proposals for Continuous Planting Strips may be evaluated on a case by case basis.</u> <u>[2] Un-compacted soils are necessary for street trees. Individual planting areas (or tree vaults) must be of a size to accommodate a minimum of 100 cubic feet of un-compacted soils per tree at a maximum depth of three feet. Refer to the Engineering Design Standards for examples of potential options in individual planting areas.</u> <u>[3] Continuous Planting Strips are the standard for Industrial and Residential Zones. However, individual planting areas meeting the CC standard may be proposed and evaluated on a case by case basis in Industrial, RMF and RHD Zones.</u> <u>[4] In all zones, within a school/church loading zone, street tree location may vary from the standard as long as street trees are located within the right-of-way.</u> <u>[5] In all zones, when a continuous planting strip will double as a stormwater swale, the minimum width shall be 6.5 feet.</u>							

2. Continuous Planting Strips.

(Add new graphic below)



- a. Continuous planting strips may be planted with living ground cover or low plantings that are maintained at a height less than three feet from ground level.
- b. When auto traffic is immediately adjacent to the curb, new street trees must be planted at least three feet from the edge of the automobile travel way.

3. Individual Planting Areas.

(Add four new graphics below)



Tree Grates



Tree Grate and Tree Guard

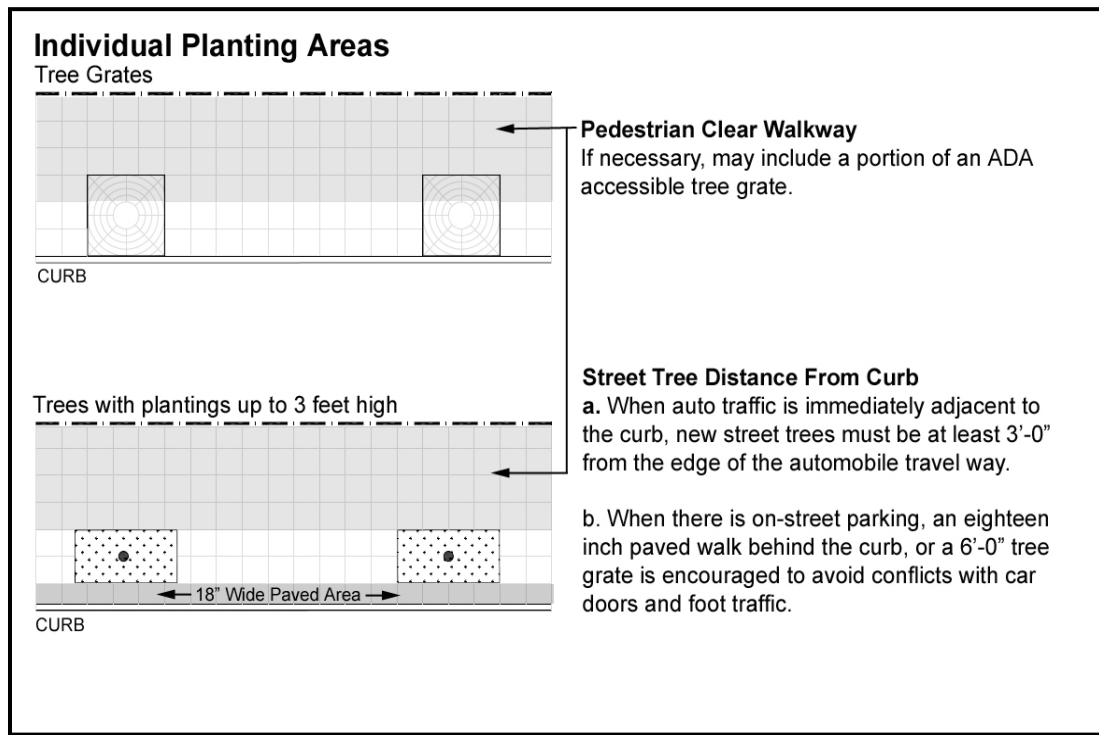


Street trees with plantings up to 3 feet high.

- a. When an individual planting area is not symmetrical, the longer dimension shall run along the curb.
- b. Tree grates or plantings are acceptable. However, when there is on-street parking, a tree grate or a paved walk eighteen inches wide behind the curb are encouraged to help avoid conflicts with car doors and foot traffic. The minimum clear pedestrian walking path as required for the zone shall be maintained.
- c. Where tree grates are used, they shall be ADA accessible and have a similar size and material as tree grates found in adjacent developments. Where tree grates are used, tree guards are encouraged for tree protection.

- d. Un-compacted soils are necessary for street trees. A minimum of one hundred cubic feet per tree at a maximum depth of three feet is required. See Engineering Design Standards for examples of potential options in individual planting areas and for retrofitting sidewalks.

(Add new graphic below)



D. Size Requirements for New Street Trees.

1. Street trees shall meet the most recent ANSI standards for a two-inch caliper tree at the time of planting
2. Larger shade trees with spreading canopies or branches are desirable where possible. Species of street trees within the public rights-of-way shall be approved by the City urban forester and reviewed by the director of engineering services.
3. If overhead power lines are present, street trees shall be limited to a mature height of twenty-five feet to avoid conflict with utility lines and maintenance crews.

E. Spacing Requirements for Street Tree Spacing. The objective is to create a continuous tree canopy over the sidewalk.

1. Continuous planting strips.
Average spacing shall be twenty five feet for small and columnar trees and thirty feet for canopy trees. The planning director may allow increased spacing for exceptionally large trees or upon the recommendation of the urban forester.
2. Individual planting areas.
Average spacing for all tree sizes and types shall be twenty five feet. Trees planted adjacent to parallel parking stalls with meters may be spaced twenty feet apart.
3. Street tree plantings shall consider the location of existing utilities, lighting, driveways, business entrances and existing and proposed signs. See the Engineering Design Standards for required dimensions.

