

**CITY COUNCIL MEETINGS
RULES – PUBLIC DECORUM**

Strict adherence to the following rules of decorum by the public will be observed and adhered to during City Council meetings, including open forum, public comment period on legislative items, and Council deliberations:

- 1. No Clapping!**
- 2. No Cheering!**
- 3. No Booing!**
- 4. No public outbursts!**
- 5. Three-minute time limit for comments made during open forum and public testimony on legislative items!**

In addition, please silence your cell phones when entering the Council Chambers!

Further, keep the following City Council Rules in mind:

Rule 2.2 Open Forum

2.2.4 The open forum is a limited public forum and all matters discussed shall relate to affairs of the City. No person may use the open forum to speak on such matters and in such a manner as to violate the laws governing the conduct of municipal affairs. No person shall be permitted to speak on matters related to the current or advance agendas, potential or pending hearing items, or ballot propositions for a pending election. Individuals speaking during the open forum shall address their comments to the Council President and shall not make personal comment or verbal insults about any individual.

Rule 5.4 Public Testimony Regarding Legislative Agenda Items – Time Limits

- 5.3.1 Members of the public may address the Council regarding items on the Council's legislative agenda, special consideration items, hearing items and other items before the City Council requiring Council action that are not adjudicatory or administrative in nature. This rule shall not limit the public's right to speak during the open forum.
- 5.3.2 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 and provide his or her address as a condition of recognition. In order for a council member to be recognized by the Chair for the purpose of obtaining the floor, the council member shall either raise a hand or depress the call button on the dais until recognized by the Council President.
- 5.3.3 Each person speaking at the public microphone shall verbally identify him(her)self by name and, if appropriate, representative capacity.
- 5.3.4 Each speaker shall follow all written and verbal instructions so that verbal remarks are electronically recorded and documents submitted for the record are identified and marked by the Clerk.
- 5.3.5 In order that evidence and expressions of opinion be included in the record and that — decorum befitting a deliberative process be maintained, no modes of expression not provided by these rules, such as demonstrations, banners, applause and the like will be permitted.
- 5.3.6 A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.
- 5.3.7 When addressing the Council, members of the public shall direct all remarks to the Council President and shall confine remarks to the matters that are specifically before the Council at that time.
- 5.3.8 When any person, including members of the public, City staff and others are addressing the Council, council members shall observe the same decorum and process, as the rules require among the members inter se. That is, a council member shall not engage the person addressing the Council in colloquy, but shall speak only when granted the floor by the Council President. All persons and/or council members shall not interrupt one another. The duty of mutual respect set forth in Rule 1.2 and the rules governing debate set forth in *Robert's Rules of Order* shall extend to all speakers before the City Council. The council president pro-tem shall be charged with the task of assisting the council president to insure that all individuals desiring to speak, be they members of the public, staff or council members, shall be identified and provided the opportunity to speak.

THE CITY OF SPOKANE



ADVANCE COUNCIL AGENDA

MEETING OF MONDAY, NOVEMBER 23, 2015

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 CANDACE MUMM

COUNCIL MEMBER KAREN STRATTON

COUNCIL MEMBER MIKE FAGAN

COUNCIL MEMBER JON SNYDER

COUNCIL MEMBER AMBER WALDREF

CITY 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 THURSDAYS 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 entrance 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 Christine Cavanaugh at (509) 625-6383, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or ccavanaugh@spokanecity.org. Persons who are deaf or hard of hearing may contact Ms. Cavanaugh 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. | Set Hearing for December 7, 2015 for the Citywide Capital Improvement Program, 2016-2021. (Various Neighborhood Councils)
Katherine Miller | Set Hrg.
12/7/2015 | PRO 2015-0040 |
| 2. | Seven Water Quality Combined Financial Assistance Agreements with the State of Washington Department of Ecology for grant funding to reduce the untreated sewer and stormwater discharging to the Spokane River—\$4,359,675 revenue.
Mark Papich | Approve | OPR 2015-0960 |
| 3. | Low bids meeting specifications of: | Approve
All | |
| | a. Lake City Ford (Coeur d'Alene, ID) for Ford Interceptor Police 4x4 Vehicles—\$464,055.74 (incl. tax).
Gene Jakubczak | | OPR 2015-0961
BID 4190-15 |
| | b. A&L Powersports, dba Powersports NW (Centralia, WA), for police motorcycles—\$122,000 (incl. tax). | | OPR 2015-0962
BID 4184-15 |

- | | | | |
|----|---|----------------|------------------------------|
| 4. | Amendment adding the purchase of four additional Wavetronix Smartsensor Radar Detection Systems—increase of \$87,635.16. Total not to exceed \$128,500.
Mark Serbousek | Approve | OPR 2015-0850 |
| 5. | Contract with McMillen LLC (Boise, ID) for the Upriver Dam Spillway Rehabilitation Phase II. Construction will be for the downstream concrete apron, spillway drains, energy dissipation blocks, pier abutment steel plate anchoring, and trunnion arm reinforcement—\$1,686,879.
Steve Burns | Approve | PRO 2015-0039
BID 4181-15 |
| 6. | Value Blanket Order with Cabot Norit Activated Carbon (Marshall, TX) for the purchase of Activated Carbon for the Waste to Energy Facility—\$70,000 (incl. tax).
Chuck Conklin | Approve | OPR 2015-0963
RFB 4174-15 |
| 7. | Renewal of Value Blanket Orders with: | Approve
All | |
| | a. Brenntag Pacific, Inc., (Santa Fe Springs, CA) for purchase of Anhydrous Ammonia and Phosphoric Acid for 2016—\$692,000. | | OPR 2015-0964
BID 4057-14 |
| | b. Atlas Copco, (Arlington, WA) for compressor rental during scheduled outages, and on an as needed basis from January 1 through December 31, 2016—\$113,915.60. | | OPR 2015-0965
BID 4066-14 |
| | c. W.W. Grainger, Inc., for miscellaneous operating supplies for the Waste to Energy Facility—\$110,000.
Chuck Conklin | | OPR 2015-0966 |
| 8. | Renewal of Contracts with: | Approve
All | |
| | a. Big Sky Industrial (Spokane WA) for vacuum support services at the Waste to Energy Facility for January 1 through December 31, 2016—\$150,000. | | OPR 2015-0967
BID 4090-14 |
| | b. Konecranes, Inc., (Spokane Valley, WA) for quarterly crane/hoist/trolley and lifeline preventative maintenance inspections and scheduled and unscheduled service calls at the Waste to Energy Facility—not to exceed \$136,418.68. | | OPR 2015-0969
BID 4075-14 |

Chuck Conklin

- | | | |
|--|------------------------|---|
| <p>9. Contract Extension with Bay Valve Service, LLC, (Longview, WA) for on-site valve repair services at the Waste to Energy Facility, January 1 through December 31, 2016—\$100,000.
Chuck Conklin</p> | <p>Approve</p> | <p>OPR 2015-0098
RFP 4091-14</p> |
| <p>10. Contract Extensions with US Bank for banking services:</p> <p style="padding-left: 40px;">a. Extension No. 1 through July 31, 2015—estimated annual expenditure \$200,000.
Kim Bustos</p> <p style="padding-left: 40px;">b. Extension No. 2 through July 31, 2016—estimated annual expenditure \$200,000.</p> | <p>Approve
All</p> | <p>OPR 2011-0537</p> |
| <p>11. Amendment to Assignment of Wheelabrator Service Agreement with Brand Energy (Tacoma, WA) for Scaffolding Services at the Waste to Energy Facility—\$75,500.
Chuck Conklin</p> | <p>Approve</p> | <p>OPR 2014-0883</p> |
| <p>12. Allocation recommendations by the Community, Housing and Human Services Board to multiple projects under the Homeless Housing Operations and Services RFP to support an integrated system of homeless housing assistance from January 1, 2016, through June 30, 2017, and authorize CHHS to enter into multiple contracts with awarded agencies.
Sheila Morley</p> | <p>Approve</p> | <p>OPR 2015-0970</p> |
| <p>13. Consultant Agreements for Spokane Federal Aid Projects with:</p> <p style="padding-left: 40px;">a. Historical Research Associates (Missoula, MT) for Cultural Resource Consultant Services—not to exceed \$200,000. (Various Neighborhood Councils)
Dan Buller</p> <p style="padding-left: 40px;">b. Budinger & Associates (Spokane, WA) for Geotechnical Engineering—not to exceed \$200,000. (Various Neighborhood Councils)</p> | <p>Approve
All</p> | <p>OPR 2015-0971
ENG 2015172
RFQ 4179-15</p> <p>OPR 2015-0972
ENG 2015173
RFQ 4180-15</p> |
| <p>14. Contract with the firm of Keating, Bucklin & McCormack, Inc., P.S. to provide Special Counsel regarding the matter of the Estate of Lorenzo Hayes—\$250,000.
Nate Odle</p> | <p>Approve</p> | <p>OPR 2015-0973</p> |

- | | | |
|---|-----------------------------------|---------------|
| 15. Report of the Mayor of pending claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2015, total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____. | Approve &
Authorize
Payment | CPR 2015-0002 |
| 16. City Council Meeting Minutes: _____, 2015 | Approve
All | CPR 2015-0013 |

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)

APPOINTMENTS

RECOMMENDATION

Citizens Transportation Advisory Board: One Appointment	Confirm	CPR 2011-0003
Historic Landmarks Commission: Four Reappointments	Confirm	CPR 1981-0122

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

EMERGENCY BUDGET ORDINANCES

(Require Five Affirmative, Recorded Roll Call Votes)

Ordinance C35323 amending Ordinance No. C35185 passed the City Council November 24, 2014, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2015, making appropriations to the various funds, departments and programs of the City of Spokane government for the fiscal year ending December 31, 2015, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

Golf Debt Service Fund

FROM: Unappropriated Reserves, \$40,000;

TO: Golf Fund, same amount.

Sari Luciano

(This action provides necessary changes in the appropriations of the Golf Debt Service Fund as part of the 2005A LTGO Refinancing and Debt Restructure.)

NO EMERGENCY ORDINANCES

RESOLUTIONS & FINAL READING ORDINANCES

(Require Four Affirmative, Recorded Roll Call Votes)

RES 2015-0121 Regarding the adoption of the City of Spokane's 2016 Washington State Legislative Agenda.

Jon Snyder

- ORD C35320** Of the City of Spokane relating to local improvement districts; establishing Consolidated Local Improvement District No. 224A and a consolidated local improvement district bond redemption fund; fixing the amount, form, date, interest rate and maturity of the Consolidated Local Improvement District No. 224A Installment Note; providing for the purchase of that Note by the City from funds on deposit in the Spokane Investment Pool; and defining the interest rate on local improvement district assessment installments.
Kim Bustos
- ORD C35322** (To be considered under Hearings Item H1.b.)

FIRST READING ORDINANCES

(No Public Testimony Will Be Taken)

- ORD C35274** Relating to the process for filling vacancies in the position of police ombudsman; amending SMC section 4.32.080 and SMC section 4.32.090. (Deferred from November 9, 2015, Agenda)
Jon Snyder
- ORD C35321** Relating to inclement weather centers for homeless individuals and families in the City of Spokane; creating new section 10.08E of the Spokane Municipal Code.
Council President Stuckart
- ORD C35324** Relating to the City of Spokane's Central Incentives Area; amending sections 13.04.2042 and 13.03.0732 of the Spokane Municipal Code.
Brian McClatchey

FURTHER ACTION DEFERRED

NO SPECIAL CONSIDERATIONS

HEARINGS

(If there are items listed you wish to speak on, please sign your name on the sign-up sheets in the Chase Gallery.)

RECOMMENDATION

- | | | |
|---|---------------------------|---------------|
| H1. a. Hearing on 2016 Proposed Budget. (Continued from November 16, 2014) | Close Hearing | FIN 2015-0001 |
| b. Final Reading Ordinance C35322 adopting the Annual Budget of the City of Spokane for 2016, making appropriations to the various funds of the City of Spokane for the year ending December 31, 2016, and providing it shall take effect immediately upon passage. | Adopt Upon Roll Call Vote | ORD C35322 |

Tim Dunivant

Motion to Approve Advance Agenda for November 23, 2015
(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 November 23, 2015, Regular Legislative Session of the City Council is adjourned to November 30, 2015.

NOTES

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

11/23/2015

Date Rec'd

11/9/2015

Clerk's File #

PRO 2015-0040

Renews #**Submitting Dept**

INTEGRATED CAPITAL MGMT

Cross Ref #**Contact Name/Phone**

KATHERINE 625-6338

Project #**Contact E-Mail**

KEMILLER@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Resolutions

Requisition #**Agenda Item Name**

4250 - CITYWIDE CAPITAL IMPROVEMENT PROGRAM, 2016-2021

Agenda Wording

Set Hearing for December 7, 2015 for the Citywide Capital Improvement Program, 2016-2021 (Various Neighborhood Councils)

Summary (Background)

In accordance with the State Growth Management Act and the City of Spokane's Spokane Municipal Code (SMC) Chapter 7.17, the City must adopt and annually update the Citywide Six-Year Capital Improvement Program. The Program must be updated annually as part of the budget process. With approval of the 2016 Budget, the first year of the Program reflects the 2016 budget. In order to comply with the provisions of the Growth Management Act, the City's SMC's and qualify for grant and low interest loan

Fiscal Impact

Neutral \$

Budget Account

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Dept Head**

MILLER, KATHERINE E

Council Notifications**Study Session****Division Director**

ROMERO, RICK

Other

Public Works

Finance

KECK, KATHLEEN

Distribution List**Legal**

WHALEY, HUNT

lhattenburg@spokanecity.org

For the Mayor

SANDERS, THERESA

jmallahan@spokanecity.org

Additional Approvals

bblankenagel@spokanecity.org

Purchasing

kemiller@spokanecity.org



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

funds, it is required that the City maintain a Citywide Capital Improvement Program for the respective utilities and departments that have capital needs.

Fiscal Impact		Budget Account	
Select	\$		#
Select	\$		#
Distribution List			

BRIEFING PAPER
Integrated Capital Management
November 9, 2015

Subject:

Setting hearing date of December 7, 2015 for an ordinance adopting a six-year Citywide Capital Improvement Program for the years 2016-2021, and amending Section 5.5 Capital Facilities Program of the City's Comprehensive Plan.

Background:

GMA provides that proposed amendments to a comprehensive plan may be considered by the governing body of a city no more frequently than once per year, but further provides that amendments to the capital facilities element of a comprehensive plan may be considered outside of this annual process where the amendment is considered concurrently with the adoption or amendment of a city budget.

City of Spokane's Spokane Municipal Code (SMC) chapter 7.17 indicates the City's must adopt and annually update a Citywide Six-Year Capital Improvement Program. The Program must be updated annually as part of the budget process. With the approval of the 2016 Budget, the first year of the Program reflects the 2016 budget.

SMC Chapter 7 also indicates that to determine the Program's consistency with the Comprehensive Plan it shall be reviewed by the City Plan Commission. Two Plan Commission workshops were held on October 14 and 28, 2015. A Plan Commission hearing was held on November 11th. The Citywide Improvement Program was found to be consistent with the Comprehensive Plan.

Council members were briefed on October 26, 2015 during the Public Works Committee meetings regarding the status of the Program and the next steps leading up to the Council hearing.

The 2016-2021 Citywide Six-Year Capital Improvement Program can be viewed on line at: <http://www.myspokanebudget.org>

Impact:

In order to comply with the provisions of the Growth Management Act, the City's SMC's and qualify for grant and low interest loan funds, it is required that the City maintain a Capital Improvement Program for the respective utilities and departments that have capital needs.

Action:

City Council will be requested to set a December 7, 2015 hearing for the adoption the 2016-2021 Citywide Capital Improvement Program.



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/3/2015
Clerk's File #	OPR 2015-0960
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	INTEGRATED CAPITAL MGMT
Contact Name/Phone	MARK PAPICH 625-6310
Contact E-Mail	MPAPICH@SPOKANECITY.ORG
Agenda Item Type	Report Item
Agenda Item Name	4250 - DEPARTMENT OF ECOLOGY AGREEMENTS FOR STORMWATER FACILITIES

Agenda Wording

Washington State Department of Ecology Stormwater Financial Assistance Program (SFAP) grants.

Summary (Background)

The Department of Ecology annually awards funding for grants and loans based on a competitive process and legislature approval. Last year, the City was awarded seven grants totaling \$4,359,675. Funding from Department of Ecology will be used to reduce the untreated sewage and stormwater discharging to the Spokane River. Integrated Capital Management has created and attached a list of potential candidate applications that would be eligible for these funds and seek approval from City Council.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Revenue	\$ 4,359,675.00	#	4250 43354 35090 33431 99999
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MILLER, KATHERINE E	<u>Study Session</u>	
<u>Division Director</u>	ROMERO, RICK	<u>Other</u>	Public Works 11/9/15
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	lhattenburg@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	kemiller@spokanecity.org	
<u>Additional Approvals</u>		kbrooks@spokanecity.org	
<u>Purchasing</u>		kkeck@spokanecity.org	
		mpapich@spokanecity.org	
		rromero@spokanecity.org	
		mdavis@spokanecity.org	

BRIEFING PAPER
Public Works Committee
Integrated Capital Management
November 9, 2015

Subject

Washington State Department of Ecology Grant Agreements

Background

The Department of Ecology annually awards funding for grants and loans based on a competitive process and legislature approval. This year, the City was awarded 7 Stormwater Financial Assistance Program (SFAP) grants for the following project:

- Sharp Avenue Stormwater Improvement Project (\$1,260,000)
- Monroe/Lincoln Stormwater Project (\$749,250)
- Trent Avenue Stormwater Retrofit for (\$189,750)
- East Sprague Stormwater Retrofits for (\$601,500)
- Pettet Drive MS4 Elimination for (\$450,000)
- Riverside Park Water Reclamation Facility LID (\$347,625)
- Havana Street Stormwater Improvements (\$761,550)

Impact

Funding from Department of Ecology will be used to reduce the untreated stormwater discharging to the Spokane River.

Action

Council Approval to accept Department of Ecology Grant Agreements

Funding

Grant amount total is \$ 4,359,675. The City's share is \$1,453,225



DEPARTMENT OF
ECOLOGY
State of Washington

Agreement WQC-2016-Spokane-00016

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

City of Spokane

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

GENERAL INFORMATION

Project Title:	Sharp Avenue Stormwater Improvement Project
Total Cost:	\$3,575,000.00
Total Eligible Cost:	\$1,680,000.00
Ecology Share:	\$1,260,000.00
Recipient Share:	\$420,000.00
The Effective Date of this Agreement is:	07/01/2015
The Expiration Date of this Agreement is no later than	12/31/2018
Project Type:	Stormwater Facility

Project Short Description:

This project will improve water quality in the Spokane River through elimination of MS4 storm sewer systems on Sharp Avenue and installation of permeable pavement, bioretention swales, trees, and drywells for stormwater infiltration. This project will provide treatment for Total Suspended Solids, Dissolved Copper and Dissolved Zinc, and will also reduce flows to the Spokane River by increasing stormwater infiltration.

Project Long Description:

Sharp Avenue currently treats area stormwater by collection in an MS4 system that conveys stormwater directly to Lake Arthur, a man made water body. Lake Arthur is hydraulically connected to the Spokane River. Sharp Avenue is located at the north edge of Gonzaga University. Approximately half the stormwater runoff collected in the Sharp Avenue MS4 system comes from side streets that flow onto Sharp Avenue.

Permeable pavement and a center median with bioretention swales will be installed to manage the runoff from Sharp Avenue. Drywells will be installed to collected stormwater flow from the side streets.

Agreement No: WQC-2016-Spokane-00016
Project Title: Sharp Avenue Stormwater Improvement Project
Recipient Name: City of Spokane

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Additional benefits of the project are traffic calming, pedestrian safety, and applied research in partnership with Gonzaga University.

The project is part of the RECIPIENT's ongoing commitment to the City of Spokane Integrated Clean Water Plan to remove untreated stormwater discharge to the Spokane River.

Overall Goal:

This project will improve water quality in Washington by reducing stormwater impacts from existing infrastructure and development.

Agreement No: WQC-2016-Spokane-00016
Project Title: Sharp Avenue Stormwater Improvement Project
Recipient Name: City of Spokane

RECIPIENT INFORMATION

Organization Name: City of Spokane

Federal Tax ID: 91-6001280
DUNS Number: 057531253

Mailing Address: 808 W. Spokane Falls Boulevard
Spokane, WA, 99201

Physical Address: 808 W. Spokane Falls Boulevard
Spokane, Washington, 99201-3343

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

Contacts

Project Manager	Mark Papich Senior Engineer 808 W Spokane Falls Blvd Spokane, Washington, 99201 Email: mpapich@spokanecity.org Phone: (509) 625-6310
Billing Contact	Kevan Brooks Accountant II 808 W Spokane Falls Blvd, Spokane, Washington, 99201 Email: kbrooks@spokanecity.org Phone: (509) 625-6045
Authorized Signatory	David A Condon Mayor 808 W Spokane Falls Blvd. Spokane, Washington, 99201 Email: mayor@spokanecity.org Phone: (509) 625-6250

ECOLOGY INFORMATION

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

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

Contacts

Project Manager	Cynthia Wall N. 4601 Monroe Spokane, Washington, 99205-1295 Email: cywa461@ecy.wa.gov Phone: (509) 329-3537
Financial Manager	Janel Bistrika P.O. Box 47600 Olympia, Washington, 98504-7600 Email: janel.bistrika@ecy.wa.gov Phone: (360) 407-6424
Technical Advisor	Douglas Howie Senior Stormwater Engineer P.O. Box 47600 Olympia, Washington, 98504-7600 Email: douglas.howie@ecy.wa.gov Phone: (360) 407-6444

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

RECIPIENT agrees to read, understand, and accept all information contained within this entire Agreement. Furthermore, RECIPIENT acknowledges that they have reviewed the terms and conditions of this Agreement, Scope of Work, attachments, all incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement.