F. Clear View Zone.

1. Landscape areas between the curb and sidewalk, as well as landscaped areas within the clear view triangle as defined in [SMC 17C.120.310](#) shall be maintained or plant material chosen to maintain a vertical clear view zone between three and eight feet from ground level.

(Add new graphic below)



Clear view between three and eight feet.

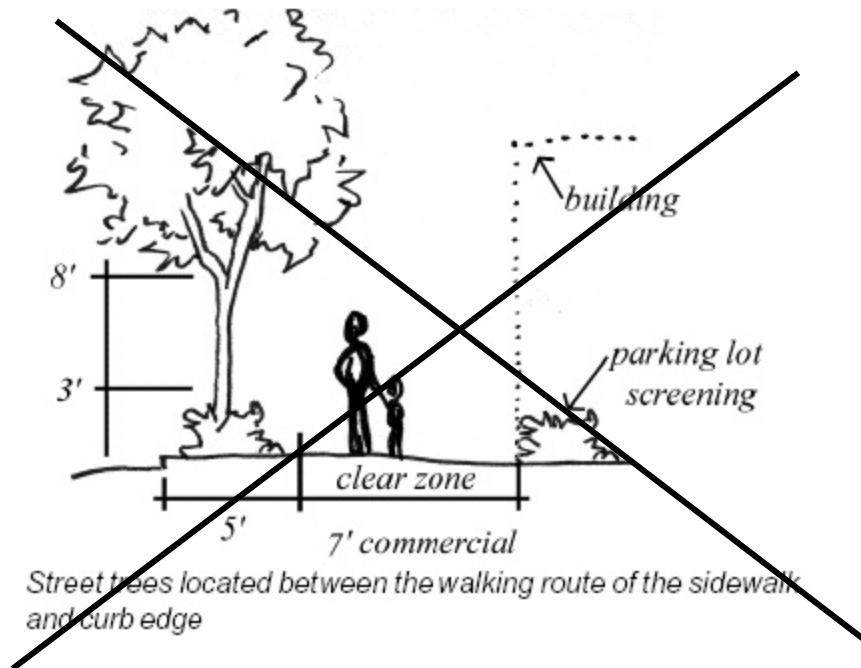
~~((9. In center and corridor zones:~~

- ~~a. street trees shall be planted between the curb and the walking path of the sidewalk.~~
- ~~b. street trees shall be located in planting areas or in tree wells with a minimum width of four feet.~~
- ~~c. along arterial streets, tree grates shall be used. On other streets, either tree grates or a continuous planting strip along the curb are acceptable.~~

~~10. In downtown zones:~~

- ~~a. street trees shall be planted between the curb and the walking path of the sidewalk along all streets bordering development. Street trees and other landscaping shall be maintained and irrigated by the adjacent property owner.~~
- ~~b. street trees shall be spaced no more than twenty five feet apart except when driveways prohibit this spacing. If existing development prevents in ground planting, trees shall be planted in tubs equipped with irrigation. When large canopy street trees are used the planning director may allow for increased spacing of up to thirty five feet between street trees depending on the tree species mature crown spread. The tree spacing objective is to create a continuous tree canopy over the sidewalk.~~
- ~~c. street trees shall be located in planting areas or in tree wells with a minimum width of five feet. When the required clear sidewalk width cannot be achieved with a five foot tree well, the tree well width dimension encroaching into the sidewalk may be reduced to four feet as long as the planting length running along the curb is six feet or greater.~~
- ~~d. achieving a minimum of one hundred cubic feet of uncompacted soils, within a maximum depth of three feet, for street trees is desired. See the City policy guidance for soils and street trees.))~~

~~((Delete graphic below))~~



Section 9. That SMC 17H.010.050 is amended to read as follows:

17H.010.050 Right-of-way

- A. Public right-of-way widths shall be in accordance with the city's comprehensive plan, the city's engineering design standards or as directed by the director of engineering services. Minimum right-of-way widths are as shown in Table 17H.010-1. The right-of-way width varies based on the required street elements including number of lanes, on-street parking, bike lanes, medians, turn lanes, roadside swales, pedestrian buffer strips and street trees.
- B. Where infill development occurs on partially constructed blocks, the proposed right-of-way width shall at least match the existing right-of-way width for the rest of the block and adjoining blocks.
- C. Private streets shall be located on a tract; street easements are not permitted. The width of the tract for private streets shall meet the minimum right-of-way widths designated in Table 17H.010-1.
- D. Public rights-of-way or private tracts shall contain all street elements including paving, curbing, gutters and pedestrian buffer strips or swales in accordance with the city's design standards.
- E. Sidewalks may be located on easements on private property ((for local access streets)).

- F. Narrower right-of-way widths may be allowed at the discretion of the director of engineering services. Variance requests will be evaluated based on topography, traffic circulation, emergency vehicle access, zoning, existing development and on-street parking requirements.

Table 17H.010-1 Right-of-way and Street Widths			
	Minimum Right-of-way Width ¹		Minimum Street Width
	Sidewalks in ROW	Sidewalks on Easements	Curb to Curb
ARTERIAL			
Principal	6 lane – 110 ft. 4 lane – 90 ft.	NA	Varies ²
Minor	4 lane – 102 ft. 2 lane – 75 ft.	NA	Varies ²
Collector	65 ft.	NA	40 ft.
LOCAL ACCESS			
Commercial	65 ft.	55 ft.	40 ft.
Residential Standard	60 ft.	50 ft.	36 ft.
Residential Low Density ³	56 ft.	46 ft.	32 ft.
Residential Restricted Parking ^{3,4}	51 ft.	41 ft.	27 ft.
Hillside Development ^{4,5}	40 ft.	35 ft.	27 ft.
Cul-de-sac (radius)	56 ft.	51 ft.	50 ft.
Alley ⁶	20 ft.	20 ft.	12 ft.
Notes: ¹ Additional right-of-way may be required if roadside swales are used to control storm drainage. ² Curb-to-curb width varies depending on street features including number of lanes, on-street parking, bike lane, median and turn lanes.			

³Narrow streets are appropriate only in low density (four to ten units per acre) residential neighborhoods. Adequate emergency vehicle access and staging areas must be provided as discussed in [SMC 17H.010.140](#).

⁴Parking is allowed on one side of the street only. Refer to [SMC 17H.010.120](#) for on-street parking requirements.

⁵Refer to [SMC 17H.010.110](#) for more information.

⁶Alleys do not require sidewalk or curb. The widths shown apply to right-of-way and pavement width.

Section 10. That SMC 17H.010.090 is amended to read as follows:

17H.010.190 Pedestrian Buffer Strips

- A. Pedestrian buffer strips are required on both sides of all streets between the sidewalk and the curb. The width and type of pedestrian buffer strip for each street shall comply with the requirements of the comprehensive plan and the city's design standards.
- B. Planted strips are required on residential local access streets. A minimum three-foot wide concrete pedestrian buffer strip may be allowed in place of the ((~~six-and-one-half-foot~~)) planted strip for certain land uses such as churches and schools that require passenger loading and unloading. These will be evaluated on a case-by-case basis and allowed at the discretion of the director of engineering services.
- C. In situations where a separation between the sidewalk and the street is constrained by topography, narrow right-of-way or existing development, a variance from this standard may be granted by the director of engineering services.
- D. In cases where sidewalk has been omitted on one side of the street, the pedestrian buffer strip may also be omitted on that side.
- E. Pedestrian buffer strips may be omitted around the bulb of cul-de-sacs.

PASSED BY THE CITY COUNCIL on _____, 2013.

Council President

Attest:

City Clerk

Mayor

Approved as to form:

Assistant City Attorney

Date

Effective Date: _____

Spokane City Plan Commission
Findings of Fact, Conclusions, and Recommendations
Proposed minor revisions to standardize language within the Spokane Municipal Code with regard to sidewalk widths, planting strips (aka buffer strips) and street trees. These changes are limited to SMC Sections 17C.110.410, 17C.120.230, 17C.122.110, 17C.122.140, 17C.124.230, 17C.130.230, 17C.200.040, 17C.200.050, 17H.010.050, and 17H.010.190

A recommendation from the City Plan Commission to the City Council to approve the amendments to the Spokane Municipal Code (SMC) Title 17C Land Use Standards and Title 17H Engineering Standards, revising text to standardize language with regard to sidewalk widths, planting strips and street trees.

Findings of Fact:

- A.** The Washington State Legislature passed the Growth Management Act (GMA) in 1990, requiring among other things, the development of a Comprehensive Plan (RCW 36.70A).
- B.** The City of Spokane adopted a Comprehensive Plan in May of 2001 that complies with the requirements of the Growth Management Act.
- C.** Under the Growth Management Act, comprehensive plans may be amended no more frequently than once a year. However, pursuant to SMC 17G.020.040 Amendment Exceptions, subsection G, "Changes to development regulations that are consistent with the comprehensive plan or are necessary to implement the comprehensive plan" may be considered more frequently than once a year.
- D.** Spokane Municipal Code, Title 17G, Administration and Procedures, Chapter 17G.025 Unified Development Code Amendment Procedures were used to prepare this proposed amendment to the Unified Development Code.
- E.** City of Spokane Comprehensive Plan, Transportation Chapter, Goal TR7 Sense of Place states: *Foster a sense of community and identity through the availability of transportation choices and transportation design features, recognizing that both profoundly affect the way people interact and experience the city.* Policy TR7.3 Street Trees states: *Plant street trees wherever possible to enhance the transportation environment.* Policy TR7.4 Pedestrian Buffer Strips states: *Develop pedestrian buffer strips in a way that is appropriate to the surrounding area and desired outcomes.*
- F.** The Spokane City Plan Commission held a workshop to study the proposed amendments on September 26, 2012.
- G.** The Spokane City Urban Forestry Citizen Advisory Committee reviewed the proposed amendments during their regular meetings on October 2, 2012 and December 4, 2012.
- H.** Notice of the proposed amendments and announcement of the Plan Commission's December 19, 2012 hearing were distributed to individuals on the Eastern Washington Association of Landscape Architects e-mail list on December 10, 2012.

I. Notice of the proposed amendments and announcement of the Plan Commission's December 19, 2012 hearing was published in the Spokesman Review on December 5, 2012.

J. A State Environmental Policy Act (SEPA) Checklist and Determination of Non-Significance were released on September 25, 2012 for the proposed amendments. The public comment period for the SEPA determination ended on October 10, 2012.

K. On October 1, 2012, the Washington State Department of Commerce and appropriate state agencies were given the required 60-day notice before adoption of proposed changes to the Comprehensive Plan. An acknowledgement letter from the Department of Commerce was received by the City on October 2, 2012.

L. The City Plan Commission held a Public Hearing on December 19, 2012 to obtain public comments on the proposed amendments; deliberations followed.

Conclusions:

A. The Plan Commission has reviewed all public testimony received during the public hearings and has made changes to the draft documents during deliberations to address the testimony as considered appropriate.

B. The Plan Commission has found that the proposed amendments meet the approval criteria for text amendments to the Unified Development Code:

SMC 17G.025.010 (F) Approval Criteria:

1. The proposed amendment is consistent with the applicable provisions of the comprehensive plan; and
2. The proposed amendment bears a substantial relation to public health, safety, welfare, and protection of the environment.

C. The proposed amendments have been reviewed by the City Plan Commission and found to be in conformance with the goals and policies of the City's 2001 Comprehensive Plan, as well as the Spokane Municipal Code Chapter 17G.025.

Recommendations:

By a vote of _ to _ the Plan Commission recommends to the City Council the approval of the proposed amendment to the Unified Development Code, with changes as deliberated.



**Mike Ekins, President
Spokane Plan Commission
December 19, 2012**



PLANNING & DEVELOPMENT
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SPOKANE, WASHINGTON 99201-3329
509.625.6300
FAX 509.625.6013
Spokaneplanning.org

MEMORANDUM

TO: Members of the Spokane City Council

FROM: Julie Neff, Planning & Development Dept.