IN WITNESS WHEREOF, the parties hereby sign this Agreement

**Washington State
Department of Ecology**

City of Spokane

Program Manager

Date

Heather Bartlett

Water Quality

David A Condon

Date

Mayor

SCOPE OF WORK

Task Number: 1 Task Cost: \$15,000.00

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and a recipient closeout report (including photos).

B. The RECIPIENT shall maintain documentation demonstrating compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

C. The RECIPIENT shall manage the project. Efforts include, but are not limited to: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

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

Task Expected Outcome:

* Timely and complete submittal of requests for reimbursement, quarterly progress reports, and RECIPIENT closeout report.

* Properly maintained project documentation

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

SCOPE OF WORK

Task Number: 2 Task Cost: \$0.00

Task Title: Design Plans and Specs, Environmental Review

Task Description:

The RECIPIENT will ensure the following items are completed and provide the associated deliverables to ECOLOGY.

- A. The RECIPIENT will coordinate the preparation and submittal of State Environmental Policy Act (SEPA) documentation.
- B. The RECIPIENT is responsible for application of, receipt of, and compliance with all required local, state, tribal and federal permits, licenses, easements, or property rights necessary for the project.
- C. The RECIPIENT will comply with Executive Order (05-05) cultural resources review requirements. To initiate cultural resources review the RECIPIENT will:
1. Submit a Department of Archaeology and Historic Preservation (DAHP) EZ-1 Form, Ecology Historic and Cultural Resource Project Review Form, or a cultural resources survey or assessment completed by a licensed archaeologist to ECOLOGY. All submitted materials must conform to the Washington State Standards for Cultural Resource Reporting (DAHP February 2014).
 2. Develop and submit an Inadvertent Discovery Plan (IDP) to ECOLOGY. The RECIPIENT will ensure that all contractors and subcontractors have a copy of the completed IDP prior to and while working on-site. An IDP template may be found at:
<http://www.ecy.wa.gov/programs/wq/funding/FundPrgms/CWSRF/CWSRFres/TemplateInadvDiscPlan060915.doc>
- Ground disturbing work (including geotechnical investigations) completed prior to receiving written notice to proceed from ECOLOGY shall not be eligible for reimbursement.
- D. The RECIPIENT will develop a project design. Projects must be designed in accordance with the Stormwater Management Manual for Eastern Washington, Stormwater Management Manual for Western Washington, or equivalent manual. Project must be reviewed and accepted in writing by ECOLOGY to be eligible for reimbursement.
- E. The RECIPIENT will submit one hard copy and one digital copy of the items listed below to ECOLOGY for acceptance. Design figures must be reduced to 11x17 inches in size and must be legible.
1. Design Report. For a complete list of required design report elements refer to:
<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWDesignDeliv081315.pdf>
 2. 90 Percent Design Package. At a minimum, this package must include 90 percent plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

For current bid inserts refer to:

<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramBidInsert032515.pdf>

For the current bid specification clause refer to:

WQC-2016-Spokane-00016

Agreement No: WQC-2016-Spokane-00016
Project Title: Sharp Avenue Stormwater Improvement Project
Recipient Name: City of Spokane

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<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramSpecClauses052912.pdf>

F. The RECIPIENT agrees to respond to ECOLOGY comments prior to proceeding to 90 percent design and/or project advertisement/bid and construction. At its discretion, ECOLOGY may require the RECIPIENT to resubmit revised documents for further ECOLOGY review prior to accepting the project design.

G. All materials submitted to ECOLOGY for acceptance must be approved by the RECIPIENT prior to submittal to ECOLOGY.

H. The RECIPIENT will submit to ECOLOGY a digital copy of the Final Bid Package including: project plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

Task Goal Statement:

The RECIPIENT will complete all design, environmental review and permitting tasks and respond to ECOLOGY comments in a timely manner.

Task Expected Outcome:

The project will meet the requirements set forth by the State Environmental Policy Act, cultural resource protection requirements, ECOLOGY water quality facility design standards, and all other applicable federal, state and local laws and regulations.

Recipient Task Coordinator: Mark Papich

Design Plans and Specs, Environmental Review

Deliverables

Number	Description	Due Date
2.1	Copy of SEPA determination documentation. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.10	List of permits acquired, and environmental review documents. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.11	Proposed Construction Schedule. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.12	Final Bid Package. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.2	Complete DAHP EZ-1 Form or Ecology Historic and Cultural Resource Project Review Form; Submit supplemental cultural resources documentation if available. Upload to EAGL and notify ECOLOGY when upload is complete. Cultural Resource surveys should be submitted directly to the ECOLOGY Project Manager and should not be uploaded to the EAGL system.	
2.3	Inadvertent Discovery Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.4	Design Report. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of Design Report to ECOLOGY Engineer.	
2.5	Responses to ECOLOGY Design Report Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.6	Ecology Design Report Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.7	90 percent Design Plans, Bid Specifications, and Engineer's Estimate. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of 90 percent Design Plans, Bid Specifications, and Engineer's Estimate to ECOLOGY Engineer.	
2.8	Responses to ECOLOGY 90 percent Design Plan Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.9	Ecology 90 percent Design Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 3 Task Cost: \$205,000.00

Task Title: Construction Management

Task Description:

- A. The RECIPIENT will provide construction oversight and management of the project.
- B. The RECIPIENT will submit a detailed construction quality assurance plan to ECOLOGY before the start of construction. This plan must describe how adequate and competent construction oversight will be performed.
- C. The RECIPIENT will conduct a pre-construction conference meeting and invite ECOLOGY to attend.
- D. The RECIPIENT will submit an updated project schedule with projected cash flow to ECOLOGY within 30 days of the start of construction. The project schedule will be revised and/or updated whenever major changes occur and at a minimum of every three months. The RECIPIENT will submit the updated schedule to ECOLOGY with the quarterly report. When changes in the construction schedule affect previous cash flow estimates, revised cash flow projections must also be submitted to ECOLOGY.
- E. Prior to execution, the RECIPIENT will submit any eligible change orders that are a significant deviation from ECOLOGY-accepted plans and specifications in writing for ECOLOGY review and acceptance for payment. Ecology must review and accept all change orders that impact grant eligible activities prior to implementation. All other change orders must be reviewed by ECOLOGY for technical merit and should be submitted within 30 days after execution. Change orders are to be signed by the contractor, the engineer (if appropriate), and the RECIPIENT prior to submittal to ECOLOGY for acceptance.
- F. The RECIPIENT will operate and maintain the constructed facility for the design life of the facility. Additionally, the RECIPIENT will develop and submit an operations and maintenance plan for all stormwater treatment, flow control, and low impact development (LID) features. The operation and maintenance plan will describe how the RECIPIENT will ensure project success consistent with the design manual used. The operation and maintenance plan must also address long-term activities to assure ongoing pollutant removal and flow-control capability of the project in accordance with the design manual.
- G. Upon completion of construction, the RECIPIENT will provide to ECOLOGY:
1. A Stormwater Construction Completion Form signed by a professional engineer indicating that the project was completed in accordance with the plans and specifications and major change orders approved by ECOLOGY's Project Engineer and shown on the Record Drawings. The Stormwater Construction Completion Form can be found at: <http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/FY11SWConstCompForm082415.doc>
 2. GIS compatible project area data in an ECOLOGY-approved format.

Task Goal Statement:

The RECIPIENT will oversee and manage construction, communicate with ECOLOGY in a timely fashion, and provide ECOLOGY with all requested project documentation.

Task Expected Outcome:

Project will be constructed on schedule and in accordance with accepted plans.

Recipient Task Coordinator: Mark Papich

Construction Management

Deliverables

Number	Description	Due Date
3.1	Construction Quality Assurance Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.2	Pre-construction conference meeting minutes. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.3	Project Schedule. Upload to EAGL using naming convention D3.3 SCHEDULE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.4	Revised Cash Flow Estimates when changes in construction schedule occur. Upload to EAGL using naming convention D3.4 CASHFLOW MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.5	Change Order(s). Upload to EAGL and notify ECOLOGY when upload is complete.	
3.6	Copy of Facility Operation and Maintenance Plan. Upload to EAGL using naming convention D3.6 OPANDMAINTENANCE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.7	Stormwater Construction Completion Form. Upload to EAGL using naming convention D3.7 SWCONSTRUCTIONCOMPLETIONFORM and notify ECOLOGY when upload is complete.	
3.8	Project Area Shapefile or ECOLOGY-Approved Equivalent. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 4

Task Cost: \$1,460,000.00

Task Title: Construction

Task Description:

A. The RECIPIENT will, in accordance with ECOLOGY accepted plans and specifications, complete construction of the project. The construction project will include installation of permeable pavement, bioretention swales, trees and drywells to mitigate runoff from 10 acres of pollution generating impervious surfaces.

B. Calculate and submit an equivalent new/re-development area for the completed retrofit project(s) using the methods outlined in Appendix N of the funding guidelines for State Fiscal Year 2016 Combined Water Quality Financial Assistance Program or other ECOLOGY-approved method.

Task Goal Statement:

Project will be constructed in accordance with ECOLOGY-accepted plans and specifications.

Task Expected Outcome:

Constructed project will provide water quality benefits including reductions in Total Suspended Solids, Dissolved Copper and Dissolved Zinc.

Recipient Task Coordinator: Mark Papich

Construction

Deliverables

Number	Description	Due Date
4.1	Copy of the contract documents (e.g. bid announcement, bid award and bid tabulations). Upload to EAGL and notify ECOLOGY when upload is complete.	
4.2	Copy of signed and dated construction contract. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.3	Construction progress reports and photos included in quarterly reports.	
4.4	Completed equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY when upload is complete.	

Agreement No: WQC-2016-Spokane-00016
Project Title: Sharp Avenue Stormwater Improvement Project
Recipient Name: City of Spokane

BUDGET

Funding Distribution EG160203

Funding Title: Stormwater Financial Assistance Program (SFAP)
Funding Type: Grant Funding Expiration Date: 12/31/2018
Funding Effective Date: 07/01/2015
Funding Source:

Title: SFAP - SFY16

Type: State

CFDA:

Assistance Agreement:

Description: Environmental Legacy Stewardship Account (ELSA) - State

Recipient Match %: 25
InKind Interlocal Allowed: No
InKind Other Allowed: No
Is this Funding Distribution used to match a federal grant? No

Stormwater Financial Assistance Program (SFAP)	Task Total
Project Administration/Management	\$ 15,000.00
Design Plans and Specs, Environmental Review	\$ 0.00
Construction Management	\$ 205,000.00
Construction	\$ 1,460,000.00

Total: \$ 1,680,000.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Stormwater Financial Assistance Program (SFAP)	25.00 %	\$ 420,000.00	\$ 1,260,000.00	\$ 1,680,000.00
Total		\$ 420,000.00	\$ 1,260,000.00	\$ 1,680,000.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount.

“Equivalency” means projects designated by ECOLOGY to meet additional federal requirements.

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

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

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount.

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

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

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

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

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

“Initiation of Operation Date” means the actual date the Water Pollution Control Facility financed with proceeds of the loan begins to operate for its intended purpose.

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

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

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

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

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

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

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

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

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

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed.

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

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

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

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

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

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

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

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

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been

determined to be eligible for ECOLOGY grant or loan funding.

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

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

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

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

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

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference.

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

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

C. Cultural and Historic Resources Protection Compliance with Environmental Laws and Regulations. The RECIPIENT shall:

- 1) The RECIPIENT shall comply with all applicable federal, state and local environmental laws, statutes, regulations, executive orders, and permits.
- 2) The RECIPIENT shall comply with Ecology’s Archaeological Resource and Historic Property review process. The RECIPIENT agrees that in no case shall construction activities, ground disturbance, or excavation of any kind, begin until provisions of this process are complied with. The RECIPIENT is responsible for developing a complete Inadvertent Discovery Plan (IDP). The IDP must be immediately available by request by any party. An IDP must be immediately available and be implemented to address any discovery. The RECIPIENT will implement the procedures in the IDP, and immediately notify ECOLOGY, the Department of Archeology and Historic Preservation (DAHP), and tribal representatives if human remains, cultural, or archeological resources are discovered in the course of construction. For more details regarding requirements under this provision, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY’s Water Quality Program funding website.

D. Electronic Fund Transfers: The RECIPIENT must register as a statewide vendor in order to receive payment reimbursement. Washington State’s Department of Enterprise Services (DES) issues all payments. DES maintains a central vendor file for Washington State agency use to process vendor payments. The RECIPIENT can complete the

registration process online at <http://des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. This registration process also allows The RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If The RECIPIENT have questions about the vendor registration process or setting up direct deposit payments contact DES at the Payee Help Desk at (360) 664-7779 or payeehelpdesk@des.wa.gov.

E. Equipment Purchase: Equipment not included in the scope of work or a construction plan and specification approval must be pre-approved by ECOLOGY's project manager before purchase.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3 for Section 319 funded projects or 7 for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

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

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

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

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

K. Project Status Evaluation: ECOLOGY may evaluate the status of this project 18 months from the effective date of this agreement. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

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

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

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

1. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.
2. Clean Water Act Section 319 Initial Data Reporting Sheet or the "Section 319 Initial Data Reporting" form in EAGL.

A. Disadvantaged Business Enterprise (DBE):

GENERAL COMPLIANCE, 40 CFR, Part 33 - The RECIPIENT agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D - A RECIPIENT must negotiate with the appropriate EPA award official or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

Current Fair Share Objective/Goal - The dollar amount of this assistance agreement is over \$250,000; or the total dollar amount of all of the RECIPIENT's non-TAG assistance agreements from EPA in the current fiscal year is over \$250,000. The Washington State Department of Ecology has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

MBE: SUPPLIES 8.00%; SERVICES 10.00%; EQUIPMENT 8.00%; CONSTRUCTION 10.00%
WBE: SUPPLIES 4.00%; SERVICES 4.00%; EQUIPMENT 4.00%; CONSTRUCTION 6.00%

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404 - If the RECIPIENT has not yet negotiated its MBE/WBE fair share objectives/goals, the RECIPIENT agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The RECIPIENT agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA shall respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C - Pursuant to 40 CFR, Section 33.301, the RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State, Local and Government recipients, this shall include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For

Indian Tribal, State and Local Government recipients, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

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

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement:

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

C. Data Reporting: The RECIPIENT must complete and submit the "Clean Water Act Section 319 Initial Data Reporting Sheet" to ECOLOGY's Financial Manager with the signed agreement. The form is available in EAGL.

D. Load Reduction Reporting: The RECIPIENT shall complete and submit a "Clean Water Act Section 319 Load Reductions Reporting Form" to ECOLOGY's Financial Manager by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has submitted the completed form to the Financial Manager. This form is used to gather information on pollutant load reduction for each best management practice (BMP) installed as a part of this project. The form is available in EAGL.

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

SECTION 6: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

A. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal

year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at: <https://harvester.census.gov/fac/collect/ddeindex.html>. For complete information on how to accomplish the single audit submissions, go to the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>.

B. Archaeological Resources and Historic Properties (Section 106): See Section 2.C of the terms and conditions of this agreement, the RECIPIENT shall comply with the additional requirements under section 106 of the National Historic Preservation Act (NHPA, 36 CFR 800)

C. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that the organization's information in the System for Award Management (SAM), <https://www.sam.gov>, is kept current through project closeout. This requires that the RECIPIENT reviews and updates the information at least annually after the initial registration, and more frequently if information changes.

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

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

F. Payment to Consultants: The RECIPIENT shall ensure that loan funds provided under this agreement to reimburse for costs incurred by individual consultants (excluding overhead) is limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed. Contracts for services awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the RECIPIENT with responsibility for the selection, direction, and control of the individuals who shall be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.36(j) for additional information.

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

SECTION 7: THE FOLLOWING CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

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

ECOLOGY:

1. Opinion of RECIPIENT's Legal Council
2. Authorizing Ordinance or Resolution
3. Federal Funding Accountability and Transparency Act (FFATA) Form
4. CWSRF Federal Reporting Information form available in EAGL.
5. Fiscal Sustainability Plan Certification (only required if the project includes construction of a wastewater or stormwater facility construction.)

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

B. American Iron and Steel (Buy American): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a "treatment works" as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

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

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

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

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

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

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

Fair Share Objective/Goals, 40 CFR, Part 33, Subpart D. If the dollar amount of this 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 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 agreement. Records documenting compliance with the following six good faith efforts shall 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 shall 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 866-208-1064.

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 shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.

4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.

5) 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 are available on ECOLOGY's Water Quality Program funding 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 ECOLOGY'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 shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

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

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

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

F. Free Service: The RECIPIENT shall not furnish utility service to any customer free of charge if providing that free service affects the RECIPIENT's ability to meet the obligations of this agreement.

G. Insurance: The RECIPIENT shall 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 shall self-insure or

participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

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

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

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a 365 day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments semiannually over the term of this loan "Loan Term" as outlined in this agreement.

I. 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 shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all of the covenants, agreements, and attachments contained herein.

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

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

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

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

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

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

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

(i) The Loan Amount with interest

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

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

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

Method and Conditions on Repayments

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

Thereafter, equal payments shall be due every six months.

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

Payments shall be mailed to:

Department of Ecology
Cashiering Unit
P.O. Box 47611
Olympia WA 98504-7611

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

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

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

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

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

balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

J. Loan Security

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

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

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

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

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 shall 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 (1) to make, in part or in full, the final repayment to ECOLOGY of the loan amount or, (2) if not so applied, for any other lawful purpose of the RECIPIENT once the Loan Amount, plus interest and any other amounts owing to ECOLOGY, have been paid in full.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the loan Fund and used to pay the principal of and interest on the loan. The ULID Assessments in the ULID may be deposited into the Reserve Account to satisfy a Reserve Requirement if a Reserve Requirement is applicable.

K. Maintenance and Operation of a Funded Utility: The RECIPIENT shall at all times maintain and keep a funded Utility in good repair, working order and condition and also shall at all times operate the Utility and the business in an efficient manner and at a reasonable cost.

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

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

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

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

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

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

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

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT which has not been disclosed in writing to ECOLOGY.

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

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

P. 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:

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; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the Utility from the portion of the Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the DEPARTMENT.

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

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

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater.
- 3) Require that new sewers and connections be properly designed and constructed.
- 4) Require connections necessary to meet debt obligations associated with the planning and construction of this facility as well as the expected costs of operation and maintenance.

R. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient

ECOLOGY or RECIPIENT funds.

2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.

3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.

4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all of its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

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

Termination and Default Remedies

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GENERAL FEDERAL CONDITIONS

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

CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department for assistance in obtaining a copy of those regulations..
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled

"CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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

Federal Funding Accountability And Transparency Act (FFATA) Reporting Requirements:

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

Any RECIPIENT that meets each of the criteria below must also report compensation for its five top executives, using 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

ECOLOGY will not pay any invoice until it has received a completed and signed FFATA Data Collection Form. ECOLOGY is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsrs.gov <http://www.fsrs.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsrs.gov <http://www.fsrs.gov>.

GENERAL TERMS AND CONDITIONS

1. ADMINISTRATIVE REQUIREMENTS

a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition". <https://fortress.wa.gov/ecy/publications/SummaryPages/1401002.html>

b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.

c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.

d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

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

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological or cultural resources. Activities associated with archaeological and cultural resources are an eligible reimbursable cost subject to approval by ECOLOGY.

RECIPIENT shall:

- a) Immediately cease work and notify ECOLOGY if any archeological or cultural resources are found while conducting work under this Agreement.
- b) Immediately notify the Department of Archaeology and Historic Preservation at (360) 586-3064, in the event historical or cultural artifacts are discovered at a work site.
- c) Comply with Governor Executive Order 05-05, Archaeology and Cultural Resources, for any capital construction projects prior to the start of any work.
- d) Comply with RCW 27.53, Archaeological Sites and Resources, for any work performed under this Agreement, as applicable. National Historic Preservation Act (NHPA) may require the RECIPIENT to obtain a permit pursuant to Chapter 27.53 RCW prior to conducting on-site activity with the potential to impact cultural or historic properties.

4. ASSIGNMENT

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

5. COMMUNICATION

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

6. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible may require approval by ECOLOGY prior to purchase.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State Department of Enterprise Services' Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@des.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT should submit final requests for compensation within thirty (30) days after the expiration date of this Agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS

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

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

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

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

8. CONFLICT OF INTEREST

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

9. CONTRACTING FOR GOODS AND SERVICES

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

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

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

10. DISPUTES

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

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

review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

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

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

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

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

11. ENVIRONMENTAL STANDARDS

- a) RECIPIENTS who collect environmental-monitoring data must provide these data to ECOLOGY using the Environmental Information Management System (EIM). To satisfy this requirement these data must be successfully loaded into EIM, see instructions on the EIM website at: <http://www.ecy.wa.gov/eim>.
- b) RECIPIENTS are required to follow ECOLOGY's data standards when Geographic Information System (GIS) data are collected and processed. More information and requirements are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENTS shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.
- c) RECIPIENTS must prepare a Quality Assurance Project Plan (QAPP) when a project involves the collection of environmental measurement data. QAPP is to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating data. RECIPIENTS must follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030). ECOLOGY shall review and approve the QAPP prior to start of work. The size, cost, and complexity of the QAPP should be in proportion to the magnitude of the sampling effort.

12. GOVERNING LAW

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

13. INDEMNIFICATION

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

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

14. INDEPENDENT STATUS

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

15. KICKBACKS

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

16. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

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

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

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

17. ORDER OF PRECEDENCE

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

18. PRESENTATION AND PROMOTIONAL MATERIALS

RECIPIENT shall obtain ECOLOGY's approval for all communication materials or documents related to the fulfillment of this Agreement. Steps for approval:

- a) Provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution of any documents or materials compiled or produced.
- b) ECOLOGY reviews draft copy and reserves the right to require changes until satisfied.
- c) Provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets, such as a refrigerator magnet with a message as well as media announcements, and any other online communication products such as Web pages, blogs, and Twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT must provide a complete description including photographs, drawings, or printouts of the product that best represents the item.

RECIPIENT shall include time in their project timeline for ECOLOGY's review and approval process.

RECIPIENT shall acknowledge in the materials or documents that funding was provided by ECOLOGY.

19. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not

document timely use of funds.

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

20. PROPERTY RIGHTS

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

21. RECORDS, AUDITS, AND INSPECTIONS

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

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.

- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

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

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

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

22. RECOVERY OF FUNDS

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

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

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

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

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

23. SEVERABILITY

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

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

25. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or

any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

26. SUSTAINABLE PRACTICES

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

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

For more suggestions visit ECOLOGY's web page: Green Purchasing, <http://www.ecy.wa.gov/programs/swfa/epp>.

27. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

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

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

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

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

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

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

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

c) By Mutual Agreement

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

d) In Event of Termination

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

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

28. THIRD PARTY BENEFICIARY

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

29. WAIVER

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

Agreement No:
Project Title:
Recipient Name:

WQC-2016-Spokane-00028
Monroe/Lincoln Stormwater Project
City of Spokane

Page 1 of 40



DEPARTMENT OF
ECOLOGY
State of Washington

Agreement WQC-2016-Spokane-00028

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

City of Spokane

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

GENERAL INFORMATION

Project Title:	Monroe/Lincoln Stormwater Project
Total Cost:	\$999,000.00
Total Eligible Cost:	\$999,000.00
Ecology Share:	\$749,250.00
Recipient Share:	\$249,750.00
The Effective Date of this Agreement is:	07/01/2015
The Expiration Date of this Agreement is no later than	12/31/2018
Project Type:	Stormwater Facility

Project Short Description:

This project will improve water quality in the Spokane River through installation of infiltration basins and drywells along Monroe and Lincoln Streets in the City of Spokane. This project will provide treatment for Total Suspended Solids, Dissolved Copper, and Dissolved Zinc, and will also reduce flows to the Spokane River by increasing stormwater infiltration and providing stormwater detention.

Project Long Description:

Monroe and Lincoln Streets are major arterials that connect downtown Spokane to the South Hill area of Spokane and are a part of the Combined Sewer Overflow (CSO) Basin 24. CSO Basin 24 collects stormwater that discharges to the RECIPIENT's Riverside Park Water Reclamation Facility (RPWRF). During large or intense rain storms, or during rain on frozen ground events, the CSO Basin 24 overflows to the Spokane River from outfalls near Cedar Street and Water Street.

Green infrastructure will be used to manage stormwater by collecting stormwater runoff in a new pipe and conveying

it to a bioretention area located inside the Monroe Street eastbound on-ramp loop to Interstate 90. The bio-retention area will include an under drain system that will discharge treated stormwater to a series of drywells located downstream. The project will be constructed concurrently with a separate street project located in the area. This combined construction project will cause less disruption to the community.

Additional benefits of the project will be reduced maintenance of the existing on-ramp area with landscaping, increased visibility, and a more inviting entrance to the City.

The project is part of the RECIPIENT's ongoing commitment to the City of Spokane Integrated Clean Water Plan to remove untreated stormwater discharge to the Spokane River.

Overall Goal:

This project will help protect and restore water quality in Washington by reducing stormwater impacts from existing infrastructure and development.

Agreement No: WQC-2016-Spokane-00028
Project Title: Monroe/Lincoln Stormwater Project
Recipient Name: City of Spokane

RECIPIENT INFORMATION

Organization Name: City of Spokane

Federal Tax ID: 91-6001280
DUNS Number: 057531253

Mailing Address: 808 W. Spokane Falls Boulevard
Spokane, WA, 99201

Physical Address: 808 W. Spokane Falls Boulevard
Spokane, Washington, 99201-3343

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

Contacts

Project Manager	Mark Papich Senior Engineer 808 W Spokane Falls Blvd Spokane, Washington, 99201 Email: mpapich@spokanecity.org Phone: (509) 625-6310
Billing Contact	Kevan Brooks Accountant II 808 W Spokane Falls Blvd, Spokane, Washington, 99201 Email: kbrooks@spokanecity.org Phone: (509) 625-6045
Authorized Signatory	David A Condon Mayor 808 W Spokane Falls Blvd. Spokane, Washington, 99201 Email: mayor@spokanecity.org Phone: (509) 625-6250

Agreement No: WQC-2016-Spokane-00028
Project Title: Monroe/Lincoln Stormwater Project
Recipient Name: City of Spokane

ECOLOGY INFORMATION

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

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

Contacts

Project Manager	Cynthia Wall N. 4601 Monroe Spokane, Washington, 99205-1295 Email: cywa461@ecy.wa.gov Phone: (509) 329-3537
Financial Manager	Janel Bistrika P.O. Box 47600 Olympia, Washington, 98504-7600 Email: janel.bistrika@ecy.wa.gov Phone: (360) 407-6424
Technical Advisor	Douglas Howie Senior Stormwater Engineer P.O. Box 47600 Olympia, Washington, 98504-7600 Email: douglas.howie@ecy.wa.gov Phone: (360) 407-6444

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

RECIPIENT agrees to read, understand, and accept all information contained within this entire Agreement. Furthermore, RECIPIENT acknowledges that they have reviewed the terms and conditions of this Agreement, Scope of Work, attachments, all incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement.

IN WITNESS WHEREOF, the parties hereby sign this Agreement

**Washington State
Department of Ecology**

City of Spokane

Program Manager

Date

Heather Bartlett

Water Quality

David A Condon

Date

Mayor

SCOPE OF WORK

Task Number: 1 Task Cost: \$15,000.00

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and a recipient closeout report (including photos).

B. The RECIPIENT shall maintain documentation demonstrating compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

C. The RECIPIENT shall manage the project. Efforts include, but are not limited to: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

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

Task Expected Outcome:

* Timely and complete submittal of requests for reimbursement, quarterly progress reports, and RECIPIENT closeout report.

* Properly maintained project documentation

Recipient Task Coordinator: Mark Papich

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

SCOPE OF WORK

Task Number: 2 Task Cost: \$0.00

Task Title: Design Plans and Specs, Environmental Review

Task Description:

The RECIPIENT will ensure the following items are completed and provide the associated deliverables to ECOLOGY.

A. The RECIPIENT will coordinate the preparation and submittal of State Environmental Policy Act (SEPA) documentation.

B. The RECIPIENT is responsible for application of, receipt of, and compliance with all required local, state, tribal and federal permits, licenses, easements, or property rights necessary for the project.

C. The RECIPIENT will comply with Executive Order (05-05) cultural resources review requirements. To initiate cultural resources review the RECIPIENT will:

1. Submit a Department of Archaeology and Historic Preservation (DAHP) EZ-1 Form, Ecology Historic and Cultural Resource Project Review Form, or a cultural resources survey or assessment completed by a licensed archaeologist to ECOLOGY. All submitted materials must conform to the Washington State Standards for Cultural Resource Reporting (DAHP February 2014).

2. Develop and submit an Inadvertent Discovery Plan (IDP) to ECOLOGY. The RECIPIENT will ensure that all contractors and subcontractors have a copy of the completed IDP prior to and while working on-site. An IDP template may be found at:

<http://www.ecy.wa.gov/programs/wq/funding/FundPrgms/CWSRF/CWSRFres/TemplateInadvDiscPlan060915.doc>

Ground disturbing work (including geotechnical investigations) completed prior to receiving written notice to proceed from ECOLOGY shall not be eligible for reimbursement.

D. The RECIPIENT will develop a project design. Projects must be designed in accordance with the Stormwater Management Manual for Eastern Washington, Stormwater Management Manual for Western Washington, or equivalent manual. Project must be reviewed and accepted in writing by ECOLOGY to be eligible for reimbursement.

E. The RECIPIENT will submit one hard copy and one digital copy of the items listed below to ECOLOGY for review. Design figures must be reduced to 11x17 inches in size and must be legible.

1. Design Report. For a complete list of required design report elements refer to:
<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWDesignDeliv081315.pdf>

2. 90 percent Design Package. At a minimum, this package must include 90 percent plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

For current bid inserts refer to:

<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramBidInsert032515.pdf>

For the current bid specification clause refer to:

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Project Title: Monroe/Lincoln Stormwater Project
Recipient Name: City of Spokane

<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramSpecClauses052912.pdf>

F. The RECIPIENT agrees to respond to ECOLOGY comments prior to proceeding to 90 percent design and/or project advertisement/bid and construction. At its discretion, ECOLOGY may require the RECIPIENT to resubmit revised documents for further ECOLOGY review prior to accepting the project design.

G. All materials submitted to ECOLOGY for review must be approved by the RECIPIENT prior to submittal to ECOLOGY.

H. The RECIPIENT will submit to ECOLOGY a digital copy of the Final Bid Package including: project plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

Task Goal Statement:

The RECIPIENT will complete all design, environmental review, and permitting tasks and respond to ECOLOGY comments in a timely manner.

Task Expected Outcome:

The project will meet the requirements set forth by the State Environmental Policy Act, cultural resource protection requirements, ECOLOGY water quality facility design standards, and all other applicable federal, state, and local laws and regulations.

Recipient Task Coordinator: Mark Papich

Design Plans and Specs, Environmental Review

Deliverables

Number	Description	Due Date
2.1	Copy of SEPA determination documentation. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.10	List of permits acquired, and environmental review documents. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.11	Proposed Construction Schedule. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.12	Final Bid Package. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.2	Complete DAHP EZ-1 Form or Ecology Historic and Cultural Resource Project Review Form; Submit supplemental cultural resources documentation if available. Upload to EAGL and notify ECOLOGY when upload is complete. Cultural Resource surveys should be submitted directly to the ECOLOGY Project Manager and should not be uploaded to the EAGL system.	
2.3	Inadvertent Discovery Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.4	Design Report. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of Design Report to ECOLOGY Engineer.	
2.5	Responses to ECOLOGY Design Report Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.6	Ecology Design Report Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.7	90 percent Design Plans, Bid Specifications, and Engineer's Estimate. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of 90 percent Design Plans, Bid Specifications, and Engineer's Estimate to ECOLOGY Engineer.	
2.8	Responses to ECOLOGY 90 percent Design Plan Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.9	Ecology 90 percent Design Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 3 **Task Cost: \$128,000.00**

Task Title: Construction Management

Task Description:

- A. The RECIPIENT will provide construction oversight and management of the project.
- B. The RECIPIENT will submit a detailed construction quality assurance plan to ECOLOGY before the start of construction. This plan must describe how adequate and competent construction oversight will be performed.
- C. The REICPIENT will conduct a pre-construction conference meeting and invite ECOLOGY to attend.
- D. The RECIPIENT will submit an updated project schedule with projected cash flow to ECOLOGY within 30 days of the start of construction. The project schedule will be revised and/or updated whenever major changes occur and at a minimum of every three months. The RECIPIENT will submit the updated schedule to ECOLOGY with the quarterly report. When changes in the construction schedule affect previous cash flow estimates, revised cash flow projections must also be submitted to ECOLOGY.
- E. Prior to execution, the RECIPIENT will submit any eligible change orders that are a significant deviation from ECOLOGY reviewed plans and specifications in writing for ECOLOGY review and acceptance for payment. Ecology must review and accept all change orders that impact grant eligible activities prior to implementation. All other change orders must be reviewed by ECOLOGY for technical merit and should be submitted within 30 days after execution.
- F. The RECIPIENT will operate and maintain the constructed facility for the design life of the facility. Additionally, the RECIPIENT will develop and submit an operations and maintenance plan for all stormwater treatment, flow control, and low impact development (LID) features. The operation and maintenance plan will describe how the RECIPIENT will ensure project success consistent with the design manual used. The operation and maintenance plan must also address long-term activities to assure ongoing pollutant removal and flow-control capability of the project in accordance with the design manual.
- G. Upon completion of construction, the RECIPIENT will provide to ECOLOGY:
 1. A Stormwater Construction Completion Form signed by a professional engineer indicating that the project was completed in accordance with the plans and specifications and major change orders approved by ECOLOGY's Project Engineer and shown on the Record Drawings. The Stormwater Construction Completion Form can be found at: <http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/FY11SWConstCompForm082415.doc>
 2. GIS compatible project area data in an ECOLOGY-approved format.

Task Goal Statement:

The RECIPIENT will oversee and manage construction, communicate with ECOLOGY in a timely fashion, and provide ECOLOGY with all requested project documentation.

Task Expected Outcome:

Project will be constructed on schedule and in accordance with accepted plans.

Recipient Task Coordinator: Mark Papich

Construction Management

Deliverables

Number	Description	Due Date
3.1	Construction Quality Assurance Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.2	Project Schedule. Upload to EAGL using naming convention D3.2 SCHEDULE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.3	Revised Cash Flow Estimates when changes in construction schedule occur. Upload to EAGL using naming convention D3.3 CASHFLOW MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.4	Change Order(s). Upload to EAGL and notify ECOLOGY when upload is complete.	
3.5	Copy of Facility Operation and Maintenance Plan. Upload to EAGL using naming convention D3.5 OPANDMAINTENANCE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.6	Stormwater Construction Completion Form. Upload to EAGL using naming convention D3.6 SWCONSTRUCTIONCOMPLETIONFORM and notify ECOLOGY when upload is complete.	
3.7	Project Area Shapefile or ECOLOGY-Approved Equivalent. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.8	Pre-construction conference meeting minutes. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 4 Task Cost: \$856,000.00

Task Title: Construction

Task Description:

A. The RECIPIENT will, in accordance with ECOLOGY-accepted plans and specifications, complete construction of the project. The construction project will include installation of drywells and bioretention features to mitigate runoff from 6.5 acres of pollution generating impervious surfaces.

B. Calculate and submit an equivalent new/re-development area for the completed retrofit project(s) using the methods outlined in Appendix N of the funding guidelines for State Fiscal Year 2016 Combined Water Quality Financial Assistance Program or other ECOLOGY-approved method.

Task Goal Statement:

Project will be constructed in accordance with ECOLOGY-accepted plans and specifications.

Task Expected Outcome:

Constructed project will provide water quality benefits including reductions in Total Suspended Solids, Dissolved Copper and Dissolved Zinc.

Recipient Task Coordinator: Mark Papich

Construction

Deliverables

Number	Description	Due Date
4.1	Copy of the contract documents (e.g. bid announcement, bid award, and bid tabulations). Upload to EAGL and notify ECOLOGY when upload is complete.	
4.2	Copy of signed and dated construction contract. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.3	Construction progress reports and photos included in quarterly reports.	
4.4	Completed equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY when upload is complete.	

Agreement No: WQC-2016-Spokane-00028
Project Title: Monroe/Lincoln Stormwater Project
Recipient Name: City of Spokane

BUDGET

Funding Distribution EG160130

Funding Title: Stormwater Financial Assistance Program (SFAP)
Funding Type: Grant Funding Expiration Date: 12/31/2018
Funding Effective Date: 07/01/2015
Funding Source:

Title: SFAP - SFY16

Type: State

CFDA:

Assistance Agreement:

Description: Environmental Legacy Stewardship Account (ELSA) - State

Recipient Match %: 25

InKind Interlocal Allowed: No

InKind Other Allowed: No

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

Stormwater Financial Assistance Program (SFAP)	Task Total
Project Administration/Management	\$ 15,000.00
Design Plans and Specs, Environmental Review	\$ 0.00
Construction Management	\$ 128,000.00
Construction	\$ 856,000.00

Total: \$ 999,000.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Stormwater Financial Assistance Program (SFAP)	25.00 %	\$ 249,750.00	\$ 749,250.00	\$ 999,000.00
Total		\$ 249,750.00	\$ 749,250.00	\$ 999,000.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

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

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

“Administrative Requirements” means the effective edition of ECOLOGY’s ADMINISTRATIVE REQUIREMENTS FOR RECIPIENTS OF ECOLOGY GRANTS AND LOANS at the signing of this agreement.

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

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

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

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

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

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

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

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

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

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount.

“Equivalency” means projects designated by ECOLOGY to meet additional federal requirements.

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

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

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount.

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

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

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

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

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

“Initiation of Operation Date” means the actual date the Water Pollution Control Facility financed with proceeds of the loan begins to operate for its intended purpose.

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

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

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

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

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

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

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

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

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

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed.

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

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

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

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

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

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

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

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

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been

determined to be eligible for ECOLOGY grant or loan funding.

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

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

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

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

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

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference.

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

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

C. Cultural and Historic Resources Protection Compliance with Environmental Laws and Regulations. The RECIPIENT shall:

1) The RECIPIENT shall comply with all applicable federal, state and local environmental laws, statutes, regulations, executive orders, and permits.

2) The RECIPIENT shall comply with Ecology’s Archaeological Resource and Historic Property review process. The RECIPIENT agrees that in no case shall construction activities, ground disturbance, or excavation of any kind, begin until provisions of this process are complied with. The RECIPIENT is responsible for developing a complete Inadvertent Discovery Plan (IDP). The IDP must be immediately available by request by any party. An IDP must be immediately available and be implemented to address any discovery. The RECIPIENT will implement the procedures in the IDP, and immediately notify ECOLOGY, the Department of Archeology and Historic Preservation (DAHP), and tribal representatives if human remains, cultural, or archeological resources are discovered in the course of construction. For more details regarding requirements under this provision, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY’s Water Quality Program funding website.

D. Electronic Fund Transfers: The RECIPIENT must register as a statewide vendor in order to receive payment reimbursement. Washington State’s Department of Enterprise Services (DES) issues all payments. DES maintains a central vendor file for Washington State agency use to process vendor payments. The RECIPIENT can complete the

registration process online at <http://des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. This registration process also allows The RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If The RECIPIENT have questions about the vendor registration process or setting up direct deposit payments contact DES at the Payee Help Desk at (360) 664-7779 or payeehelpdesk@des.wa.gov.

E. Equipment Purchase: Equipment not included in the scope of work or a construction plan and specification approval must be pre-approved by ECOLOGY's project manager before purchase.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3 for Section 319 funded projects or 7 for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

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

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

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

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

K. Project Status Evaluation: ECOLOGY may evaluate the status of this project 18 months from the effective date of this agreement. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

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

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

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

1. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.
2. Clean Water Act Section 319 Initial Data Reporting Sheet or the "Section 319 Initial Data Reporting" form in EAGL.

A. Disadvantaged Business Enterprise (DBE):

GENERAL COMPLIANCE, 40 CFR, Part 33 - The RECIPIENT agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D - A RECIPIENT must negotiate with the appropriate EPA award official or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

Current Fair Share Objective/Goal - The dollar amount of this assistance agreement is over \$250,000; or the total dollar amount of all of the RECIPIENT's non-TAG assistance agreements from EPA in the current fiscal year is over \$250,000. The Washington State Department of Ecology has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

MBE: SUPPLIES 8.00%; SERVICES 10.00%; EQUIPMENT 8.00%; CONSTRUCTION 10.00%
WBE: SUPPLIES 4.00%; SERVICES 4.00%; EQUIPMENT 4.00%; CONSTRUCTION 6.00%

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404 - If the RECIPIENT has not yet negotiated its MBE/WBE fair share objectives/goals, the RECIPIENT agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The RECIPIENT agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA shall respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C - Pursuant to 40 CFR, Section 33.301, the RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State, Local and Government recipients, this shall include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For

Indian Tribal, State and Local Government recipients, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

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

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement:

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

C. Data Reporting: The RECIPIENT must complete and submit the "Clean Water Act Section 319 Initial Data Reporting Sheet" to ECOLOGY's Financial Manager with the signed agreement. The form is available in EAGL.

D. Load Reduction Reporting: The RECIPIENT shall complete and submit a "Clean Water Act Section 319 Load Reductions Reporting Form" to ECOLOGY's Financial Manager by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has submitted the completed form to the Financial Manager. This form is used to gather information on pollutant load reduction for each best management practice (BMP) installed as a part of this project. The form is available in EAGL.

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

SECTION 6: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

A. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal

year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at: <https://harvester.census.gov/fac/collect/ddeindex.html>. For complete information on how to accomplish the single audit submissions, go to the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>.

B. Archaeological Resources and Historic Properties (Section 106): See Section 2.C of the terms and conditions of this agreement, the RECIPIENT shall comply with the additional requirements under section 106 of the National Historic Preservation Act (NHPA, 36 CFR 800)

C. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that the organization's information in the System for Award Management (SAM), <https://www.sam.gov>, is kept current through project closeout. This requires that the RECIPIENT reviews and updates the information at least annually after the initial registration, and more frequently if information changes.

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

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

F. Payment to Consultants: The RECIPIENT shall ensure that loan funds provided under this agreement to reimburse for costs incurred by individual consultants (excluding overhead) is limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed. Contracts for services awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the RECIPIENT with responsibility for the selection, direction, and control of the individuals who shall be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.36(j) for additional information.

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

SECTION 7: THE FOLLOWING CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

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

ECOLOGY:

1. Opinion of RECIPIENT's Legal Council
2. Authorizing Ordinance or Resolution
3. Federal Funding Accountability and Transparency Act (FFATA) Form
4. CWSRF Federal Reporting Information form available in EAGL.
5. Fiscal Sustainability Plan Certification (only required if the project includes construction of a wastewater or stormwater facility construction.)