DATE: January 31, 2013

RE: Proposed Code Updates Sidewalks, Pedestrian Buffer Strips & Street Trees.pdf

The attached .pdf was prepared after this topic was introduced at the January 7 PCED Meeting. In the interest of time, it's not my intent to present this level of detail during the Council Briefing Session on Feb. 4. However, it includes additional, explanatory information taken from presentations made to the Plan Commission and may be helpful as you review the proposed code updates.

Please let me know if you have questions or I can provide additional information.

Sidewalk, Pedestrian Buffer Strip, and Street Tree Standards

ORD C34961

*Proposed Changes to Align Zoning Code, Engineering Design Standards, and
Arboricultural Standards*

Purpose of Updates

- Increase Clarity
- Eliminate or Reduce Redundancy
- Clean up inconsistencies between Zoning Codes, Engineering Design Standards, and Arboricultural Specifications

Affected Policies

EDIT

17C.200.050 – Landscaping and Screening Street Tree Requirements

REPEAL

17C.122.140 Center and Corridor Zones Street Trees

MINOR EDITS

17C.200.040 - Site Planting Standards

17H.010.050 – Engineering Standards, Street Development, Right-of-Way

17H.010.190 – Engineering Standards, Street Development, Pedestrian Buffer Strips

17C.110.410 – (Residential Zones) Sidewalks

17C.120.230 – (Commercial Zones) Setbacks and Sidewalks

17C.122.110 – (Center & Corridor) Setbacks and Required Sidewalk Width

17C.124.230 – (Downtown) Structure Setbacks, Sidewalks, and Street Trees

17C.130.230 – (Industrial Zones) Setbacks and Sidewalks

SEPARATE BUT RELATED

Engineering Design Standards Feb. 2007

City Engineer has the authority to revise.

Arboricultural Specifications

Urban Forestry Dept. will update to match zoning codes – anticipate 2013.

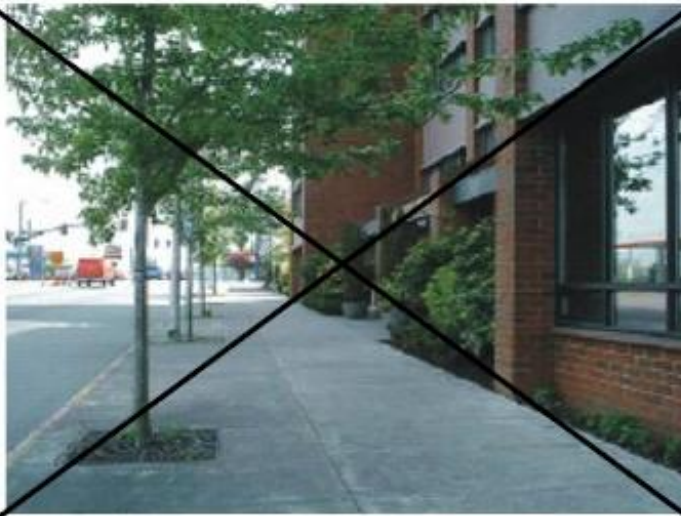
Proposed Updates to 17C.200.050 Landscaping & Screening, Street Trees

Chapter 17C.200 Landscaping and Screening

Section 17C.200.050 Street Tree Requirements

A. Purpose.

To provide consistent street frontage character within the street right-of-way. The street tree standards also maintain and add to Spokane's tree canopy and enhance the overall appearance of commercial and neighborhood development. Trees are an integral aspect of the Spokane landscape and add to the livability of Spokane. They provide aesthetic and economic value to property owners and the community at large.



Trees within tree vaults

B. Street Tree Implementation.

1. Street trees are required along all City streets in downtown, commercial, center and corridor, industrial zones, and **along arterials** in residential zones.
2. Street trees shall be planted between the curb and the walking path of the sidewalk. **Either five foot by five foot pits with tree grates or a continuous planting strip with groundcover that is at least five feet wide may be used. Where**

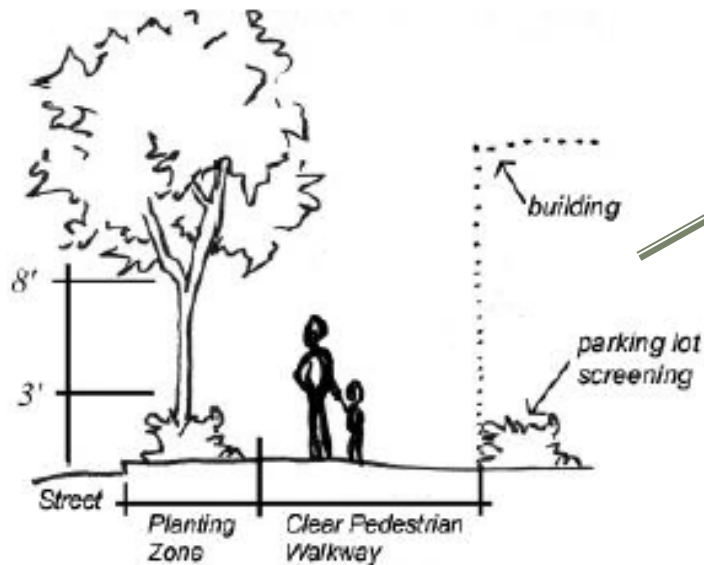
Proposed amendment is consistent with 17H.

17H.010.190 requires pedestrian buffer strips on both sides of all street types.

17H.010.270 requires that street trees be planted in all pedestrian buffer strips.