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

B. American Iron and Steel (Buy American): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a "treatment works" as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

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

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

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

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

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

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

Fair Share Objective/Goals, 40 CFR, Part 33, Subpart D. If the dollar amount of this 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 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 agreement. Records documenting compliance with the following six good faith efforts shall 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 shall 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 866-208-1064.

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 shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.

4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.

5) 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 are available on ECOLOGY's Water Quality Program funding 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 ECOLOGY'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 shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

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

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

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

F. Free Service: The RECIPIENT shall not furnish utility service to any customer free of charge if providing that free service affects the RECIPIENT's ability to meet the obligations of this agreement.

G. Insurance: The RECIPIENT shall 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 shall self-insure or

participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

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

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

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a 365 day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments semiannually over the term of this loan "Loan Term" as outlined in this agreement.

I. 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 shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all of the covenants, agreements, and attachments contained herein.

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

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

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

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

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

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

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

(i) The Loan Amount with interest

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

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

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

Method and Conditions on Repayments

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

Thereafter, equal payments shall be due every six months.

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

Payments shall be mailed to:

Department of Ecology
Cashiering Unit
P.O. Box 47611
Olympia WA 98504-7611

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

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

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

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

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

balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

J. Loan Security

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

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

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

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

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 shall 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 (1) to make, in part or in full, the final repayment to ECOLOGY of the loan amount or, (2) if not so applied, for any other lawful purpose of the RECIPIENT once the Loan Amount, plus interest and any other amounts owing to ECOLOGY, have been paid in full.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the loan Fund and used to pay the principal of and interest on the loan. The ULID Assessments in the ULID may be deposited into the Reserve Account to satisfy a Reserve Requirement if a Reserve Requirement is applicable.

K. Maintenance and Operation of a Funded Utility: The RECIPIENT shall at all times maintain and keep a funded Utility in good repair, working order and condition and also shall at all times operate the Utility and the business in an efficient manner and at a reasonable cost.

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

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

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

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

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

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

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

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT which has not been disclosed in writing to ECOLOGY.

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

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

P. 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:

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; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the Utility from the portion of the Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the DEPARTMENT.

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

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

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater.
- 3) Require that new sewers and connections be properly designed and constructed.
- 4) Require connections necessary to meet debt obligations associated with the planning and construction of this facility as well as the expected costs of operation and maintenance.

R. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient

ECOLOGY or RECIPIENT funds.

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

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

Termination and Default Remedies

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GENERAL FEDERAL CONDITIONS

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

CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department for assistance in obtaining a copy of those regulations..
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled

“CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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

Federal Funding Accountability And Transparency Act (FFATA) Reporting Requirements:

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

Any RECIPIENT that meets each of the criteria below must also report compensation for its five top executives, using 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

ECOLOGY will not pay any invoice until it has received a completed and signed FFATA Data Collection Form. ECOLOGY is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.frs.gov <http://www.frs.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.frs.gov <http://www.frs.gov>.

GENERAL TERMS AND CONDITIONS

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition". <https://fortress.wa.gov/ecy/publications/SummaryPages/1401002.html>
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

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

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological or cultural resources. Activities associated with archaeological and cultural resources are an eligible reimbursable cost subject to approval by ECOLOGY.

RECIPIENT shall:

- a) Immediately cease work and notify ECOLOGY if any archeological or cultural resources are found while conducting work under this Agreement.
- b) Immediately notify the Department of Archaeology and Historic Preservation at (360) 586-3064, in the event historical or cultural artifacts are discovered at a work site.
- c) Comply with Governor Executive Order 05-05, Archaeology and Cultural Resources, for any capital construction projects prior to the start of any work.
- d) Comply with RCW 27.53, Archaeological Sites and Resources, for any work performed under this Agreement, as applicable. National Historic Preservation Act (NHPA) may require the RECIPIENT to obtain a permit pursuant to Chapter 27.53 RCW prior to conducting on-site activity with the potential to impact cultural or historic properties.

4. ASSIGNMENT

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

5. COMMUNICATION

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

6. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible may require approval by ECOLOGY prior to purchase.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State Department of Enterprise Services' Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@des.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT should submit final requests for compensation within thirty (30) days after the expiration date of this Agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS

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

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

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

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

8. CONFLICT OF INTEREST

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

9. CONTRACTING FOR GOODS AND SERVICES

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

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

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

10. DISPUTES

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

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

review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

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

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

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

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

11. ENVIRONMENTAL STANDARDS

- a) RECIPIENTS who collect environmental-monitoring data must provide these data to ECOLOGY using the Environmental Information Management System (EIM). To satisfy this requirement these data must be successfully loaded into EIM, see instructions on the EIM website at: <http://www.ecy.wa.gov/eim>.
- b) RECIPIENTS are required to follow ECOLOGY's data standards when Geographic Information System (GIS) data are collected and processed. More information and requirements are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENTS shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.
- c) RECIPIENTS must prepare a Quality Assurance Project Plan (QAPP) when a project involves the collection of environmental measurement data. QAPP is to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating data. RECIPIENTS must follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030). ECOLOGY shall review and approve the QAPP prior to start of work. The size, cost, and complexity of the QAPP should be in proportion to the magnitude of the sampling effort.

12. GOVERNING LAW

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

13. INDEMNIFICATION

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

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

14. INDEPENDENT STATUS

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

15. KICKBACKS

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

16. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

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

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

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

17. ORDER OF PRECEDENCE

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

18. PRESENTATION AND PROMOTIONAL MATERIALS

RECIPIENT shall obtain ECOLOGY's approval for all communication materials or documents related to the fulfillment of this Agreement. Steps for approval:

- a) Provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution of any documents or materials compiled or produced.
- b) ECOLOGY reviews draft copy and reserves the right to require changes until satisfied.
- c) Provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets, such as a refrigerator magnet with a message as well as media announcements, and any other online communication products such as Web pages, blogs, and Twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT must provide a complete description including photographs, drawings, or printouts of the product that best represents the item.

RECIPIENT shall include time in their project timeline for ECOLOGY's review and approval process.

RECIPIENT shall acknowledge in the materials or documents that funding was provided by ECOLOGY.

19. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not

document timely use of funds.

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

20. PROPERTY RIGHTS

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

21. RECORDS, AUDITS, AND INSPECTIONS

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

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.

- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

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

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

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

22. RECOVERY OF FUNDS

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

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

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

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

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

23. SEVERABILITY

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

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

25. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or

any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

26. SUSTAINABLE PRACTICES

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

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

For more suggestions visit ECOLOGY's web page: Green Purchasing, <http://www.ecy.wa.gov/programs/swfa/epp>.

27. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

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

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

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

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

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

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

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

c) By Mutual Agreement

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

d) In Event of Termination

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

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

28. THIRD PARTY BENEFICIARY

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

29. WAIVER

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



DEPARTMENT OF
ECOLOGY
State of Washington

Agreement WQC-2016-Spokane-00030

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

City of Spokane

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

GENERAL INFORMATION

Project Title:	Trent Avenue Stormwater Retrofit
Total Cost:	\$253,000.00
Total Eligible Cost:	\$253,000.00
Ecology Share:	\$189,750.00
Recipient Share:	\$63,250.00
The Effective Date of this Agreement is:	07/01/2015
The Expiration Date of this Agreement is no later than	12/31/2018
Project Type:	Stormwater Facility

Project Short Description:

This project will improve water quality in the Spokane River through elimination of MS4 storm sewer systems along Trent Avenue and addition of bioinfiltration swales to capture and treat stormwater. This project will provide treatment for Total Suspended Solids (TSS), Dissolved Copper and Dissolved Zinc, and will also reduce flows to the Spokane River by increasing stormwater infiltration.

Project Long Description:

Trent Avenue is a state highway that is maintained by the RECIPIENT. Currently there are very few, ineffective stormwater inlets, and stormwater either ponds and infiltrates in low points adjacent to the road, or drains to the existing MS4 system. Because Trent Avenue is an arterial road that produces a higher level of pollution, more treatment is required before subsurface or surface discharge.

There are approximately 3.3 acres of impervious surface along Trent Avenue and Langley Avenue. Bioinfiltration swales will be installed along Trent Avenue and Langley Avenue within the RECIPIENT's right-of-way to capture

Agreement No: WQC-2016-Spokane-00030
Project Title: Trent Avenue Stormwater Retrofit
Recipient Name: City of Spokane

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and treat the stormwater.

Overall Goal:

This project will improve water quality in Washington by reducing stormwater impacts from existing infrastructure and development.

Agreement No: WQC-2016-Spokane-00030
Project Title: Trent Avenue Stormwater Retrofit
Recipient Name: City of Spokane

RECIPIENT INFORMATION

Organization Name: City of Spokane

Federal Tax ID: 91-6001280

DUNS Number: 057531253

Mailing Address: 808 W. Spokane Falls Boulevard
Spokane, WA, 99201

Physical Address: 808 W. Spokane Falls Boulevard
Spokane, Washington, 99201-3343

Organization Email: mdavis@spokanecity.org

Organization Fax: (509) 343-5760

Contacts

Project Manager	Marcia Davis Principal Engineer 808 W. Spokane Falls Blvd Spokane, Washington, 99201-3343 Email: mdavis@spokanecity.org Phone: (509) 625-6398
Billing Contact	Kevan Brooks Accountant II 808 W Spokane Falls Blvd, Spokane, Washington, 99201 Email: kbrooks@spokanecity.org Phone: (509) 625-6045
Authorized Signatory	David A Condon Mayor 808 W Spokane Falls Blvd. Spokane, Washington, 99201 Email: mayor@spokanecity.org Phone: (509) 625-6250

ECOLOGY INFORMATION

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

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

Contacts

Project Manager	Cynthia Wall N. 4601 Monroe Spokane, Washington, 99205-1295 Email: cywa461@ecy.wa.gov Phone: (509) 329-3537
Financial Manager	Janel Bistrika P.O. Box 47600 Olympia, Washington, 98504-7600 Email: janel.bistrika@ecy.wa.gov Phone: (360) 407-6424
Technical Advisor	Douglas Howie Senior Stormwater Engineer P.O. Box 47600 Olympia, Washington, 98504-7600 Email: douglas.howie@ecy.wa.gov Phone: (360) 407-6444

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

RECIPIENT agrees to read, understand, and accept all information contained within this entire Agreement. Furthermore, RECIPIENT acknowledges that they have reviewed the terms and conditions of this Agreement, Scope of Work, attachments, all incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement.

IN WITNESS WHEREOF, the parties hereby sign this Agreement

**Washington State
Department of Ecology**

City of Spokane

Program Manager

Date

Heather Bartlett

Water Quality

David A Condon

Date

Mayor

SCOPE OF WORK

Task Number: 1 **Task Cost: \$15,000.00**

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and a recipient closeout report (including photos).

B. The RECIPIENT shall maintain documentation demonstrating compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

C. The RECIPIENT shall manage the project. Efforts include, but are not limited to: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

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

Task Expected Outcome:

* Timely and complete submittal of requests for reimbursement, quarterly progress reports, and RECIPIENT closeout report.

* Properly maintained project documentation

Recipient Task Coordinator: Mark Papich

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

SCOPE OF WORK

Task Number: 2 Task Cost: \$19,000.00

Task Title: Design Plans and Specs, Environmental Review

Task Description:

The RECIPIENT will ensure the following items are completed and provide the associated deliverables to ECOLOGY.

- A. The RECIPIENT will coordinate the preparation and submittal of State Environmental Policy Act (SEPA) documentation.
- B. The RECIPIENT is responsible for application of, receipt of, and compliance with all required local, state, tribal and federal permits, licenses, easements, or property rights necessary for the project.
- C. The RECIPIENT will comply with Executive Order (05-05) cultural resources review requirements. To initiate cultural resources review the RECIPIENT will:
1. Submit a Department of Archaeology and Historic Preservation (DAHP) EZ-1 Form, Ecology Historic and Cultural Resource Project Review Form, or a cultural resources survey or assessment completed by a licensed archaeologist to ECOLOGY. All submitted materials must conform to the Washington State Standards for Cultural Resource Reporting (DAHP February 2014).
 2. Develop and submit an Inadvertent Discovery Plan (IDP) to ECOLOGY. The RECIPIENT will ensure that all contractors and subcontractors have a copy of the completed IDP prior to and while working on-site. An IDP template may be found at:
<http://www.ecy.wa.gov/programs/wq/funding/FundPrgms/CWSRF/CWSRFres/TemplateInadvDiscPlan060915.doc>
- Ground disturbing work (including geotechnical investigations) completed prior to receiving written notice to proceed from ECOLOGY shall not be eligible for reimbursement.
- D. The RECIPIENT will develop a project design. Projects must be designed in accordance with the Stormwater Management Manual for Eastern Washington, Stormwater Management Manual for Western Washington, or equivalent manual. Project must be reviewed and accepted in writing by ECOLOGY to be eligible for reimbursement.
- E. The RECIPIENT will submit one hard copy and one digital copy of the items listed below to ECOLOGY for acceptance. Design figures must be reduced to 11x17 inches in size and must be legible.
1. Design Report. For a complete list of required design report elements refer to:
<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWDesignDeliv081315.pdf>
 2. 90 Percent Design Package. At a minimum, this package must include 90 percent plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

For current bid inserts refer to:

<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramBidInsert032515.pdf>

For the current bid specification clause refer to:

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<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramSpecClauses052912.pdf>

F. The RECIPIENT agrees to respond to ECOLOGY comments prior to proceeding to 90 percent design and/or project advertisement/bid and construction. At its discretion, ECOLOGY may require the RECIPIENT to resubmit revised documents for further ECOLOGY review prior to accepting the project design.

G. All materials submitted to ECOLOGY for acceptance must be approved by the RECIPIENT prior to submittal to ECOLOGY.

H. The RECIPIENT will submit to ECOLOGY a digital copy of the Final Bid Package including: project plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

Task Goal Statement:

The RECIPIENT will complete all design, environmental review and permitting tasks and respond to ECOLOGY comments in a timely manner.

Task Expected Outcome:

The project will meet the requirements set forth by the State Environmental Policy Act, cultural resource protection requirements, ECOLOGY water quality facility design standards, and all other applicable federal, state and local laws and regulations.

Recipient Task Coordinator: Mark Papich

Design Plans and Specs, Environmental Review

Deliverables

Number	Description	Due Date
2.1	Copy of SEPA determination documentation. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.10	List of permits acquired, and environmental review documents. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.11	Proposed Construction Schedule. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.12	Final Bid Package. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.2	Complete DAHP EZ-1 Form or Ecology Historic and Cultural Resource Project Review Form; Submit supplemental cultural resources documentation if available. Upload to EAGL and notify ECOLOGY when upload is complete. Cultural Resource surveys should be submitted directly to the ECOLOGY Project Manager and should not be uploaded to the EAGL system.	
2.3	Inadvertent Discovery Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.4	Design Report. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of Design Report to ECOLOGY Engineer.	
2.5	Responses to ECOLOGY Design Report Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.6	Ecology Design Report Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.7	90 percent Design Plans, Bid Specifications, and Engineer's Estimate. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of 90 percent Design Plans, Bid Specifications, and Engineer's Estimate to ECOLOGY Engineer.	
2.8	Responses to ECOLOGY 90 percent Design Plan Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.9	Ecology 90 percent Design Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 3 Task Cost: \$29,000.00

Task Title: Construction Management

Task Description:

- A. The RECIPIENT will provide construction oversight and management of the project.
- B. The RECIPIENT will submit a detailed construction quality assurance plan to ECOLOGY before the start of construction. This plan must describe how adequate and competent construction oversight will be performed.
- C. The RECIPIENT will conduct a pre-construction conference meeting and invite ECOLOGY to attend.
- D. The RECIPIENT will submit an updated project schedule with projected cash flow to ECOLOGY within 30 days of the start of construction. The project schedule will be revised and/or updated whenever major changes occur and at a minimum of every three months. The RECIPIENT will submit the updated schedule to ECOLOGY with the quarterly report. When changes in the construction schedule affect previous cash flow estimates, revised cash flow projections must also be submitted to ECOLOGY.
- E. Prior to execution, the RECIPIENT will submit any eligible change orders that are a significant deviation from ECOLOGY-accepted plans and specifications in writing for ECOLOGY review and acceptance for payment. Ecology must review and accept all change orders that impact grant eligible activities prior to implementation. All other change orders must be reviewed by ECOLOGY for technical merit and should be submitted within 30 days after execution. Change orders are to be signed by the contractor, the engineer (if appropriate), and the RECIPIENT prior to submittal to ECOLOGY for acceptance.
- F. The RECIPIENT will operate and maintain the constructed facility for the design life of the facility. Additionally, the RECIPIENT will develop and submit an operations and maintenance plan for all stormwater treatment, flow control, and low impact development (LID) features. The operation and maintenance plan will describe how the RECIPIENT will ensure project success consistent with the design manual used. The operation and maintenance plan must also address long-term activities to assure ongoing pollutant removal and flow-control capability of the project in accordance with the design manual.
- G. Upon completion of construction, the RECIPIENT will provide to ECOLOGY:
1. A Stormwater Construction Completion Form signed by a professional engineer indicating that the project was completed in accordance with the plans and specifications and major change orders approved by ECOLOGY's Project Engineer and shown on the Record Drawings. The Stormwater Construction Completion Form can be found at: <http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/FY11SWConstCompForm082415.doc>

2. GIS compatible project area data in an ECOLOGY-approved format.

Task Goal Statement:

The RECIPIENT will oversee and manage construction, communicate with ECOLOGY in a timely fashion, and provide ECOLOGY with all requested project documentation.

Task Expected Outcome:

Project will be constructed on schedule and in accordance with accepted plans.

Recipient Task Coordinator: Mark Papich

Construction Management

Deliverables

Number	Description	Due Date
3.1	Construction Quality Assurance Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.2	Pre-construction conference meeting minutes. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.3	Project Schedule. Upload to EAGL using naming convention D3.3 SCHEDULE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.4	Revised Cash Flow Estimates when changes in construction schedule occur. Upload to EAGL using naming convention D3.4 CASHFLOW MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.5	Change Order(s). Upload to EAGL and notify ECOLOGY when upload is complete.	
3.6	Copy of Facility Operation and Maintenance Plan. Upload to EAGL using naming convention D3.6 OPANDMAINTENANCE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.7	Stormwater Construction Completion Form. Upload to EAGL using naming convention D3.7 SWCONSTRUCTIONCOMPLETIONFORM and notify ECOLOGY when upload is complete.	
3.8	Project Area Shapefile or ECOLOGY-Approved Equivalent. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 4 Task Cost: \$190,000.00

Task Title: Construction

Task Description:

A. The RECIPIENT will, in accordance with ECOLOGY-accepted plans and specifications, complete construction of the project. The construction project will include installation of bioinfiltration swales to mitigate runoff of 3.3 acres of pollution generating impervious surfaces.

B. Calculate and submit an equivalent new/re-development area for the completed retrofit project(s) using the methods outlined in Appendix N of the funding guidelines for State Fiscal Year 2016 Combined Water Quality Financial Assistance Program or other ECOLOGY-approved method.

Task Goal Statement:

Project will be constructed in accordance with ECOLOGY-accepted plans and specifications.

Task Expected Outcome:

Constructed project will provide water quality benefits including reductions in Total Suspended Solids, Dissolved Copper and Dissolved Zinc.

Recipient Task Coordinator: Mark Papich

Construction

Deliverables

Number	Description	Due Date
4.1	Copy of the contract documents (e.g. bid announcement, bid award and bid tabulations). Upload to EAGL and notify ECOLOGY when upload is complete.	
4.2	Copy of signed and dated construction contract. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.3	Construction progress reports and photos included in quarterly reports.	
4.4	Completed equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY when upload is complete.	

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Project Title: Trent Avenue Stormwater Retrofit
Recipient Name: City of Spokane

BUDGET

Funding Distribution EG160204

Funding Title: Stormwater Financial Assistance Program (SFAP)
Funding Type: Grant Funding Expiration Date: 12/31/2018
Funding Effective Date: 07/01/2015
Funding Source:

Title: SFAP - SFY16

Type: State

CFDA:

Assistance Agreement:

Description: Environmental Legacy Stewardship Account (ELSA) - State

Recipient Match %: 25

InKind Interlocal Allowed: No

InKind Other Allowed: No

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

Stormwater Financial Assistance Program (SFAP)	Task Total
Project Administration/Management	\$ 15,000.00
Design Plans and Specs, Environmental Review	\$ 19,000.00
Construction Management	\$ 29,000.00
Construction	\$ 190,000.00

Total: \$ 253,000.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Stormwater Financial Assistance Program (SFAP)	25.00 %	\$ 63,250.00	\$ 189,750.00	\$ 253,000.00
Total		\$ 63,250.00	\$ 189,750.00	\$ 253,000.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount.

“Equivalency” means projects designated by ECOLOGY to meet additional federal requirements.

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

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

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount.

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

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

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

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

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

“Initiation of Operation Date” means the actual date the Water Pollution Control Facility financed with proceeds of the loan begins to operate for its intended purpose.

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

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

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

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

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

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

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

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

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

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed.

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

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

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

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

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

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

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

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

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been

determined to be eligible for ECOLOGY grant or loan funding.

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

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

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

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

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

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference.

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

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

C. Cultural and Historic Resources Protection Compliance with Environmental Laws and Regulations. The RECIPIENT shall:

- 1) The RECIPIENT shall comply with all applicable federal, state and local environmental laws, statutes, regulations, executive orders, and permits.
- 2) The RECIPIENT shall comply with Ecology’s Archaeological Resource and Historic Property review process. The RECIPIENT agrees that in no case shall construction activities, ground disturbance, or excavation of any kind, begin until provisions of this process are complied with. The RECIPIENT is responsible for developing a complete Inadvertent Discovery Plan (IDP). The IDP must be immediately available by request by any party. An IDP must be immediately available and be implemented to address any discovery. The RECIPIENT will implement the procedures in the IDP, and immediately notify ECOLOGY, the Department of Archeology and Historic Preservation (DAHP), and tribal representatives if human remains, cultural, or archeological resources are discovered in the course of construction. For more details regarding requirements under this provision, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY’s Water Quality Program funding website.

D. Electronic Fund Transfers: The RECIPIENT must register as a statewide vendor in order to receive payment reimbursement. Washington State’s Department of Enterprise Services (DES) issues all payments. DES maintains a central vendor file for Washington State agency use to process vendor payments. The RECIPIENT can complete the

registration process online at <http://des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. This registration process also allows The RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If The RECIPIENT have questions about the vendor registration process or setting up direct deposit payments contact DES at the Payee Help Desk at (360) 664-7779 or payeehelpdesk@des.wa.gov.

E. Equipment Purchase: Equipment not included in the scope of work or a construction plan and specification approval must be pre-approved by ECOLOGY's project manager before purchase.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3 for Section 319 funded projects or 7 for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

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

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

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

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

K. Project Status Evaluation: ECOLOGY may evaluate the status of this project 18 months from the effective date of this agreement. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

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

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

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

1. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.
2. Clean Water Act Section 319 Initial Data Reporting Sheet or the "Section 319 Initial Data Reporting" form in EAGL.

A. Disadvantaged Business Enterprise (DBE):

GENERAL COMPLIANCE, 40 CFR, Part 33 - The RECIPIENT agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D - A RECIPIENT must negotiate with the appropriate EPA award official or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

Current Fair Share Objective/Goal - The dollar amount of this assistance agreement is over \$250,000; or the total dollar amount of all of the RECIPIENT's non-TAG assistance agreements from EPA in the current fiscal year is over \$250,000. The Washington State Department of Ecology has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

MBE: SUPPLIES 8.00%; SERVICES 10.00%; EQUIPMENT 8.00%; CONSTRUCTION 10.00%
WBE: SUPPLIES 4.00%; SERVICES 4.00%; EQUIPMENT 4.00%; CONSTRUCTION 6.00%

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404 - If the RECIPIENT has not yet negotiated its MBE/WBE fair share objectives/goals, the RECIPIENT agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The RECIPIENT agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA shall respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C - Pursuant to 40 CFR, Section 33.301, the RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State, Local and Government recipients, this shall include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For

Indian Tribal, State and Local Government recipients, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

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

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement:

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

C. Data Reporting: The RECIPIENT must complete and submit the "Clean Water Act Section 319 Initial Data Reporting Sheet" to ECOLOGY's Financial Manager with the signed agreement. The form is available in EAGL.

D. Load Reduction Reporting: The RECIPIENT shall complete and submit a "Clean Water Act Section 319 Load Reductions Reporting Form" to ECOLOGY's Financial Manager by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has submitted the completed form to the Financial Manager. This form is used to gather information on pollutant load reduction for each best management practice (BMP) installed as a part of this project. The form is available in EAGL.

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

SECTION 6: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

A. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal

year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at: <https://harvester.census.gov/fac/collect/ddeindex.html>. For complete information on how to accomplish the single audit submissions, go to the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>.

B. Archaeological Resources and Historic Properties (Section 106): See Section 2.C of the terms and conditions of this agreement, the RECIPIENT shall comply with the additional requirements under section 106 of the National Historic Preservation Act (NHPA, 36 CFR 800)

C. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that the organization's information in the System for Award Management (SAM), <https://www.sam.gov>, is kept current through project closeout. This requires that the RECIPIENT reviews and updates the information at least annually after the initial registration, and more frequently if information changes.

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

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

F. Payment to Consultants: The RECIPIENT shall ensure that loan funds provided under this agreement to reimburse for costs incurred by individual consultants (excluding overhead) is limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed. Contracts for services awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the RECIPIENT with responsibility for the selection, direction, and control of the individuals who shall be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.36(j) for additional information.

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

SECTION 7: THE FOLLOWING CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

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

ECOLOGY:

1. Opinion of RECIPIENT's Legal Council
2. Authorizing Ordinance or Resolution
3. Federal Funding Accountability and Transparency Act (FFATA) Form
4. CWSRF Federal Reporting Information form available in EAGL.
5. Fiscal Sustainability Plan Certification (only required if the project includes construction of a wastewater or stormwater facility construction.)

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

B. American Iron and Steel (Buy American): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a "treatment works" as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

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

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

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

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

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

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

Fair Share Objective/Goals, 40 CFR, Part 33, Subpart D. If the dollar amount of this 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 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 agreement. Records documenting compliance with the following six good faith efforts shall 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 shall 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 866-208-1064.
- 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 shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- 4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- 5) 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 are available on ECOLOGY's Water Quality Program funding 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 ECOLOGY'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 shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

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

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

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

F. Free Service: The RECIPIENT shall not furnish utility service to any customer free of charge if providing that free service affects the RECIPIENT's ability to meet the obligations of this agreement.

G. Insurance: The RECIPIENT shall 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 shall self-insure or

participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

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

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

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a 365 day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments semiannually over the term of this loan "Loan Term" as outlined in this agreement.

I. 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 shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all of the covenants, agreements, and attachments contained herein.

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

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

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

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

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

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

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

(i) The Loan Amount with interest

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

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

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

Method and Conditions on Repayments

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

Thereafter, equal payments shall be due every six months.

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

Payments shall be mailed to:

Department of Ecology
Cashiering Unit
P.O. Box 47611
Olympia WA 98504-7611

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

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

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

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

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

balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

J. Loan Security

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

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

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

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

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 shall 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 (1) to make, in part or in full, the final repayment to ECOLOGY of the loan amount or, (2) if not so applied, for any other lawful purpose of the RECIPIENT once the Loan Amount, plus interest and any other amounts owing to ECOLOGY, have been paid in full.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the loan Fund and used to pay the principal of and interest on the loan. The ULID Assessments in the ULID may be deposited into the Reserve Account to satisfy a Reserve Requirement if a Reserve Requirement is applicable.

K. Maintenance and Operation of a Funded Utility: The RECIPIENT shall at all times maintain and keep a funded Utility in good repair, working order and condition and also shall at all times operate the Utility and the business in an efficient manner and at a reasonable cost.

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

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

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

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

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

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

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

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT which has not been disclosed in writing to ECOLOGY.

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

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

P. 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:

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; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the Utility from the portion of the Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the DEPARTMENT.

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

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

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater.
- 3) Require that new sewers and connections be properly designed and constructed.
- 4) Require connections necessary to meet debt obligations associated with the planning and construction of this facility as well as the expected costs of operation and maintenance.

R. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient

ECOLOGY or RECIPIENT funds.

2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.

3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.

4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all of its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

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

Termination and Default Remedies

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GENERAL FEDERAL CONDITIONS

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

CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department for assistance in obtaining a copy of those regulations..
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled

“CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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

Federal Funding Accountability And Transparency Act (FFATA) Reporting Requirements:

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

Any RECIPIENT that meets each of the criteria below must also report compensation for its five top executives, using 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

ECOLOGY will not pay any invoice until it has received a completed and signed FFATA Data Collection Form. ECOLOGY is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsr.gov <http://www.fsr.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsr.gov <http://www.fsr.gov>.

GENERAL TERMS AND CONDITIONS

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition". <https://fortress.wa.gov/ecy/publications/SummaryPages/1401002.html>
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

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

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological or cultural resources. Activities associated with archaeological and cultural resources are an eligible reimbursable cost subject to approval by ECOLOGY.

RECIPIENT shall:

- a) Immediately cease work and notify ECOLOGY if any archeological or cultural resources are found while conducting work under this Agreement.
- b) Immediately notify the Department of Archaeology and Historic Preservation at (360) 586-3064, in the event historical or cultural artifacts are discovered at a work site.
- c) Comply with Governor Executive Order 05-05, Archaeology and Cultural Resources, for any capital construction projects prior to the start of any work.
- d) Comply with RCW 27.53, Archaeological Sites and Resources, for any work performed under this Agreement, as applicable. National Historic Preservation Act (NHPA) may require the RECIPIENT to obtain a permit pursuant to Chapter 27.53 RCW prior to conducting on-site activity with the potential to impact cultural or historic properties.

4. ASSIGNMENT

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

5. COMMUNICATION

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

6. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible may require approval by ECOLOGY prior to purchase.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State Department of Enterprise Services' Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@des.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT should submit final requests for compensation within thirty (30) days after the expiration date of this Agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS

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

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

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

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

8. CONFLICT OF INTEREST

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

9. CONTRACTING FOR GOODS AND SERVICES

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

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

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

10. DISPUTES

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

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

review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

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

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

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

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

11. ENVIRONMENTAL STANDARDS

- a) RECIPIENTS who collect environmental-monitoring data must provide these data to ECOLOGY using the Environmental Information Management System (EIM). To satisfy this requirement these data must be successfully loaded into EIM, see instructions on the EIM website at: <http://www.ecy.wa.gov/eim>.
- b) RECIPIENTS are required to follow ECOLOGY's data standards when Geographic Information System (GIS) data are collected and processed. More information and requirements are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENTS shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.
- c) RECIPIENTS must prepare a Quality Assurance Project Plan (QAPP) when a project involves the collection of environmental measurement data. QAPP is to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating data. RECIPIENTS must follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030). ECOLOGY shall review and approve the QAPP prior to start of work. The size, cost, and complexity of the QAPP should be in proportion to the magnitude of the sampling effort.

12. GOVERNING LAW

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

13. INDEMNIFICATION

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

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

14. INDEPENDENT STATUS

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

15. KICKBACKS

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

16. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

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

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

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

17. ORDER OF PRECEDENCE

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

18. PRESENTATION AND PROMOTIONAL MATERIALS

RECIPIENT shall obtain ECOLOGY's approval for all communication materials or documents related to the fulfillment of this Agreement. Steps for approval:

- a) Provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution of any documents or materials compiled or produced.
- b) ECOLOGY reviews draft copy and reserves the right to require changes until satisfied.
- c) Provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets, such as a refrigerator magnet with a message as well as media announcements, and any other online communication products such as Web pages, blogs, and Twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT must provide a complete description including photographs, drawings, or printouts of the product that best represents the item.

RECIPIENT shall include time in their project timeline for ECOLOGY's review and approval process.

RECIPIENT shall acknowledge in the materials or documents that funding was provided by ECOLOGY.

19. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not

document timely use of funds.

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

20. PROPERTY RIGHTS

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

21. RECORDS, AUDITS, AND INSPECTIONS

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

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.

- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

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

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

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

22. RECOVERY OF FUNDS

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

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

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

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

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

23. SEVERABILITY

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

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

25. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or

any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

26. SUSTAINABLE PRACTICES

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

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

For more suggestions visit ECOLOGY's web page: Green Purchasing, <http://www.ecy.wa.gov/programs/swfa/epp>.

27. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

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

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

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

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

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

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

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

c) By Mutual Agreement

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

d) In Event of Termination

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

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

28. THIRD PARTY BENEFICIARY

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

29. WAIVER

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



DEPARTMENT OF
ECOLOGY
State of Washington

Agreement WQC-2016-Spokane-00031

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

City of Spokane

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

GENERAL INFORMATION

Project Title:	East Sprague Stormwater Retrofits
Total Cost:	\$802,000.00
Total Eligible Cost:	\$802,000.00
Ecology Share:	\$601,500.00
Recipient Share:	\$200,500.00
The Effective Date of this Agreement is:	07/01/2015
The Expiration Date of this Agreement is no later than	12/31/2018
Project Type:	Stormwater Facility

Project Short Description:

This project will improve water quality in the Spokane River through installation of bioretention facilities and pervious pavement parking areas in the East Sprague stormwater basin in the City of Spokane. This project will provide treatment for Total Suspended Solids (TSS), Dissolved Copper, and Dissolved Zinc and will also reduce stormwater flow to the Spokane River by increasing stormwater infiltration.

Project Long Description:

East Sprague Avenue in the City of Spokane is one of the largest commercial areas outside of downtown. The development of East Sprague occurred in the late 1890s and was the first area outside downtown to be urbanized. Stormwater was originally combined with sanitary sewage and then discharged directly to the Spokane River. After the RECIPIENT's treatment plant was constructed in 1958, this combined sewer was conveyed to the treatment plant. While combined sewer is normally treated at the RECIPIENT'S treatment plant, a regulator is installed to allow combined sewage to overflow into the Spokane River during large storms or rain on frozen ground conditions.

Agreement No: WQC-2016-Spokane-00031
Project Title: East Sprague Stormwater Retrofits
Recipient Name: City of Spokane

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This project will reduce these overflow events by reducing the amount of stormwater that flows to the existing system by installing bioretention cells and pervious pavement. This project will be constructed concurrently with the Sprague Avenue Rebuild pavement project, which is scheduled for construction beginning in 2016. The Sprague Avenue project will repave Sprague Avenue to the same width (48 feet) as it is today, but will reduce the travel lanes from four to two and will not require the installation of stormwater controls under the NPDES Phase II Stormwater Permit.

The two projects will be bid and constructed at the same time to reduce the overall cost to both projects, but funded from different sources.

Overall Goal:

This project will help protect and restore water quality in Washington by reducing stormwater impacts from existing infrastructure and development.

Agreement No: WQC-2016-Spokane-00031
Project Title: East Sprague Stormwater Retrofits
Recipient Name: City of Spokane

RECIPIENT INFORMATION

Organization Name: City of Spokane

Federal Tax ID: 91-6001280
DUNS Number: 057531253

Mailing Address: 808 W. Spokane Falls Boulevard
Spokane, WA, 99201

Physical Address: 808 W. Spokane Falls Boulevard
Spokane, Washington, 99201-3343

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

Contacts

Project Manager	Marcia Davis Principal Engineer 808 W. Spokane Falls Blvd Spokane, Washington, 99201-3343 Email: mdavis@spokanecity.org Phone: (509) 625-6398
Billing Contact	Kevan Brooks Accountant II 808 W Spokane Falls Blvd, Spokane, Washington, 99201 Email: kbrooks@spokanecity.org Phone: (509) 625-6045
Authorized Signatory	David A Condon Mayor 808 W Spokane Falls Blvd. Spokane, Washington, 99201 Email: mayor@spokanecity.org Phone: (509) 625-6250

ECOLOGY INFORMATION

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

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

Contacts

Project Manager	Cynthia Wall N. 4601 Monroe Spokane, Washington, 99205-1295 Email: cywa461@ecy.wa.gov Phone: (509) 329-3537
Financial Manager	Janel Bistrika P.O. Box 47600 Olympia, Washington, 98504-7600 Email: janel.bistrika@ecy.wa.gov Phone: (360) 407-6424
Technical Advisor	Douglas Howie Senior Stormwater Engineer P.O. Box 47600 Olympia, Washington, 98504-7600 Email: douglas.howie@ecy.wa.gov Phone: (360) 407-6444

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

RECIPIENT agrees to read, understand, and accept all information contained within this entire Agreement. Furthermore, RECIPIENT acknowledges that they have reviewed the terms and conditions of this Agreement, Scope of Work, attachments, all incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement.

IN WITNESS WHEREOF, the parties hereby sign this Agreement

Washington State
Department of Ecology

City of Spokane

Program Manager

Date

Heather Bartlett

Water Quality

David A Condon

Date

Mayor

SCOPE OF WORK

Task Number: 1 Task Cost: \$15,000.00

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and a recipient closeout report (including photos).

B. The RECIPIENT shall maintain documentation demonstrating compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

C. The RECIPIENT shall manage the project. Efforts include, but are not limited to: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

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

Task Expected Outcome:

- * Timely and complete submittal of requests for reimbursement, quarterly progress reports, and RECIPIENT closeout report.
- * Properly maintained project documentation

Recipient Task Coordinator: Mark Papich

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

SCOPE OF WORK

Task Number: 2 Task Cost: \$63,000.00

Task Title: Design Plans and Specs, Environmental Review

Task Description:

The RECIPIENT will ensure the following items are completed and provide the associated deliverables to ECOLOGY.

A. The RECIPIENT will coordinate the preparation and submittal of State Environmental Policy Act (SEPA) documentation.

B. The RECIPIENT is responsible for application of, receipt of, and compliance with all required local, state, tribal and federal permits, licenses, easements, or property rights necessary for the project.

C. The RECIPIENT will comply with Executive Order (05-05) cultural resources review requirements. To initiate cultural resources review the RECIPIENT will:

1. Submit a Department of Archaeology and Historic Preservation (DAHP) EZ-1 Form, Ecology Historic and Cultural Resource Project Review Form, or a cultural resources survey or assessment completed by a licensed archaeologist to ECOLOGY. All submitted materials must conform to the Washington State Standards for Cultural Resource Reporting (DAHP February 2014).

2. Develop and submit an Inadvertent Discovery Plan (IDP) to ECOLOGY. The RECIPIENT will ensure that all contractors and subcontractors have a copy of the completed IDP prior to and while working on-site. An IDP template may be found at:

<http://www.ecy.wa.gov/programs/wq/funding/FundPrgms/CWSRF/CWSRFres/TemplateInadvDiscPlan060915.doc>

Ground disturbing work (including geotechnical investigations) completed prior to receiving written notice to proceed from ECOLOGY shall not be eligible for reimbursement.

D. The RECIPIENT will develop a project design. Projects must be designed in accordance with the Stormwater Management Manual for Eastern Washington, Stormwater Management Manual for Western Washington, or equivalent manual. Project must be reviewed and accepted in writing by ECOLOGY to be eligible for reimbursement.

E. The RECIPIENT will submit one hard copy and one digital copy of the items listed below to ECOLOGY for acceptance. Design figures must be reduced to 11x17 inches in size and must be legible.

1. Design Report. For a complete list of required design report elements refer to:
<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWDesignDeliv081315.pdf>

2. 90 Percent Design Package. At a minimum, this package must include 90 percent plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

For current bid inserts refer to:

<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramBidInsert032515.pdf>

For the current bid specification clause refer to:

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<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramSpecClauses052912.pdf>

F. The RECIPIENT agrees to respond to ECOLOGY comments prior to proceeding to 90 percent design and/or project advertisement/bid and construction. At its discretion, ECOLOGY may require the RECIPIENT to resubmit revised documents for further ECOLOGY review prior to accepting the project design.

G. All materials submitted to ECOLOGY for acceptance must be approved by the RECIPIENT prior to submittal to ECOLOGY.

H. The RECIPIENT will submit to ECOLOGY a digital copy of the Final Bid Package including: project plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

Task Goal Statement:

The RECIPIENT will complete all design, environmental review and permitting tasks and respond to ECOLOGY comments in a timely manner.

Task Expected Outcome:

The project will meet the requirements set forth by the State Environmental Policy Act, cultural resource protection requirements, ECOLOGY water quality facility design standards, and all other applicable federal, state and local laws and regulations.

Recipient Task Coordinator: Mark Papich

Design Plans and Specs, Environmental Review

Deliverables

Number	Description	Due Date
2.1	Copy of SEPA determination documentation. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.10	List of permits acquired, and environmental review documents. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.11	Proposed Construction Schedule. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.12	Final Bid Package. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.2	Complete DAHP EZ-1 Form or Ecology Historic and Cultural Resource Project Review Form; Submit supplemental cultural resources documentation if available. Upload to EAGL and notify ECOLOGY when upload is complete. Cultural Resource surveys should be submitted directly to the ECOLOGY Project Manager and should not be uploaded to the EAGL system.	
2.3	Inadvertent Discovery Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.4	Design Report. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of Design Report to ECOLOGY Engineer.	
2.5	Responses to ECOLOGY Design Report Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.6	Ecology Design Report Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.7	90 percent Design Plans, Bid Specifications, and Engineer's Estimate. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of 90 percent Design Plans, Bid Specifications, and Engineer's Estimate to ECOLOGY Engineer.	
2.8	Responses to ECOLOGY 90 percent Design Plan Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.9	Ecology 90 percent Design Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 3 **Task Cost: \$94,000.00**

Task Title: Construction Management

Task Description:

- A. The RECIPIENT will provide construction oversight and management of the project.
- B. The RECIPIENT will submit a detailed construction quality assurance plan to ECOLOGY before the start of construction. This plan must describe how adequate and competent construction oversight will be performed.
- C. The RECIPIENT will conduct a pre-construction conference meeting and invite ECOLOGY to attend.
- D. The RECIPIENT will submit an updated project schedule with projected cash flow to ECOLOGY within 30 days of the start of construction. The project schedule will be revised and/or updated whenever major changes occur and at a minimum of every three months. The RECIPIENT will submit the updated schedule to ECOLOGY with the quarterly report. When changes in the construction schedule affect previous cash flow estimates, revised cash flow projections must also be submitted to ECOLOGY.
- E. Prior to execution, the RECIPIENT will submit any eligible change orders that are a significant deviation from ECOLOGY-accepted plans and specifications in writing for ECOLOGY review and acceptance for payment. Ecology must review and accept all change orders that impact grant eligible activities prior to implementation. All other change orders must be reviewed by ECOLOGY for technical merit and should be submitted within 30 days after execution. Change orders are to be signed by the contractor, the engineer (if appropriate), and the RECIPIENT prior to submittal to ECOLOGY for acceptance.
- F. The RECIPIENT will operate and maintain the constructed facility for the design life of the facility. Additionally, the RECIPIENT will develop and submit an operations and maintenance plan for all stormwater treatment, flow control, and low impact development (LID) features. The operation and maintenance plan will describe how the RECIPIENT will ensure project success consistent with the design manual used. The operation and maintenance plan must also address long-term activities to assure ongoing pollutant removal and flow-control capability of the project in accordance with the design manual.
- G. Upon completion of construction, the RECIPIENT will provide to ECOLOGY:
1. A Stormwater Construction Completion Form signed by a professional engineer indicating that the project was completed in accordance with the plans and specifications and major change orders approved by ECOLOGY's Project Engineer and shown on the Record Drawings. The Stormwater Construction Completion Form can be found at: <http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/FY11SWConstCompForm082415.doc>

2. GIS compatible project area data in an ECOLOGY-approved format.

Task Goal Statement:

The RECIPIENT will oversee and manage construction, communicate with ECOLOGY in a timely fashion, and provide ECOLOGY with all requested project documentation.