Proposed Updates to 17C.200.050 Landscaping & Screening, Street Trees

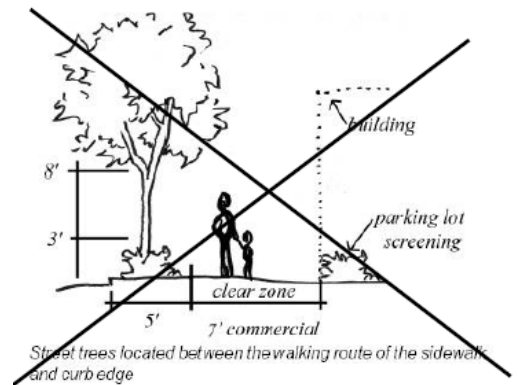
tree grates are used, they shall be ADA accessible and have a similar size and material as tree grates found in adjacent developments.



(Graphic has been relocated and includes revised language)

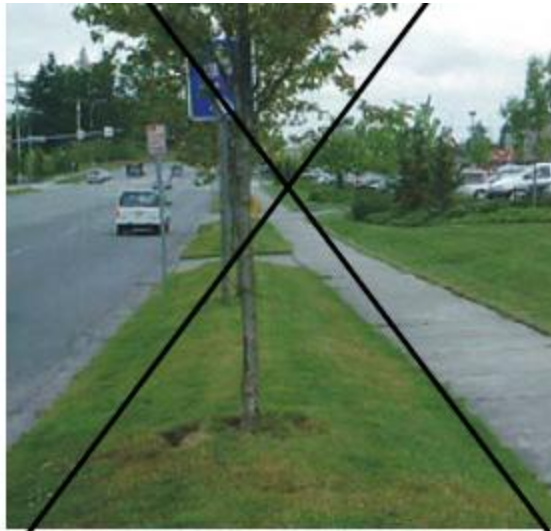
Proposed text revisions to the graphic would eliminate horizontal dimensions because they change according to zone.

Original below.



3. Larger shade trees with spreading canopies or branches are desirable where possible. Species of street trees within the public rights of way shall be approved by the City urban forester and reviewed by the director of engineering services. Refer to the urban forester's list of appropriate street trees for available planting strip widths. See the "Landscape Plants for the Inland Northwest" issued by the Washington State University Cooperative Extension and the U.S. Department of Agriculture, available from the City planning services department.

Proposed Updates to 17C.200.050 Landscaping & Screening, Street Trees



Trees within planting strip

4. ~~Street trees shall meet the most recent ANSI standards for a two inch caliper tree at the time of planting and shall be spaced in order to provide continuous canopy coverage within ten years of planting.~~
5. ~~Street tree plantings shall consider the location of existing utilities, lighting, and existing and proposed signs.~~
6. ~~If overhead power lines are present, street trees shall be limited to a mature height of twenty five feet to avoid conflict with utility lines and maintenance crews.~~
7. ~~3. Street trees and other landscaping shall be maintained and irrigated by the adjacent property owner.~~
8. ~~4. If a street has a uniform planting of street trees or a distinctive species within the right-of-way, then new street trees should match the be of a similar form, character and planting pattern and species.~~
9. ~~5. For a full list of approved trees in the City of Spokane, please see the Urban Forestry Program's Approved Street Tree List. Species selection should be guided by individual site conditions including hydrology, soil, solar orientation, and physical constraints.~~

3. Informational language to notify project applicants of SMC 12.02.908 (Urban Forestry Program) requirements.

4. To avoid requiring a tree that is no longer on the approved list.

5. Informational language added to respond to PC comments.

Proposed Updates to 17C.200.050 Landscaping & Screening, Street Trees

10. Landscape areas between the curb and sidewalk shall be maintained or plant material chosen to maintain a clear view zone between three and eight feet from ground level.

C. Planting Zones

1. Provide continuous planting strips or individual planting areas per Table 17C.200.050-1.

Table 17C.200.050-1 Tree Planting Area Dimensional Standards							
Zone	Downtown	CC	Commercial	Industrial	RA, RSF, RTF	RMF, RHD	School/Church Loading Zone
Continuous Planting Strip – minimum width as measured from back of curb.	Individual Planting Areas (tree vaults) required [1]	5 feet	5 feet	6 feet	6 feet	6 feet	Not Applicable [4]
Individual Planting Area – width as measured from back of curb	4 ft min. 6 ft max. [2]	4 ft min. 6 ft max. [2]	4 ft min. 6 ft max. [2]	Continuous Planting Strip required [3]	Continuous Planting Strip required	Continuous Planting Strip required [3]	4 ft min. 6 ft max. [2][4]
Notes:							
[1] Individual Planting Areas (tree vaults) are the standard for the Downtown Zones. Proposals for Continuous Planting Strips may be evaluated on a case by case basis.							
[2] Un-compacted soils are necessary for street trees. Individual planting areas (or tree vaults) must be of a size to accommodate a minimum of 100 cubic feet of un-compacted soils per tree at a maximum depth of three feet. Refer to the Engineering Design Standards for examples of potential options in individual planting areas.							
[3] Continuous Planting Strips are the standard for Industrial and Residential Zones. However, individual planting areas meeting the CC standard may be proposed and evaluated on a case by case basis in Industrial, RMF and RHD Zones.							
[4] In all zones, within a school/church loading zone, street tree location may vary from the standard as long as street trees are located within the right-of-way.							
[5] In all zones, when a continuous planting strip will double as a stormwater swale, the minimum width shall be 6.5 feet.							

New table. Intent is to present information in a way that is more clear and user friendly. Some dimensional standards changed to ensure consistency between codes and policies.

2. Continuous Planting Strips.



(Graphic has been resized and relocated)

- a. Continuous planting strips may be planted with living ground cover or low plantings that are maintained at a height less than three feet from ground level.
- b. When auto traffic is immediately adjacent to the curb, new street trees must be planted at least 3'-0" from the edge of the automobile travel way.

a. Text consistent with existing code language.

b. Informational text to clarify the City's Clear Zone Policy.

Proposed Updates to 17C.200.050 Landscaping & Screening, Street Trees

3. Individual Planting Areas.



NEW Graphic Tree Grates



NEW Graphic

Street trees with plantings up to 3 feet high.