Task Expected Outcome:

Project will be constructed on schedule and in accordance with accepted plans.

Recipient Task Coordinator: Mark Papich

Construction Management

Deliverables

Number	Description	Due Date
3.1	Construction Quality Assurance Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.2	Pre-construction conference meeting minutes. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.3	Project Schedule. Upload to EAGL using naming convention D3.3 SCHEDULE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.4	Revised Cash Flow Estimates when changes in construction schedule occur. Upload to EAGL using naming convention D3.4 CASHFLOW MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.5	Change Order(s). Upload to EAGL and notify ECOLOGY when upload is complete.	
3.6	Copy of Facility Operation and Maintenance Plan. Upload to EAGL using naming convention D3.6 OPANDMAINTENANCE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.7	Stormwater Construction Completion Form. Upload to EAGL using naming convention D3.7 SWCONSTRUCTIONCOMPLETIONFORM and notify ECOLOGY when upload is complete.	
3.8	Project Area Shapefile or ECOLOGY-Approved Equivalent. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 4 Task Cost: \$630,000.00

Task Title: Construction

Task Description:

A. The RECIPIENT will, in accordance with ECOLOGY-accepted plans and specifications, complete construction of the project. The construction project will include installation of bioretention facilities and pervious pavement parking areas to mitigate runoff from 9.2 acres of pollution generating impervious surfaces.

B. Calculate and submit an equivalent new/re-development area for the completed retrofit project(s) using the methods outlined in Appendix N of the funding guidelines for State Fiscal Year 2016 Combined Water Quality Financial Assistance Program or other ECOLOGY-approved method.

Task Goal Statement:

Project will be constructed in accordance with ECOLOGY-accepted plans and specifications.

Task Expected Outcome:

Constructed project will provide water quality benefits including reductions in Total Suspended Solids (TSS), Dissolved Copper and Dissolved Zinc.

Recipient Task Coordinator: Mark Papich

Construction

Deliverables

Number	Description	Due Date
4.1	Copy of the contract documents (e.g. bid announcement, bid award and bid tabulations). Upload to EAGL and notify ECOLOGY when upload is complete.	
4.2	Copy of signed and dated construction contract. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.3	Construction progress reports and photos included in quarterly reports.	
4.4	Completed equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY when upload is complete.	

Agreement No: WQC-2016-Spokane-00031
Project Title: East Sprague Stormwater Retrofits
Recipient Name: City of Spokane

BUDGET

Funding Distribution EG160206

Funding Title: Stormwater Financial Assistance Program (SFAP)
Funding Type: Grant Funding Expiration Date: 12/31/2018
Funding Effective Date: 07/01/2015
Funding Source:

Title: SFAP - SFY16

Type: State

CFDA:

Assistance Agreement:

Description: Environmental Legacy Stewardship Account (ELSA) - State

Recipient Match %: 25
InKind Interlocal Allowed: No
InKind Other Allowed: No
Is this Funding Distribution used to match a federal grant? No

Stormwater Financial Assistance Program (SFAP)	Task Total
Project Administration/Management	\$ 15,000.00
Design Plans and Specs, Environmental Review	\$ 63,000.00
Construction Management	\$ 94,000.00
Construction	\$ 630,000.00

Total: \$ 802,000.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Stormwater Financial Assistance Program (SFAP)	25.00 %	\$ 200,500.00	\$ 601,500.00	\$ 802,000.00
Total		\$ 200,500.00	\$ 601,500.00	\$ 802,000.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount.

“Equivalency” means projects designated by ECOLOGY to meet additional federal requirements.

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

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

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount.

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

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

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

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

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

“Initiation of Operation Date” means the actual date the Water Pollution Control Facility financed with proceeds of the loan begins to operate for its intended purpose.

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

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

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

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

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

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

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

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

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

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed.

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

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

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

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

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

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

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

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

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been

determined to be eligible for ECOLOGY grant or loan funding.

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

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

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

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

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

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference.

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

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

C. Cultural and Historic Resources Protection Compliance with Environmental Laws and Regulations. The RECIPIENT shall:

1) The RECIPIENT shall comply with all applicable federal, state and local environmental laws, statutes, regulations, executive orders, and permits.

2) The RECIPIENT shall comply with Ecology’s Archaeological Resource and Historic Property review process. The RECIPIENT agrees that in no case shall construction activities, ground disturbance, or excavation of any kind, begin until provisions of this process are complied with. The RECIPIENT is responsible for developing a complete Inadvertent Discovery Plan (IDP). The IDP must be immediately available by request by any party. An IDP must be immediately available and be implemented to address any discovery. The RECIPIENT will implement the procedures in the IDP, and immediately notify ECOLOGY, the Department of Archeology and Historic Preservation (DAHP), and tribal representatives if human remains, cultural, or archeological resources are discovered in the course of construction. For more details regarding requirements under this provision, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY’s Water Quality Program funding website.

D. Electronic Fund Transfers: The RECIPIENT must register as a statewide vendor in order to receive payment reimbursement. Washington State’s Department of Enterprise Services (DES) issues all payments. DES maintains a central vendor file for Washington State agency use to process vendor payments. The RECIPIENT can complete the

registration process online at <http://des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. This registration process also allows The RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If The RECIPIENT have questions about the vendor registration process or setting up direct deposit payments contact DES at the Payee Help Desk at (360) 664-7779 or payeehelpdesk@des.wa.gov.

E. Equipment Purchase: Equipment not included in the scope of work or a construction plan and specification approval must be pre-approved by ECOLOGY's project manager before purchase.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3 for Section 319 funded projects or 7 for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

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

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

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

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

K. Project Status Evaluation: ECOLOGY may evaluate the status of this project 18 months from the effective date of this agreement. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

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

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

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

1. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.
2. Clean Water Act Section 319 Initial Data Reporting Sheet or the "Section 319 Initial Data Reporting" form in EAGL.

A. Disadvantaged Business Enterprise (DBE):

GENERAL COMPLIANCE, 40 CFR, Part 33 - The RECIPIENT agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D - A RECIPIENT must negotiate with the appropriate EPA award official or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

Current Fair Share Objective/Goal - The dollar amount of this assistance agreement is over \$250,000; or the total dollar amount of all of the RECIPIENT's non-TAG assistance agreements from EPA in the current fiscal year is over \$250,000. The Washington State Department of Ecology has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

MBE: SUPPLIES 8.00%; SERVICES 10.00%; EQUIPMENT 8.00%; CONSTRUCTION 10.00%
WBE: SUPPLIES 4.00%; SERVICES 4.00%; EQUIPMENT 4.00%; CONSTRUCTION 6.00%

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404 - If the RECIPIENT has not yet negotiated its MBE/WBE fair share objectives/goals, the RECIPIENT agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The RECIPIENT agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA shall respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C - Pursuant to 40 CFR, Section 33.301, the RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State, Local and Government recipients, this shall include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For

Indian Tribal, State and Local Government recipients, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

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

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement:

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

C. Data Reporting: The RECIPIENT must complete and submit the "Clean Water Act Section 319 Initial Data Reporting Sheet" to ECOLOGY's Financial Manager with the signed agreement. The form is available in EAGL.

D. Load Reduction Reporting: The RECIPIENT shall complete and submit a "Clean Water Act Section 319 Load Reductions Reporting Form" to ECOLOGY's Financial Manager by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has submitted the completed form to the Financial Manager. This form is used to gather information on pollutant load reduction for each best management practice (BMP) installed as a part of this project. The form is available in EAGL.

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

SECTION 6: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

A. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal

year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at: <https://harvester.census.gov/fac/collect/ddeindex.html>. For complete information on how to accomplish the single audit submissions, go to the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>.

B. Archaeological Resources and Historic Properties (Section 106): See Section 2.C of the terms and conditions of this agreement, the RECIPIENT shall comply with the additional requirements under section 106 of the National Historic Preservation Act (NHPA, 36 CFR 800)

C. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that the organization's information in the System for Award Management (SAM), <https://www.sam.gov>, is kept current through project closeout. This requires that the RECIPIENT reviews and updates the information at least annually after the initial registration, and more frequently if information changes.

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

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

F. Payment to Consultants: The RECIPIENT shall ensure that loan funds provided under this agreement to reimburse for costs incurred by individual consultants (excluding overhead) is limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed. Contracts for services awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the RECIPIENT with responsibility for the selection, direction, and control of the individuals who shall be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.36(j) for additional information.

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

SECTION 7: THE FOLLOWING CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

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

ECOLOGY:

1. Opinion of RECIPIENT's Legal Council
2. Authorizing Ordinance or Resolution
3. Federal Funding Accountability and Transparency Act (FFATA) Form
4. CWSRF Federal Reporting Information form available in EAGL.
5. Fiscal Sustainability Plan Certification (only required if the project includes construction of a wastewater or stormwater facility construction.)

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

B. American Iron and Steel (Buy American): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a "treatment works" as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

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

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

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

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

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

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

Fair Share Objective/Goals, 40 CFR, Part 33, Subpart D. If the dollar amount of this 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 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 agreement. Records documenting compliance with the following six good faith efforts shall 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 shall 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 866-208-1064.

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 shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.

4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.

5) 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 are available on ECOLOGY's Water Quality Program funding 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 ECOLOGY'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 shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

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

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

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

F. Free Service: The RECIPIENT shall not furnish utility service to any customer free of charge if providing that free service affects the RECIPIENT's ability to meet the obligations of this agreement.

G. Insurance: The RECIPIENT shall 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 shall self-insure or

participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

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

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

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a 365 day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments semiannually over the term of this loan "Loan Term" as outlined in this agreement.

I. 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 shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all of the covenants, agreements, and attachments contained herein.

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

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

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

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

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

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

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

(i) The Loan Amount with interest

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

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

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

Method and Conditions on Repayments

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

Thereafter, equal payments shall be due every six months.

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

Payments shall be mailed to:

Department of Ecology
Cashiering Unit
P.O. Box 47611
Olympia WA 98504-7611

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

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

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

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

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

balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

J. Loan Security

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

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

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

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

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 shall 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 (1) to make, in part or in full, the final repayment to ECOLOGY of the loan amount or, (2) if not so applied, for any other lawful purpose of the RECIPIENT once the Loan Amount, plus interest and any other amounts owing to ECOLOGY, have been paid in full.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the loan Fund and used to pay the principal of and interest on the loan. The ULID Assessments in the ULID may be deposited into the Reserve Account to satisfy a Reserve Requirement if a Reserve Requirement is applicable.

K. Maintenance and Operation of a Funded Utility: The RECIPIENT shall at all times maintain and keep a funded Utility in good repair, working order and condition and also shall at all times operate the Utility and the business in an efficient manner and at a reasonable cost.

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

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

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

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

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

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

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

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT which has not been disclosed in writing to ECOLOGY.

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

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

P. 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:

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; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the Utility from the portion of the Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the DEPARTMENT.

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

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

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater.
- 3) Require that new sewers and connections be properly designed and constructed.
- 4) Require connections necessary to meet debt obligations associated with the planning and construction of this facility as well as the expected costs of operation and maintenance.

R. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient

ECOLOGY or RECIPIENT funds.

2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.

3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.

4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all of its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

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

Termination and Default Remedies

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GENERAL FEDERAL CONDITIONS

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

CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department for assistance in obtaining a copy of those regulations..
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled

“CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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

Federal Funding Accountability And Transparency Act (FFATA) Reporting Requirements:

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

Any RECIPIENT that meets each of the criteria below must also report compensation for its five top executives, using 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

ECOLOGY will not pay any invoice until it has received a completed and signed FFATA Data Collection Form. ECOLOGY is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsr.gov <http://www.fsr.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsr.gov <http://www.fsr.gov>.

GENERAL TERMS AND CONDITIONS

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition". <https://fortress.wa.gov/ecy/publications/SummaryPages/1401002.html>
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

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

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological or cultural resources. Activities associated with archaeological and cultural resources are an eligible reimbursable cost subject to approval by ECOLOGY.

RECIPIENT shall:

- a) Immediately cease work and notify ECOLOGY if any archeological or cultural resources are found while conducting work under this Agreement.
- b) Immediately notify the Department of Archaeology and Historic Preservation at (360) 586-3064, in the event historical or cultural artifacts are discovered at a work site.
- c) Comply with Governor Executive Order 05-05, Archaeology and Cultural Resources, for any capital construction projects prior to the start of any work.
- d) Comply with RCW 27.53, Archaeological Sites and Resources, for any work performed under this Agreement, as applicable. National Historic Preservation Act (NHPA) may require the RECIPIENT to obtain a permit pursuant to Chapter 27.53 RCW prior to conducting on-site activity with the potential to impact cultural or historic properties.

4. ASSIGNMENT

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

5. COMMUNICATION

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

6. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible may require approval by ECOLOGY prior to purchase.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State Department of Enterprise Services' Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@des.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT should submit final requests for compensation within thirty (30) days after the expiration date of this Agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS

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

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

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

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

8. CONFLICT OF INTEREST

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

9. CONTRACTING FOR GOODS AND SERVICES

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

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

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

10. DISPUTES

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

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

review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

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

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

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

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

11. ENVIRONMENTAL STANDARDS

- a) RECIPIENTS who collect environmental-monitoring data must provide these data to ECOLOGY using the Environmental Information Management System (EIM). To satisfy this requirement these data must be successfully loaded into EIM, see instructions on the EIM website at: <http://www.ecy.wa.gov/eim>.
- b) RECIPIENTS are required to follow ECOLOGY's data standards when Geographic Information System (GIS) data are collected and processed. More information and requirements are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENTS shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.
- c) RECIPIENTS must prepare a Quality Assurance Project Plan (QAPP) when a project involves the collection of environmental measurement data. QAPP is to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating data. RECIPIENTS must follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030). ECOLOGY shall review and approve the QAPP prior to start of work. The size, cost, and complexity of the QAPP should be in proportion to the magnitude of the sampling effort.

12. GOVERNING LAW

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

13. INDEMNIFICATION

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

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

14. INDEPENDENT STATUS

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

15. KICKBACKS

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

16. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

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

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

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

17. ORDER OF PRECEDENCE

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

18. PRESENTATION AND PROMOTIONAL MATERIALS

RECIPIENT shall obtain ECOLOGY's approval for all communication materials or documents related to the fulfillment of this Agreement. Steps for approval:

- a) Provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution of any documents or materials compiled or produced.
- b) ECOLOGY reviews draft copy and reserves the right to require changes until satisfied.
- c) Provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets, such as a refrigerator magnet with a message as well as media announcements, and any other online communication products such as Web pages, blogs, and Twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT must provide a complete description including photographs, drawings, or printouts of the product that best represents the item.

RECIPIENT shall include time in their project timeline for ECOLOGY's review and approval process.

RECIPIENT shall acknowledge in the materials or documents that funding was provided by ECOLOGY.

19. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not

document timely use of funds.

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

20. PROPERTY RIGHTS

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

21. RECORDS, AUDITS, AND INSPECTIONS

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

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.

- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

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

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

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

22. RECOVERY OF FUNDS

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

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

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

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

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

23. SEVERABILITY

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

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

25. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or

any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

26. SUSTAINABLE PRACTICES

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

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

For more suggestions visit ECOLOGY's web page: Green Purchasing, <http://www.ecy.wa.gov/programs/swfa/epp>.

27. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

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

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

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

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

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

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

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

c) By Mutual Agreement

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

d) In Event of Termination

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

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

28. THIRD PARTY BENEFICIARY

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

29. WAIVER

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



Agreement WQC-2016-Spokane-00032

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

City of Spokane

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

GENERAL INFORMATION

Project Title:	Pettet Drive MS4 Elimination
Total Cost:	\$600,000.00
Total Eligible Cost:	\$600,000.00
Ecology Share:	\$450,000.00
Recipient Share:	\$150,000.00
The Effective Date of this Agreement is:	07/01/2015
The Expiration Date of this Agreement is no later than	12/31/2018
Project Type:	Stormwater Facility

Project Short Description:

This project will improve water quality in the Spokane River through installation of bioretention areas along Pettet Drive in the City of Spokane. This project will provide treatment for Total Suspended Solids (TSS), Dissolved Copper, and Dissolved Zinc and will also reduce flows to the Spokane River by increasing stormwater infiltration and providing stormwater detention.

Project Long Description:

Pettet Drive is a minor arterial street within the City of Spokane. It currently consists of two travel lanes, with bicycle lanes and sidewalk on both sides of the street. The curb-to-curb width is approximately 45-feet. The project area is steep, with average slopes of approximately four percent. Pettet Drive slopes continuously to the north within the project limits. The existing stormwater control for Pettet Drive consists of several catch basins draining to a single 12-inch pipe. This pipe drains directly to the Spokane River without treatment.

This project will create bioretention areas adjacent to Pettet Drive where runoff will be stored, treated, and infiltrated.

Pieces of the existing collection system will be utilized to direct runoff to the new bioretention areas and the outfall will be eliminated. Approximately 1000 feet of new 15-inch pipe will be constructed to collect stormwater runoff to a bioretention area at the downstream end of the street, adjacent to TJ Meenach Bridge.

Stormwater runoff will be conveyed into the bioretention areas for storage and treatment. An adaptive, low maintenance plant palette will be chosen and installed over an engineered soil to provide pollutant removal. The underlying soils are expected to have adequate infiltration based on geotechnical information gathered adjacent to the basin area. Further geotechnical investigation will be conducted for each bioretention area during final design. If one of the bioretention areas has unsuitable soils, an under drain system will be installed to collect and convey runoff to a suitable site.

As part of the Integrated Clean Water Plan (ICWP), the RECIPIENT has committed to remove stormwater that discharges directly to the Spokane River when other construction projects are planned. Analysis performed for the ICWP determined that green infrastructure and low impact development (LID) are cost effective when combined with other construction projects. CSO Basin 12 Control Facility and new outfall pipe will be constructed adjacent to Pettet Drive. In addition, street and sewer repairs are planned for TJ Meenach during 2016. Elimination of the MS4 on Pettet became an apparent water quality solution in this same vicinity.

Pettet Drive is known as "Doomsday Hill" on the Bloomsday annual timed road race held on the first Sunday in every May. Over 40,000 people run this race every year. A permanent educational sign will be placed along the project route to explain stormwater pollution, proper treatment, and the purpose of this project. In addition, removable signs will be placed during Bloomsday to accommodate reading on the run.

Overall Goal:

This project will help protect and restore water quality in Washington by reducing stormwater impacts from existing infrastructure and development.

Agreement No: WQC-2016-Spokane-00032
Project Title: Pettet Drive MS4 Elimination
Recipient Name: City of Spokane

RECIPIENT INFORMATION

Organization Name: City of Spokane

Federal Tax ID: 91-6001280
DUNS Number: 057531253

Mailing Address: 808 W. Spokane Falls Boulevard
Spokane, WA, 99201

Physical Address: 808 W. Spokane Falls Boulevard,
Spokane, Washington, 99201-3343

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

Contacts

Project Manager	Mark Papich Senior Engineer 808 W Spokane Falls Blvd Spokane, Washington, 99201 Email: mpapich@spokanecity.org Phone: (509) 625-6310
Billing Contact	Kevan Brooks Accountant II 808 W Spokane Falls Blvd, Spokane, Washington, 99201 Email: kbrooks@spokanecity.org Phone: (509) 625-6045
Authorized Signatory	David A Condon Mayor 808 W Spokane Falls Blvd. Spokane, Washington, 99201 Email: mayor@spokanecity.org Phone: (509) 625-6250

Agreement No: WQC-2016-Spokane-00032
Project Title: Pettet Drive MS4 Elimination
Recipient Name: City of Spokane

ECOLOGY INFORMATION

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

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

Contacts

Project Manager	Cynthia Wall N. 4601 Monroe Spokane, Washington, 99205-1295 Email: cywa461@ecy.wa.gov Phone: (509) 329-3537
Financial Manager	Janel Bistrika P.O. Box 47600 Olympia, Washington, 98504-7600 Email: janel.bistrika@ecy.wa.gov Phone: (360) 407-6424
Technical Advisor	Douglas Howie Senior Stormwater Engineer P.O. Box 47600 Olympia, Washington, 98504-7600 Email: douglas.howie@ecy.wa.gov Phone: (360) 407-6444

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

RECIPIENT agrees to read, understand, and accept all information contained within this entire Agreement. Furthermore, RECIPIENT acknowledges that they have reviewed the terms and conditions of this Agreement, Scope of Work, attachments, all incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement.

IN WITNESS WHEREOF, the parties hereby sign this Agreement

Washington State
Department of Ecology

City of Spokane

Program Manager

Date

Heather Bartlett

Water Quality

David A Condon

Date

Mayor

SCOPE OF WORK

Task Number: 1 Task Cost: \$6,600.00

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and a recipient closeout report (including photos).

B. The RECIPIENT shall maintain documentation demonstrating compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

C. The RECIPIENT shall manage the project. Efforts include, but are not limited to: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

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

Task Expected Outcome:

- * Timely and complete submittal of requests for reimbursement, quarterly progress reports, and RECIPIENT closeout report.
- * Properly maintained project documentation

Recipient Task Coordinator: Mark Papich

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

SCOPE OF WORK

Task Number: 2 Task Cost: \$46,300.00

Task Title: Design Plans and Specs, Environmental Review

Task Description:

The RECIPIENT will ensure the following items are completed and provide the associated deliverables to ECOLOGY.