- a. When an individual planting area is not symmetrical, the longer dimension shall run along the curb.
- b. Tree grates or plantings are acceptable. However, when there is on-street parking, a tree grate or a paved walk eighteen inches wide behind the curb are encouraged to help avoid conflicts with car doors and foot traffic. The minimum clear pedestrian walking path as required for the zone shall be maintained.
- c. Where tree grates are used, they shall be ADA accessible and have a similar size and material as tree grates found in adjacent developments. Where tree grates are used, tree guards are encouraged for tree protection.
- d. Un-compacted soils are necessary for street trees. A minimum of one hundred cubic feet per tree at a maximum depth of three feet is required. See Engineering Design Standards for examples of potential options in individual planting areas and for retrofitting sidewalks.

a. Clarification

b. Informational/
Encouragement

c. Encouragement
added to respond
to Urban Forestry
Citizen Advisory
Committee
comments

d. Proposed
change would
formalize soil
volumes as a code
requirement,

Proposed Updates to 17C.200.050 Landscaping & Screening, Street Trees



NEW Graphic Tree Grates



NEW Graphic Tree Grate and Tree Guard

New informational photos. Two photos on right added after the initial PC workshop.

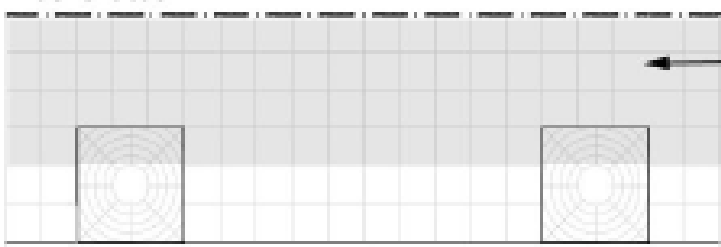


NEW Graphics Street trees with plantings up to 3 feet high.



Individual Planting Areas

Tree Grates

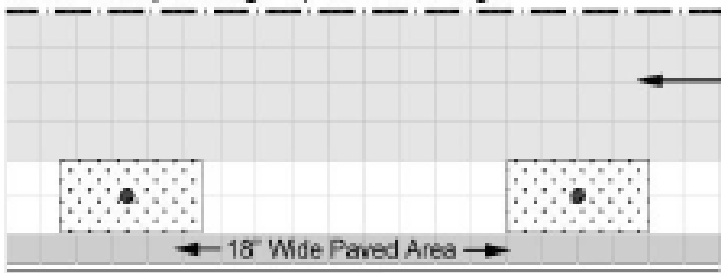


CURB

Pedestrian Clear Walkway

If necessary, may include a portion of an ADA accessible tree grate.

Trees with plantings up to 3 feet high



CURB

Street Tree Distance From Curb

a. When auto traffic is immediately adjacent to the curb, new street trees must be at least 3'-0" from the edge of the automobile travel way.

b. When there is on-street parking, an eighteen inch paved walk behind the curb, or a 6'-0" tree grate is encouraged to avoid conflicts with car doors and foot traffic.

NEW Graphic

Informational

D. Size Requirements for New Street Trees.

- 1. Street trees shall meet the most recent ANSI standards for a two-inch caliper tree at the time of planting*
- 2. Larger shade trees with spreading canopies or branches are desirable where possible. Species of street trees within the public rights-of-way shall be approved by the City urban forester and reviewed by the director of engineering services.*
- 3. If overhead power lines are present, street trees shall be limited to a mature height of twenty-five feet to avoid conflict with utility lines and maintenance crews.*

D.1 two-inch caliper at time of planting is the current standard for all zones except C&C which requires 2.5".

The proposal to repeal 17C.122.140 C&C Street Trees would make 2" the standard for all zones.

E. Spacing Requirements for Street Tree Spacing. *The objective is to create a continuous tree canopy over the sidewalk.*

- 1. Continuous planting strips.** Average spacing shall be 25 feet for small and columnar trees and 30 feet for canopy trees. The Planning Director may allow increased spacing for exceptionally large trees or upon the recommendation of the Urban Forester.
- 2. Individual planting areas.** Average spacing for all tree sizes and types shall be 25 feet. Trees planted adjacent to parallel parking stalls with meters may be spaced 20 feet apart.
- 3. Street tree plantings shall consider the location of existing utilities, lighting, driveways, business entrances and existing and proposed signs. See the Engineering Design Standards for required dimensions.**

To provide clear spacing requirements. This would replace the current requirement that trees “be spaced in order to provide continuous canopy coverage within ten years of planting.”

Proposed Updates to 17C.200.050 Landscaping & Screening, Street Trees

F. Clear View Zone

1. Landscape areas between the curb and sidewalk, as well as landscaped areas within the clear view triangle as defined in SMC 17C.120.310 shall be maintained or plant material chosen to maintain a vertical clear view zone between three and eight feet from ground level.



Clear view between three and eight feet.

A clear view zone between three and eight feet from ground level is the current standard.

The proposed minor change to 17C.200.040 is for consistency.

Chapter 17C.200 Landscaping and Screening

Section 17C.200.040 Site Planting Standards

2. Plantings may not exceed thirty thirty-six inches in height or hang lower than ninety-six inches within the clear view triangle at street intersections on corner lots and at driveway entries to public streets. The clear view

Proposed Updates to 17C.200.050 Landscaping & Screening, Street Trees

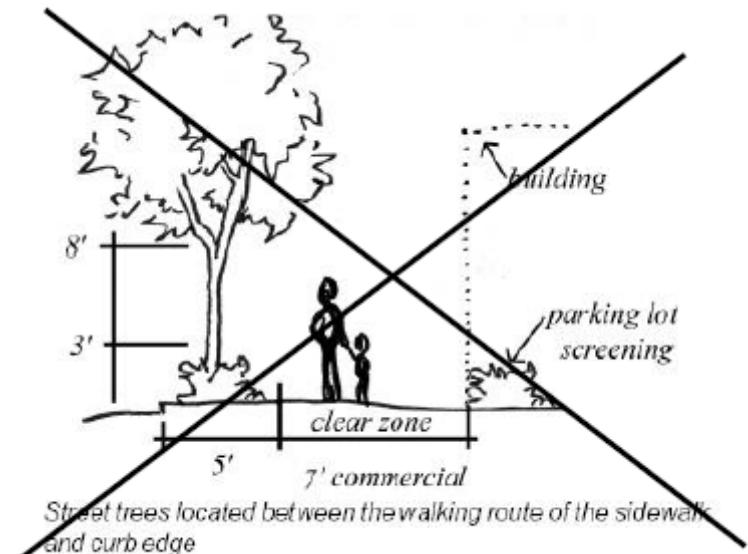
9. In center and corridor zones:

- a. street trees shall be planted between the curb and the walking path of the sidewalk.
- b. street trees shall be located in planting areas or in tree wells with a minimum width of four feet.
- c. along arterial streets, tree-grates shall be used. On other streets, either tree-grates or a continuous planting strip along the curb are acceptable.

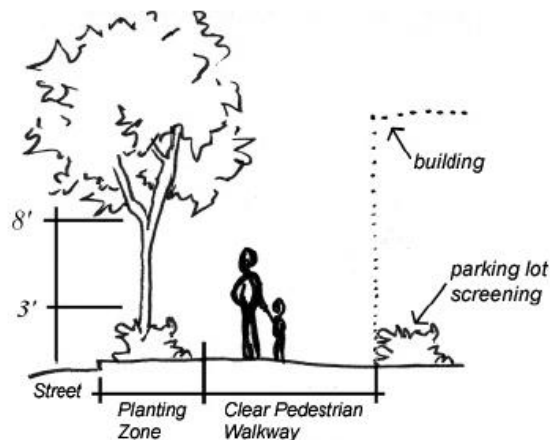
10. G. In dDowntown zZones:

- a. street trees shall be planted between the curb and the walking path of the sidewalk along all streets bordering development. *Street trees and other landscaping shall be maintained and irrigated by the adjacent property owner.*
- b. 1. street trees shall be spaced no more than twenty five feet apart except when driveways prohibit this spacing. If existing development prevents in-ground planting, trees shall be planted in tubs equipped with irrigation. When large canopy street trees are used the planning director may allow for increased spacing of up to thirty-five feet between street trees depending on the tree species mature crown spread. The tree spacing objective is to create a continuous tree canopy over the sidewalk.
- c. street trees shall be located in planting areas or in tree wells with a minimum width of five feet. When the required clear sidewalk width cannot be achieved with a five foot tree well, the tree well width dimension encroaching into the sidewalk may be reduced to four feet as long as the planting length running along the curb is six feet or greater.
- d. achieving a minimum of one hundred cubic feet of uncompacted soils, within a maximum depth of three feet, for street trees is desired. See the City policy guidance for soils and street trees.

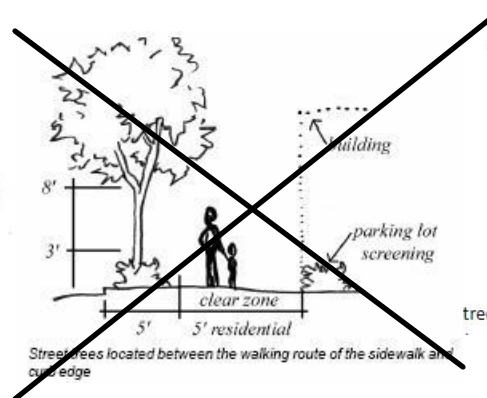
Mostly redundant language or language moved elsewhere in the code.



Proposed Updates to 17C.110.410 Residential Zones



(Graphic includes revised language)



tree, trees, sidewalks, street standards

B. Sidewalk Implementation.

1. Sidewalks shall have the minimum dimension of five feet, even if part of the width is located on private property. This dimension shall be applied to the clear, unobstructed pathway between the planting zone for street trees behind the curb per 17C.200.050 and building facades or parking lot screening. (R)
2. Sidewalks shall be continuous, without gaps between developments. (R)
3. Unless otherwise required or where larger plaza areas are provided, sidewalk paving materials shall be consistent with the street frontage improvements of adjacent developments. (P)
4. Sidewalks within the public right-of-way shall be concrete, two-foot grid, standard sidewalk color and float finish. (R)
5. Landscape areas between the curb and sidewalk shall be maintained, or plant material shall be chosen to maintain a clear zone between three and eight feet from ground level. (P)

Revised
graphic to
remove
dimensions

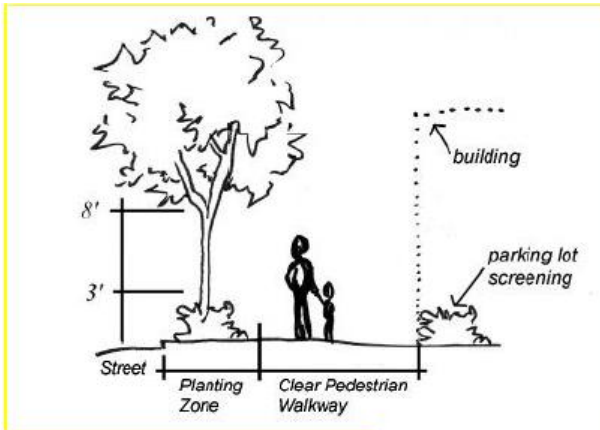
Reference to
17C.200.050

Delete
redundant
language.

Proposed Updates to 17C.120.230 Commercial Zones Setbacks and Sidewalks

B. Setback and Required Sidewalk Width Standards.

1. The setback standards for all structures are stated in Table 17C.120-2 and as stated below.
2. Structures shall be no closer than twelve feet from the back of the curb except as provided in subsection (B)(4) of this section.
3. Sidewalks are required to be constructed and shall be at least twelve feet wide and consist of a clear walking path at least seven feet wide (in addition to a minimum five-foot wide planting zone for street trees per 17C.200.050). Part of the sidewalk width may be located on private property. The sidewalk dimension shall be measured from back of curb ~~to applied to the clear, unobstructed pathway between the planting behind the curb and~~ building facades or parking lot screening.