A. The RECIPIENT will coordinate the preparation and submittal of State Environmental Policy Act (SEPA) documentation.

B. The RECIPIENT is responsible for application of, receipt of, and compliance with all required local, state, tribal and federal permits, licenses, easements, or property rights necessary for the project.

C. The RECIPIENT will comply with Executive Order (05-05) cultural resources review requirements. To initiate cultural resources review the RECIPIENT will:

1. Submit a Department of Archaeology and Historic Preservation (DAHP) EZ-1 Form, Ecology Historic and Cultural Resource Project Review Form, or a cultural resources survey or assessment completed by a licensed archaeologist to ECOLOGY. All submitted materials must conform to the Washington State Standards for Cultural Resource Reporting (DAHP February 2014).

2. Develop and submit an Inadvertent Discovery Plan (IDP) to ECOLOGY. The RECIPIENT will ensure that all contractors and subcontractors have a copy of the completed IDP prior to and while working on-site. An IDP template may be found at:

<http://www.ecy.wa.gov/programs/wq/funding/FundPrgrms/CWSRF/CWSRFres/TemplateInadvDiscPlan060915.doc>

Ground disturbing work (including geotechnical investigations) completed prior to receiving written notice to proceed from ECOLOGY shall not be eligible for reimbursement.

D. The RECIPIENT will develop a project design. Projects must be designed in accordance with the Stormwater Management Manual for Eastern Washington, Stormwater Management Manual for Western Washington, or equivalent manual. Project must be reviewed and accepted in writing by ECOLOGY to be eligible for reimbursement.

E. The RECIPIENT will submit one hard copy and one digital copy of the items listed below to ECOLOGY for acceptance. Design figures must be reduced to 11x17 inches in size and must be legible.

1. Design Report. For a complete list of required design report elements refer to:
<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWDesignDeliv081315.pdf>

2. 90 Percent Design Package. At a minimum, this package must include 90 percent plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

For current bid inserts refer to:

<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramBidInsert032515.pdf>

For the current bid specification clause refer to:

WQC-2016-Spokane-00032

Agreement No: WQC-2016-Spokane-00032
Project Title: Pettet Drive MS4 Elimination
Recipient Name: City of Spokane

<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramSpecClauses052912.pdf>

F. The RECIPIENT agrees to respond to ECOLOGY comments prior to proceeding to 90 percent design and/or project advertisement/bid and construction. At its discretion, ECOLOGY may require the RECIPIENT to resubmit revised documents for further ECOLOGY review prior to accepting the project design.

G. All materials submitted to ECOLOGY for acceptance must be approved by the RECIPIENT prior to submittal to ECOLOGY.

H. The RECIPIENT will submit to ECOLOGY a digital copy of the Final Bid Package including: project plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

Task Goal Statement:

The RECIPIENT will complete all design, environmental review and permitting tasks and respond to ECOLOGY comments in a timely manner.

Task Expected Outcome:

The project will meet the requirements set forth by the State Environmental Policy Act, cultural resource protection requirements, ECOLOGY water quality facility design standards, and all other applicable federal, state and local laws and regulations.

Recipient Task Coordinator: Mark Papich

Design Plans and Specs, Environmental Review

Deliverables

Number	Description	Due Date
2.1	Copy of SEPA determination documentation. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.10	List of permits acquired, and environmental review documents. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.11	Proposed Construction Schedule. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.12	Final Bid Package. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.2	Complete DAHP EZ-1 Form or Ecology Historic and Cultural Resource Project Review Form; Submit supplemental cultural resources documentation if available. Upload to EAGL and notify ECOLOGY when upload is complete. Cultural Resource surveys should be submitted directly to the ECOLOGY Project Manager and should not be uploaded to the EAGL system.	
2.3	Inadvertent Discovery Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.4	Design Report. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of Design Report to ECOLOGY Engineer.	
2.5	Responses to ECOLOGY Design Report Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.6	Ecology Design Report Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.7	90 percent Design Plans, Bid Specifications, and Engineer's Estimate. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of 90 percent Design Plans, Bid Specifications, and Engineer's Estimate to ECOLOGY Engineer.	
2.8	Responses to ECOLOGY 90 percent Design Plan Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.9	Ecology 90 percent Design Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 3 Task Cost: \$69,400.00

Task Title: Construction Management

Task Description:

- A. The RECIPIENT will provide construction oversight and management of the project.
- B. The RECIPIENT will submit a detailed construction quality assurance plan to ECOLOGY before the start of construction. This plan must describe how adequate and competent construction oversight will be performed.
- C. The RECIPIENT will conduct a pre-construction conference meeting and invite ECOLOGY to attend.
- D. The RECIPIENT will submit an updated project schedule with projected cash flow to ECOLOGY within 30 days of the start of construction. The project schedule will be revised and/or updated whenever major changes occur and at a minimum of every three months. The RECIPIENT will submit the updated schedule to ECOLOGY with the quarterly report. When changes in the construction schedule affect previous cash flow estimates, revised cash flow projections must also be submitted to ECOLOGY.
- E. Prior to execution, the RECIPIENT will submit any eligible change orders that are a significant deviation from ECOLOGY-accepted plans and specifications in writing for ECOLOGY review and acceptance for payment. Ecology must review and accept all change orders that impact grant eligible activities prior to implementation. All other change orders must be reviewed by ECOLOGY for technical merit and should be submitted within 30 days after execution. Change orders are to be signed by the contractor, the engineer (if appropriate), and the RECIPIENT prior to submittal to ECOLOGY for acceptance.
- F. The RECIPIENT will operate and maintain the constructed facility for the design life of the facility. Additionally, the RECIPIENT will develop and submit an operations and maintenance plan for all stormwater treatment, flow control, and low impact development (LID) features. The operation and maintenance plan will describe how the RECIPIENT will ensure project success consistent with the design manual used. The operation and maintenance plan must also address long-term activities to assure ongoing pollutant removal and flow-control capability of the project in accordance with the design manual.
- G. Upon completion of construction, the RECIPIENT will provide to ECOLOGY:
1. A Stormwater Construction Completion Form signed by a professional engineer indicating that the project was completed in accordance with the plans and specifications and major change orders approved by ECOLOGY's Project Engineer and shown on the Record Drawings. The Stormwater Construction Completion Form can be found at: <http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/FY11SWConstCompForm082415.doc>

2. GIS compatible project area data in an ECOLOGY-approved format.

Task Goal Statement:

The RECIPIENT will oversee and manage construction, communicate with ECOLOGY in a timely fashion, and provide ECOLOGY with all requested project documentation.

Task Expected Outcome:

Project will be constructed on schedule and in accordance with accepted plans.

Recipient Task Coordinator: Mark Papich

Construction Management

Deliverables

Number	Description	Due Date
3.1	Construction Quality Assurance Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.2	Pre-construction conference meeting minutes. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.3	Project Schedule. Upload to EAGL using naming convention D3.3 SCHEDULE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.4	Revised Cash Flow Estimates when changes in construction schedule occur. Upload to EAGL using naming convention D3.4 CASHFLOW MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.5	Change Order(s). Upload to EAGL and notify ECOLOGY when upload is complete.	
3.6	Copy of Facility Operation and Maintenance Plan. Upload to EAGL using naming convention D3.6 OPANDMAINTENANCE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.7	Stormwater Construction Completion Form. Upload to EAGL using naming convention D3.7 SWCONSTRUCTIONCOMPLETIONFORM and notify ECOLOGY when upload is complete.	
3.8	Project Area Shapefile or ECOLOGY-Approved Equivalent. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 4 Task Cost: \$462,700.00

Task Title: Construction

Task Description:

A. The RECIPIENT will, in accordance with ECOLOGY-accepted plans and specifications, complete construction of the project. The construction project will include installation of bioretention swales to mitigate runoff from 4.1 acres of pollution generating impervious surfaces.

B. Calculate and submit an equivalent new/re-development area for the completed retrofit project(s) using the methods outlined in Appendix N of the funding guidelines for State Fiscal Year 2016 Combined Water Quality Financial Assistance Program or other ECOLOGY-approved method.

Task Goal Statement:

Project will be constructed in accordance with ECOLOGY-accepted plans and specifications.

Task Expected Outcome:

Constructed project will provide water quality benefits including reductions in Total Suspended Solids (TSS), Dissolved Copper and Dissolved Zinc.

Recipient Task Coordinator: Mark Papich

Construction

Deliverables

Number	Description	Due Date
4.1	Copy of the contract documents (e.g. bid announcement, bid award and bid tabulations). Upload to EAGL and notify ECOLOGY when upload is complete.	
4.2	Copy of signed and dated construction contract. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.3	Construction progress reports and photos included in quarterly reports.	
4.4	Completed equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 5 Task Cost: \$15,000.00

Task Title: Educational Signs

Task Description:

A. The RECIPIENT will design and install educational signs along Pettet Drive. Signs will be of a permanent nature, and will be placed each year on the Pettet Drive portion of the Bloomsday race course to educate race spectators about how this project prevents water pollution to the Spokane River.

Task Goal Statement:

Educational signs will inform the general public about water pollution to the Spokane River from stormwater runoff.

Task Expected Outcome:

A permanent educational sign installed along Pettet Drive. Signs with similar content will be installed each year on the Pettet Drive portion of the Bloomsday race course that will not hinder the runners and educate race spectators.

Recipient Task Coordinator: Mark Papich

Educational Signs

Deliverables

Number	Description	Due Date
5.1	Educational sign design completed. Submit to ECOLOGY for review.	
5.2	Location of educational signs determined on plans/specifications.	
5.3	Education signs installed along Pettet Drive and location of annual educational signs for the Bloomsday race determined.	

Agreement No: WQC-2016-Spokane-00032
Project Title: Pettet Drive MS4 Elimination
Recipient Name: City of Spokane

BUDGET

Funding Distribution EG160205

Funding Title: Stormwater Financial Assistance Program (SFAP)
Funding Type: Grant Funding Expiration Date: 12/31/2018
Funding Effective Date: 07/01/2015
Funding Source:

Title: SFAP - SFY16

Type: State

CFDA:

Assistance Agreement:

Description: Environmental Legacy Stewardship Account (ELSA) - State

Recipient Match %: 25

InKind Interlocal Allowed: No

InKind Other Allowed: No

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

Stormwater Financial Assistance Program (SFAP)	Task Total
Project Administration/Management	\$ 6,600.00
Design Plans and Specs, Environmental Review	\$ 46,300.00
Construction Management	\$ 69,400.00
Construction	\$ 462,700.00
Educational Signs	\$ 15,000.00

Total: \$ 600,000.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Stormwater Financial Assistance Program (SFAP)	25.00 %	\$ 150,000.00	\$ 450,000.00	\$ 600,000.00
Total		\$ 150,000.00	\$ 450,000.00	\$ 600,000.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

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

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

“Administrative Requirements” means the effective edition of ECOLOGY’s ADMINISTRATIVE REQUIREMENTS FOR RECIPIENTS OF ECOLOGY GRANTS AND LOANS at the signing of this agreement.

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

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

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

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

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

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

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

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

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

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount.

“Equivalency” means projects designated by ECOLOGY to meet additional federal requirements.

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

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

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount.

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

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

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

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

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

“Initiation of Operation Date” means the actual date the Water Pollution Control Facility financed with proceeds of the loan begins to operate for its intended purpose.

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

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

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

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

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

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

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

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

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

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed.

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

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

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

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

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

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

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

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

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been

determined to be eligible for ECOLOGY grant or loan funding.

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

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

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

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

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

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference.

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

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

C. Cultural and Historic Resources Protection Compliance with Environmental Laws and Regulations. The RECIPIENT shall:

1) The RECIPIENT shall comply with all applicable federal, state and local environmental laws, statutes, regulations, executive orders, and permits.

2) The RECIPIENT shall comply with Ecology’s Archaeological Resource and Historic Property review process. The RECIPIENT agrees that in no case shall construction activities, ground disturbance, or excavation of any kind, begin until provisions of this process are complied with. The RECIPIENT is responsible for developing a complete Inadvertent Discovery Plan (IDP). The IDP must be immediately available by request by any party. An IDP must be immediately available and be implemented to address any discovery. The RECIPIENT will implement the procedures in the IDP, and immediately notify ECOLOGY, the Department of Archeology and Historic Preservation (DAHP), and tribal representatives if human remains, cultural, or archeological resources are discovered in the course of construction. For more details regarding requirements under this provision, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY’s Water Quality Program funding website.

D. Electronic Fund Transfers: The RECIPIENT must register as a statewide vendor in order to receive payment reimbursement. Washington State’s Department of Enterprise Services (DES) issues all payments. DES maintains a central vendor file for Washington State agency use to process vendor payments. The RECIPIENT can complete the

registration process online at <http://des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. This registration process also allows The RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If The RECIPIENT have questions about the vendor registration process or setting up direct deposit payments contact DES at the Payee Help Desk at (360) 664-7779 or payeehelpdesk@des.wa.gov.

E. Equipment Purchase: Equipment not included in the scope of work or a construction plan and specification approval must be pre-approved by ECOLOGY's project manager before purchase.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3 for Section 319 funded projects or 7 for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

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

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

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

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

K. Project Status Evaluation: ECOLOGY may evaluate the status of this project 18 months from the effective date of this agreement. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

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

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

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

1. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.
2. Clean Water Act Section 319 Initial Data Reporting Sheet or the "Section 319 Initial Data Reporting" form in EAGL.

A. Disadvantaged Business Enterprise (DBE):

GENERAL COMPLIANCE, 40 CFR, Part 33 - The RECIPIENT agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D - A RECIPIENT must negotiate with the appropriate EPA award official or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

Current Fair Share Objective/Goal - The dollar amount of this assistance agreement is over \$250,000; or the total dollar amount of all of the RECIPIENT's non-TAG assistance agreements from EPA in the current fiscal year is over \$250,000. The Washington State Department of Ecology has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

MBE: SUPPLIES 8.00%; SERVICES 10.00%; EQUIPMENT 8.00%; CONSTRUCTION 10.00%

WBE: SUPPLIES 4.00%; SERVICES 4.00%; EQUIPMENT 4.00%; CONSTRUCTION 6.00%

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404 - If the RECIPIENT has not yet negotiated its MBE/WBE fair share objectives/goals, the RECIPIENT agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The RECIPIENT agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA shall respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C - Pursuant to 40 CFR, Section 33.301, the RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State, Local and Government recipients, this shall include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For

Indian Tribal, State and Local Government recipients, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

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

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement:

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

C. Data Reporting: The RECIPIENT must complete and submit the "Clean Water Act Section 319 Initial Data Reporting Sheet" to ECOLOGY's Financial Manager with the signed agreement. The form is available in EAGL.

D. Load Reduction Reporting: The RECIPIENT shall complete and submit a "Clean Water Act Section 319 Load Reductions Reporting Form" to ECOLOGY's Financial Manager by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has submitted the completed form to the Financial Manager. This form is used to gather information on pollutant load reduction for each best management practice (BMP) installed as a part of this project. The form is available in EAGL.

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

SECTION 6: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

A. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal

year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at: <https://harvester.census.gov/fac/collect/ddeindex.html>. For complete information on how to accomplish the single audit submissions, go to the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>.

B. Archaeological Resources and Historic Properties (Section 106): See Section 2.C of the terms and conditions of this agreement, the RECIPIENT shall comply with the additional requirements under section 106 of the National Historic Preservation Act (NHPA, 36 CFR 800)

C. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that the organization's information in the System for Award Management (SAM), <https://www.sam.gov>, is kept current through project closeout. This requires that the RECIPIENT reviews and updates the information at least annually after the initial registration, and more frequently if information changes.

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

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

F. Payment to Consultants: The RECIPIENT shall ensure that loan funds provided under this agreement to reimburse for costs incurred by individual consultants (excluding overhead) is limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed. Contracts for services awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the RECIPIENT with responsibility for the selection, direction, and control of the individuals who shall be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.36(j) for additional information.

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

SECTION 7: THE FOLLOWING CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

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

ECOLOGY:

1. Opinion of RECIPIENT's Legal Council
2. Authorizing Ordinance or Resolution
3. Federal Funding Accountability and Transparency Act (FFATA) Form
4. CWSRF Federal Reporting Information form available in EAGL.
5. Fiscal Sustainability Plan Certification (only required if the project includes construction of a wastewater or stormwater facility construction.)

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

B. American Iron and Steel (Buy American): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a "treatment works" as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

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

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

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

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

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

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

Fair Share Objective/Goals, 40 CFR, Part 33, Subpart D. If the dollar amount of this 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 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 agreement. Records documenting compliance with the following six good faith efforts shall 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 shall 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 866-208-1064.

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 shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.

4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.

5) 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 are available on ECOLOGY's Water Quality Program funding 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 ECOLOGY'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 shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

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

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

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

F. Free Service: The RECIPIENT shall not furnish utility service to any customer free of charge if providing that free service affects the RECIPIENT's ability to meet the obligations of this agreement.

G. Insurance: The RECIPIENT shall 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 shall self-insure or

participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

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

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

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a 365 day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments semiannually over the term of this loan "Loan Term" as outlined in this agreement.

I. 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 shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all of the covenants, agreements, and attachments contained herein.

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

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

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

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

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

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

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

(i) The Loan Amount with interest

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

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

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

Method and Conditions on Repayments

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

Thereafter, equal payments shall be due every six months.

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

Payments shall be mailed to:

Department of Ecology
Cashiering Unit
P.O. Box 47611
Olympia WA 98504-7611

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

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

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

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

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

balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

J. Loan Security

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

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

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

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

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 shall 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 (1) to make, in part or in full, the final repayment to ECOLOGY of the loan amount or, (2) if not so applied, for any other lawful purpose of the RECIPIENT once the Loan Amount, plus interest and any other amounts owing to ECOLOGY, have been paid in full.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the loan Fund and used to pay the principal of and interest on the loan. The ULID Assessments in the ULID may be deposited into the Reserve Account to satisfy a Reserve Requirement if a Reserve Requirement is applicable.

K. Maintenance and Operation of a Funded Utility: The RECIPIENT shall at all times maintain and keep a funded Utility in good repair, working order and condition and also shall at all times operate the Utility and the business in an efficient manner and at a reasonable cost.

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

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

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

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

N. Litigation; Authority: No litigation is now pending, or to the RECIPIENT's knowledge, threatened, seeking to restrain, or enjoin:

- (i) the execution of this agreement; or
- (ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or
- (iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or
- (iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

O. Representations and Warranties: The RECIPIENT represents and warrants to ECOLOGY as follows:

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT which has not been disclosed in writing to ECOLOGY.

Existence; Authority. It is a duly formed and legally existing municipal corporation or political subdivision of the state of Washington or a federally recognized Indian Tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this agreement and to undertake the project identified herein.

Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this loan agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the project or to repay the principal of or interest on the loan, have occurred since the date of this loan agreement. Any changes in the RECIPIENT's financial condition shall be disclosed in writing to ECOLOGY by the RECIPIENT in its request for payment.

P. 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:

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; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the Utility from the portion of the Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the DEPARTMENT.

The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.

Q. Sewer-Use Ordinance or Resolution: If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution. Such ordinance or resolution shall be submitted to ECOLOGY upon request.

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater.
- 3) Require that new sewers and connections be properly designed and constructed.
- 4) Require connections necessary to meet debt obligations associated with the planning and construction of this facility as well as the expected costs of operation and maintenance.

R. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient

ECOLOGY or RECIPIENT funds.

2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all of its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

Procedures for Termination. If this loan agreement is terminated prior to project completion, ECOLOGY shall provide to the RECIPIENT a written notice of termination at least five working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the ECOLOGY shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the loan and all accrued interest (the "Termination Payment Date").

Termination and Default Remedies

No Further Payments. On and after the Termination Date, or in the event of a default event, ECOLOGY may, at its sole discretion, withdraw the loan and make no further payments under this agreement.

Repayment Demand. In response to an ECOLOGY initiated termination event, or in response to a loan default event, ECOLOGY may at its sole discretion demand that the RECIPIENT repay the outstanding balance of the Loan Amount and all accrued interest.

Interest after Repayment Demand. From the time that ECOLOGY demands repayment of funds, amounts owed by the RECIPIENT to ECOLOGY shall accrue additional interest at the rate of one percent per month, or fraction thereof.

Accelerate Repayments. In the event of a default, ECOLOGY may, in its sole discretion, declare the principal of and interest on the loan immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien Obligation upon the Net Revenue. That is, the loan is not subject to acceleration so long as any Senior Lien Obligations are outstanding. Repayments not made immediately upon such acceleration will incur Late Charges.

Late Charges. All amounts due to ECOLOGY and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur late charges.

Intercept State Funds. In the event of a default event and in accordance with Chapter 90.50A.060 RCW, "Defaults," any state funds otherwise due to the RECIPIENT may, at ECOLOGY's sole discretion, be withheld and applied to the repayment of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys,

drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due, or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this agreement.

Fees and Expenses. In any action to enforce the provisions of this agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) shall be awarded to the prevailing party as that term is defined in Chapter 4.84.330 RCW.

Damages. Notwithstanding ECOLOGY's exercise of any or all of the termination or default remedies provided in this agreement, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and/or the state of Washington because of any breach of this agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

S. User-Charge System: The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and shall adopt a system of user-charges to assure that each user of the utility shall pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the project.

In addition, the RECIPIENT shall regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the utility, to establish a reserve to pay for replacement, to establish the required Loan Reserve Account, and to repay the loan.