(Graphic includes revised language)

Remove
planting zone
dimension;
instead
reference
17C.200.050

Clarification

Revised
graphic to
remove
dimensions

Chapter 17C.122 Center and Corridor Zones

Section 17C.122.110 Setbacks and Required Sidewalk Width

- A. The minimum setback from street lot lines is zero feet and buildings shall be no closer than twelve feet from the back of the curb except as provided in subsection (C) of this section.
- B. Sidewalks shall be at least twelve feet wide and consist of a clear walking path at least eight feet wide (in addition to a minimum four-foot wide planting zone for street trees per 17C.200.050) except as provided in subsection (C) of this section.

Remove
planting zone
dimension;
instead
reference
17C.200.050

Proposal to Repeal 17C.122.140 Centers & Corridors Street Trees

Repealing

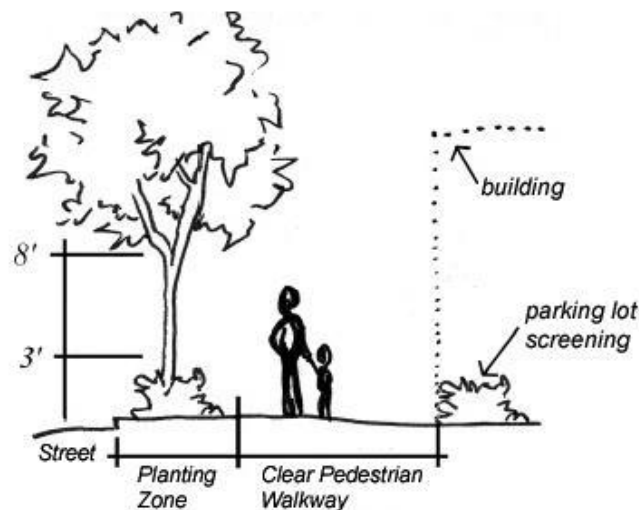
Section 17C.122.140 Street Trees

- A. Street trees shall be planted between the curb and the walking path of the sidewalk.
- B. Large trees with overhanging canopies or branches are desirable. However, species of street trees shall be of a type approved by the City.
- C. Street trees should be located in planting areas or in tree wells with a minimum width of four feet.
- D. Street trees shall be a minimum of two and one-half inch caliper at time of planting and shall be spaced no further apart than twenty-five feet (thirty feet for sidewalks twelve feet wide or greater).
- E. Street tree planting shall consider the location of existing utilities, lighting and proposed signs.
- F. Along arterial streets, tree grates shall be used. On other streets, either tree grates or a continuous planting strip along the curb are acceptable.

Redundant language except two and a half inch caliper trees at planting. (Propose two inch caliper for consistency amongst all zones).

Proposed Updates to 17C.124.230 Downtown Setbacks, Sidewalks, Street Trees

- C. Sidewalks are required to be constructed and shall be at least twelve feet wide and consist of a clear walking path at least seven feet wide (in addition to a minimum five-foot wide pedestrian buffer zone and planting zone for street trees per 17C.200.050). Part of the sidewalk width may be located on private property. The sidewalk dimension shall be measured from back of curb to applied to the clear, unobstructed pathway between the planting behind the curb and building facades or parking lot screening and other landscaping.

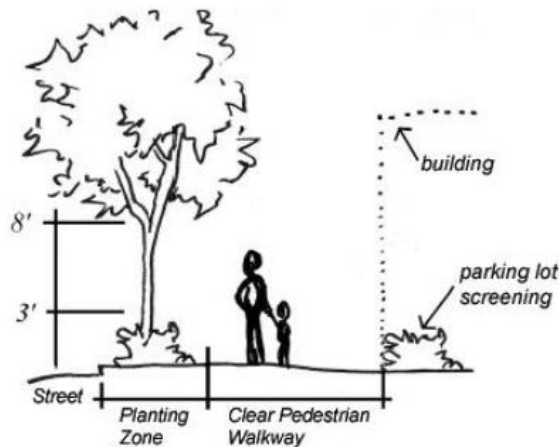


Remove
planting zone
dimension;
instead
reference
17C.200.050

Revised
graphic to
remove
dimensions

Proposed Updates to 17C.130.230 Industrial Zones Setbacks and Sidewalks

3. Sidewalks are required to be constructed and shall consist of a clear walking path at least five feet wide (in addition to a ~~minimum five foot wide~~ planting zone for street trees per 17C.200.050). Part or all of the sidewalk width may be located on private property. The sidewalk dimension shall be applied to the clear, unobstructed pathway between the planting zone behind the curb and building facades or parking lot screening.



(Graphic includes revised language)

Remove
planting zone
dimension;
instead
reference
17C.200.050

Revised
graphic to
remove
dimensions

Proposed Updates to 17C.200.040 Site Planting Standards

2. Plantings may not exceed ~~thirty~~ thirty-six inches in height or hang lower than ninety-six inches within the clear view triangle at street intersections on corner lots and at driveway entries to public streets. The clear view triangle is defined in [SMC 17C.120.310](#). The director of engineering services may further limit the height of plantings, landscaping structures, and other site development features within the clear view triangle or may expand the size of the clear view triangle as conditions warrant.

Change plant height in clear view triangles to match other code requirements for pedestrian buffer strips.

Proposed Updates to 17H.010.050 Engineering Right-of-way Standards

- E. Sidewalks may be located on easements on private property **for local access streets.**

Proposed change would allow sidewalk easements on all street types.

Proposed Updates to 17H.010.190 Engineering Standards Pedestrian Buffer Strips

- B. Planted strips are required on residential local access streets. A minimum three-foot wide concrete pedestrian buffer strip may be allowed in place of the **six-and-one-half foot** planted strip for certain land uses such as churches and schools that require passenger loading and unloading. These will be evaluated on a case-by-case basis and allowed at the discretion of the director of engineering services.

Dimensions are addressed in 17C.