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department for assistance in obtaining a copy of those regulations..
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled

“CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

Federal Funding Accountability And Transparency Act (FFATA) Reporting Requirements:

RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any RECIPIENT that meets each of the criteria below must also report compensation for its five top executives, using 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

ECOLOGY will not pay any invoice until it has received a completed and signed FFATA Data Collection Form. ECOLOGY is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsr.gov <http://www.fsr.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsr.gov <http://www.fsr.gov>.

GENERAL TERMS AND CONDITIONS

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition". <https://fortress.wa.gov/ecy/publications/SummaryPages/1401002.html>
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological or cultural resources. Activities associated with archaeological and cultural resources are an eligible reimbursable cost subject to approval by ECOLOGY.

RECIPIENT shall:

- a) Immediately cease work and notify ECOLOGY if any archeological or cultural resources are found while conducting work under this Agreement.
- b) Immediately notify the Department of Archaeology and Historic Preservation at (360) 586-3064, in the event historical or cultural artifacts are discovered at a work site.
- c) Comply with Governor Executive Order 05-05, Archaeology and Cultural Resources, for any capital construction projects prior to the start of any work.
- d) Comply with RCW 27.53, Archaeological Sites and Resources, for any work performed under this Agreement, as applicable. National Historic Preservation Act (NHPA) may require the RECIPIENT to obtain a permit pursuant to Chapter 27.53 RCW prior to conducting on-site activity with the potential to impact cultural or historic properties.

4. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

5. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

6. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible may require approval by ECOLOGY prior to purchase.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State Department of Enterprise Services' Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@des.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT should submit final requests for compensation within thirty (30) days after the expiration date of this Agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable Federal, State and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

8. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

9. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

10. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the

review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this contract will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

11. ENVIRONMENTAL STANDARDS

- a) RECIPIENTS who collect environmental-monitoring data must provide these data to ECOLOGY using the Environmental Information Management System (EIM). To satisfy this requirement these data must be successfully loaded into EIM, see instructions on the EIM website at: <http://www.ecy.wa.gov/eim>.
- b) RECIPIENTS are required to follow ECOLOGY's data standards when Geographic Information System (GIS) data are collected and processed. More information and requirements are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENTS shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.
- c) RECIPIENTS must prepare a Quality Assurance Project Plan (QAPP) when a project involves the collection of environmental measurement data. QAPP is to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating data. RECIPIENTS must follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030). ECOLOGY shall review and approve the QAPP prior to start of work. The size, cost, and complexity of the QAPP should be in proportion to the magnitude of the sampling effort.

12. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

13. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

14. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

15. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

16. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

17. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any provisions or terms incorporated herein by reference including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (e) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS

RECIPIENT shall obtain ECOLOGY's approval for all communication materials or documents related to the fulfillment of this Agreement. Steps for approval:

- a) Provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution of any documents or materials compiled or produced.
- b) ECOLOGY reviews draft copy and reserves the right to require changes until satisfied.
- c) Provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets, such as a refrigerator magnet with a message as well as media announcements, and any other online communication products such as Web pages, blogs, and Twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT must provide a complete description including photographs, drawings, or printouts of the product that best represents the item.

RECIPIENT shall include time in their project timeline for ECOLOGY's review and approval process.

RECIPIENT shall acknowledge in the materials or documents that funding was provided by ECOLOGY.

19. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not

document timely use of funds.

- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT shall submit the Closeout Report within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY. RECIPIENT shall use the ECOLOGY provided closeout report format.

20. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
 - a. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
 - b. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
 - g) Conversions. Regardless of the agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

21. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.

- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

22. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

23. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

25. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or

any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

26. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, and 100% post-consumer recycled paper.

For more suggestions visit ECOLOGY's web page: Green Purchasing, <http://www.ecy.wa.gov/programs/swfa/epp>.

27. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this agreement, ECOLOGY, at its sole discretion, may elect to terminate the agreement, in whole or part, or renegotiate the agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

28. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

29. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.



Agreement WQC-2016-Spokane-00115

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

City of Spokane

This is a binding Agreement entered into by and between the State of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY" and City of Spokane, hereinafter referred to as the "RECIPIENT" to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	Riverside Park Water Reclamation Facility LID
Total Cost:	\$515,000.00
Total Eligible Cost:	\$463,500.00
Ecology Share:	\$347,625.00
Recipient Share:	\$115,875.00
The Effective Date of this Agreement is:	07/01/2015
The Expiration Date of this Agreement is no later than	12/31/2016
Project Type:	Stormwater Facility

Project Short Description:

This project will improve water quality in the Spokane River by installing Low Impact Development (LID) stormwater improvements as part of the parking rehabilitation at the Riverside Park Water Reclamation Facility (RPWRF). This project will also provide treatment for Total Suspended Solids (TSS), Dissolved Copper and Dissolved Zinc, and will reduce flows to the Spokane River by increasing stormwater infiltration.

Project Long Description:

The runoff from the RPWRF parking lot currently drains to an existing City storm sewer (48-inch) pipe that discharges directly to the Spokane River without treatment. The project will construct permeable concrete unit pavers, porous grass pavers, and porous concrete sidewalks within the parking lot to promote infiltration and minimize runoff to the river. A bioretention swale will be constructed adjacent to Aubrey L. White Parkway to treat and infiltrate stormwater that contains concentrations of metals and other pollutants.

The improvements constructed with this project will meet water quality and quantity requirements of the Spokane

Agreement No: WQC-2016-Spokane-00115
Project Title: Riverside Park Water Reclamation Facility LID
Recipient Name: City of Spokane

Regional Stormwater Manual (SRSM, 2008). In addition, the project follows the guidelines of the RPWRF Aesthetic Master Plan (2006), which encourages the use of sustainable design practices. The Master Plan also encourages the implementation of water efficiency measures, such as the use of native landscaping to reduce water consumption.

The project will provide an educational opportunity for both visitors that tour the RPWRF and traffic passing the facility to Riverside State Park.

Overall Goal:

This project will help protect and restore water quality in Washington by reducing stormwater impacts from existing infrastructure and development.

Agreement No: WQC-2016-Spokane-00115
Project Title: Riverside Park Water Reclamation Facility LID
Recipient Name: City of Spokane

RECIPIENT INFORMATION

Organization Name: City of Spokane

Federal Tax ID: 91-6001280
DUNS Number: 057531253

Mailing Address: 808 W. Spokane Falls Boulevard
Spokane, WA, 99201

Physical Address: 808 W. Spokane Falls Boulevard
Spokane, Washington, 99201-3343

Organization Email: mdavis@spokanecity.org
Organization Fax: (509) 343-5760

Contacts

Project Manager	Marcia Davis Principal Engineer 808 W. Spokane Falls Blvd Spokane, Washington, 99201-3343 Email: mdavis@spokanecity.org Phone: (509) 625-6398
Billing Contact	Kevan Brooks Accountant II 808 W Spokane Falls Blvd, Spokane, Washington, 99201 Email: kbrooks@spokanecity.org Phone: (509) 625-6045
Authorized Signatory	David A Condon Mayor 808 W Spokane Falls Blvd. Spokane, Washington, 99201 Email: mayor@spokanecity.org Phone: (509) 625-6250

ECOLOGY INFORMATION

Mailing Address: Department of Ecology
Water Quality
PO BOX 47600
Olympia, WA 98504-7600

Physical Address: Water Quality
300 Desmond Drive
Lacey, WA 98503

Contacts

Project Manager	Cynthia Wall N. 4601 Monroe Spokane, Washington, 99205-1295 Email: cywa461@ecy.wa.gov Phone: (509) 329-3537
Financial Manager	Janel Bistrika P.O. Box 47600 Olympia, Washington, 98504-7600 Email: janel.bistrika@ecy.wa.gov Phone: (360) 407-6424
Technical Advisor	Douglas Howie Senior Stormwater Engineer P.O. Box 47600 Olympia, Washington, 98504-7600 Email: douglas.howie@ecy.wa.gov Phone: (360) 407-6444

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

RECIPIENT agrees to read, understand, and accept all information contained within this entire Agreement. Furthermore, RECIPIENT acknowledges that they have reviewed the terms and conditions of this Agreement, Scope of Work, attachments, all incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement.

IN WITNESS WHEREOF, the parties hereby sign this Agreement

**Washington State
Department of Ecology**

City of Spokane

Program Manager _____ Date _____
Heather Bartlett
Water Quality

David A Condon _____ Date _____
Mayor

SCOPE OF WORK

Task Number: 1 **Task Cost: \$15,000.00**

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and a recipient closeout report (including photos).

B. The RECIPIENT shall maintain documentation demonstrating compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

C. The RECIPIENT shall manage the project. Efforts include, but are not limited to: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant or loan administrative requirements.

Task Expected Outcome:

- * Timely and complete submittal of requests for reimbursement, quarterly progress reports, and RECIPIENT closeout report.
- * Properly maintained project documentation

Recipient Task Coordinator: Marcia Davis

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

SCOPE OF WORK

Task Number: 2 Task Cost: \$0.00

Task Title: Design Plans and Specs, Environmental Review

Task Description:

The RECIPIENT will ensure the following items are completed and provide the associated deliverables to ECOLOGY.

A. The RECIPIENT will coordinate the preparation and submittal of State Environmental Policy Act (SEPA) documentation.

B. The RECIPIENT is responsible for application of, receipt of, and compliance with all required local, state, tribal and federal permits, licenses, easements, or property rights necessary for the project.

C. The RECIPIENT will comply with Executive Order (05-05) cultural resources review requirements. To initiate cultural resources review the RECIPIENT will:

1. Submit a Department of Archaeology and Historic Preservation (DAHP) EZ-1 Form, Ecology Historic and Cultural Resource Project Review Form, or a cultural resources survey or assessment completed by a licensed archaeologist to ECOLOGY. All submitted materials must conform to the Washington State Standards for Cultural Resource Reporting (DAHP February 2014).

2. Develop and submit an Inadvertent Discovery Plan (IDP) to ECOLOGY. The RECIPIENT will ensure that all contractors and subcontractors have a copy of the completed IDP prior to and while working on-site. An IDP template may be found at:
<http://www.ecy.wa.gov/programs/wq/funding/FundPrgms/CWSRF/CWSRFres/TemplateInadvDiscPlan060915.doc>

Ground disturbing work (including geotechnical investigations) completed prior to receiving written notice to proceed from ECOLOGY shall not be eligible for reimbursement.

D. The RECIPIENT will develop a project design. Projects must be designed in accordance with the Stormwater Management Manual for Eastern Washington, Stormwater Management Manual for Western Washington, or equivalent manual. Project must be reviewed and accepted in writing by ECOLOGY to be eligible for reimbursement.

E. The RECIPIENT will submit one hard copy and one digital copy of the items listed below to ECOLOGY for acceptance. Design figures must be reduced to 11x17 inches in size and must be legible.

1. Design Report. For a complete list of required design report elements refer to:
<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWDesignDeliv081315.pdf>

2. 90 Percent Design Package. At a minimum, this package must include 90 percent plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

For current bid inserts refer to:
<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramBidInsert032515.pdf>

For the current bid specification clause refer to:
WQC-2016-Spokane-00115

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Project Title: Riverside Park Water Reclamation Facility LID
Recipient Name: City of Spokane

<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramSpecClauses052912.pdf>

F. The RECIPIENT agrees to respond to ECOLOGY comments prior to proceeding to 90 percent design and/or project advertisement/bid and construction. At its discretion, ECOLOGY may require the RECIPIENT to resubmit revised documents for further ECOLOGY review prior to accepting the project design.

G. All materials submitted to ECOLOGY for acceptance must be approved by the RECIPIENT prior to submittal to ECOLOGY.

H. The RECIPIENT will submit to ECOLOGY a digital copy of the Final Bid Package including: project plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

Task Goal Statement:

The RECIPIENT will complete all design, environmental review and permitting tasks and respond to ECOLOGY comments in a timely manner.

Task Expected Outcome:

The project will meet the requirements set forth by the State Environmental Policy Act, cultural resource protection requirements, ECOLOGY water quality facility design standards, and all other applicable federal, state and local laws and regulations.

Recipient Task Coordinator: Mark Papich

Design Plans and Specs, Environmental Review

Deliverables

Number	Description	Due Date
2.1	Copy of SEPA determination documentation. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.10	List of permits acquired, and environmental review documents. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.11	Proposed Construction Schedule. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.12	Final Bid Package. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.2	Complete DAHP EZ-1 Form or Ecology Historic and Cultural Resource Project Review Form; Submit supplemental cultural resources documentation if available. Upload to EAGL and notify ECOLOGY when upload is complete. Cultural Resource surveys should be submitted directly to the ECOLOGY Project Manager and should not be uploaded to the EAGL system.	
2.3	Inadvertent Discovery Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.4	Design Report. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of Design Report to ECOLOGY Engineer.	
2.5	Responses to ECOLOGY Design Report Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.6	Ecology Design Report Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.7	90 percent Design Plans, Bid Specifications, and Engineer's Estimate. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of 90 percent Design Plans, Bid Specifications, and Engineer's Estimate to ECOLOGY Engineer.	
2.8	Responses to ECOLOGY 90 percent Design Plan Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.9	Ecology 90 percent Design Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 3 Task Cost: \$58,500.00

Task Title: Construction Management

Task Description:

- A. The RECIPIENT will provide construction oversight and management of the project.
- B. The RECIPIENT will submit a detailed construction quality assurance plan to ECOLOGY before the start of construction. This plan must describe how adequate and competent construction oversight will be performed.
- C. The RECIPIENT will conduct a pre-construction conference meeting and invite ECOLOGY to attend.
- D. The RECIPIENT will submit an updated project schedule with projected cash flow to ECOLOGY within 30 days of the start of construction. The project schedule will be revised and/or updated whenever major changes occur and at a minimum of every three months. The RECIPIENT will submit the updated schedule to ECOLOGY with the quarterly report. When changes in the construction schedule affect previous cash flow estimates, revised cash flow projections must also be submitted to ECOLOGY.
- E. Prior to execution, the RECIPIENT will submit any eligible change orders that are a significant deviation from ECOLOGY-accepted plans and specifications in writing for ECOLOGY review and acceptance for payment. Ecology must review and accept all change orders that impact grant eligible activities prior to implementation. All other change orders must be reviewed by ECOLOGY for technical merit and should be submitted within 30 days after execution. Change orders are to be signed by the contractor, the engineer (if appropriate), and the RECIPIENT prior to submittal to ECOLOGY for acceptance.
- F. The RECIPIENT will operate and maintain the constructed facility for the design life of the facility. Additionally, the RECIPIENT will develop and submit an operations and maintenance plan for all stormwater treatment, flow control, and low impact development (LID) features. The operation and maintenance plan will describe how the RECIPIENT will ensure project success consistent with the design manual used. The operation and maintenance plan must also address long-term activities to assure ongoing pollutant removal and flow-control capability of the project in accordance with the design manual.
- G. Upon completion of construction, the RECIPIENT will provide to ECOLOGY:
1. A Stormwater Construction Completion Form signed by a professional engineer indicating that the project was completed in accordance with the plans and specifications and major change orders approved by ECOLOGY's Project Engineer and shown on the Record Drawings. The Stormwater Construction Completion Form can be found at: <http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/FY11SWConstCompForm082415.doc>

2. GIS compatible project area data in an ECOLOGY-approved format.

Task Goal Statement:

The RECIPIENT will oversee and manage construction, communicate with ECOLOGY in a timely fashion, and provide ECOLOGY with all requested project documentation.

Task Expected Outcome:

Project will be constructed on schedule and in accordance with ECOLOGY-accepted plans.

Recipient Task Coordinator: Marcia Davis

Construction Management

Deliverables

Number	Description	Due Date
3.1	Construction Quality Assurance Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.2	Project Schedule. Upload to EAGL using naming convention D3.2 SCHEDULE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.3	Revised Cash Flow Estimates when changes in construction schedule occur. Upload to EAGL using naming convention D3.3 CASHFLOW MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.4	Change Order(s). Upload to EAGL and notify ECOLOGY when upload is complete.	
3.5	Copy of Facility Operation and Maintenance Plan. Upload to EAGL using naming convention D3.5 OPANDMAINTENANCE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.6	Stormwater Construction Completion Form. Upload to EAGL using naming convention D3.6 SWCONSTRUCTIONCOMPLETIONFORM and notify ECOLOGY when upload is complete.	
3.7	Project Area Shapefile or ECOLOGY-Approved Equivalent. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.8	Pre-construction conference meeting minutes. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 4

Task Cost: \$390,000.00

Task Title: Construction

Task Description:

A. The RECIPIENT will, in accordance with ECOLOGY-accepted plans and specifications, complete construction of the project. The construction project will include installation of permeable pavers, porous grass pavers, porous concrete sidewalks, and a bioretention swale to mitigate runoff from 10 acres of pollution generating impervious surfaces.

B. Calculate and submit an equivalent new/re-development area for the completed retrofit project(s) using the methods outlined in Appendix N of the funding guidelines for State Fiscal Year 2016 Combined Water Quality Financial Assistance Program or other ECOLOGY-approved method.

Task Goal Statement:

Project will be constructed in accordance with ECOLOGY-accepted plans and specifications.

Task Expected Outcome:

Construction project summary will provide water quality benefits including reductions in Total Suspended Solids (TSS), Dissolved Copper and Dissolved Zinc.

Recipient Task Coordinator: Marcia Davis

Construction

Deliverables

Number	Description	Due Date
4.1	Copy of the contract documents (e.g. bid announcement, bid award and bid tabulations). Upload to EAGL and notify ECOLOGY when upload is complete.	
4.2	Copy of signed and dated construction contract. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.3	Construction progress reports and photos included in quarterly reports.	
4.4	Completed equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY when upload is complete.	

Agreement No: WQC-2016-Spokane-00115
Project Title: Riverside Park Water Reclamation Facility LID
Recipient Name: City of Spokane

BUDGET

Funding Distribution EG160207

Funding Title: Stormwater Financial Assistance Program (SFAP)
Funding Type: Grant Funding Expiration Date: 12/31/2016
Funding Effective Date: 07/01/2015
Funding Source:

Title: SFAP - SFY16

Type: State

CFDA:

Assistance Agreement:

Description: Environmental Legacy Stewardship Account (ELSA) - State

Recipient Match %: 25

InKind Interlocal Allowed: No

InKind Other Allowed: No

Is this Funding Distribution used to match a federal grant? No

Stormwater Financial Assistance Program (SFAP)	Task Total
Project Administration/Management	\$ 15,000.00
Design Plans and Specs, Environmental Review	\$ 0.00
Construction Management	\$ 58,500.00
Construction	\$ 390,000.00

Total: \$ 463,500.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Stormwater Financial Assistance Program (SFAP)	25.00 %	\$ 115,875.00	\$ 347,625.00	\$ 463,500.00
Total		\$ 115,875.00	\$ 347,625.00	\$ 463,500.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

Unless otherwise provided, the following terms will have the respective meanings for all purposes of this agreement:

“Administration Charge” means a charge established in accordance with Chapter 90.50A RCW and Chapter 173-98 WAC, to be used to pay Ecology’s cost to administer the State Revolving Fund by placing a percentage of the interest earned in an Administrative Charge Account.

“Administrative Requirements” means the effective edition of ECOLOGY's ADMINISTRATIVE REQUIREMENTS FOR RECIPIENTS OF ECOLOGY GRANTS AND LOANS at the signing of this agreement.

“Annual Debt Service” for any calendar year means for any applicable bonds or loans including the loan, all interest plus all principal due on such bonds or loans in such year.

“Average Annual Debt Service” means, at the time of calculation, the sum of the Annual Debt Service for the remaining years of the loan to the last scheduled maturity of the loan divided by the number of those years.

“Centennial Clean Water Program” means the state program funded from various state sources.

“Contract Documents” means the contract between the RECIPIENT and the construction contractor for construction of the project.

“Cost Effective Analysis” means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water quality problem as described in Chapter 173-98-730 WAC.

“Defease” or “Defeasance” means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

“Effective Date” means the earliest date on which eligible costs may be incurred.

“Effective Interest Rate” means the total interest rate established by Ecology that includes the Administrative Charge.

“Estimated Loan Amount” means the initial amount of funds loaned to the RECIPIENT.

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount.

“Equivalency” means projects designated by ECOLOGY to meet additional federal requirements.

“Final Accrued Interest” means the interest accrued beginning with the first disbursement of funds to the RECIPIENT through such time as the loan is officially closed out and a final loan repayment schedule is issued.

“Final Loan Amount” means all principal of and interest on the loan from the Project Start Date through the Project Completion Date.

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount.

“Forgivable Principal” means the portion of a loan that is not required to be paid back by the borrower.

“General Obligation Debt” means an obligation of the RECIPIENT secured by annual ad valorem taxes levied by the RECIPIENT and by the full faith, credit, and resources of the RECIPIENT.

“General Obligation Payable from Special Assessments Debt” means an obligation of the RECIPIENT secured by a valid general obligation of the Recipient payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.

“Gross Revenue” means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to Defeasance or refund Utility obligations or (B) in an obligation redemption fund or account other than the Loan Fund until commingled with other earnings and revenues of the Utility or (C) held in a special account for the purpose of paying a rebate to the United States Government under the Internal Revenue Code.

“Guidelines” means the ECOLOGY's Funding Guidelines that correlate to the State Fiscal Year in which the project is funded.

“Initiation of Operation Date” means the actual date the Water Pollution Control Facility financed with proceeds of the loan begins to operate for its intended purpose.

“Loan” means the Washington State Water Pollution Control Revolving Fund Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this loan agreement.

“Loan Amount” means either an Estimated Loan Amount or a Final Loan Amount, as applicable.

“Loan Fund” means the special fund of that name created by ordinance or resolution of the RECIPIENT for the repayment of the principal of and interest on the loan.

“Loan Security” means the mechanism by which the RECIPIENT pledges to repay the loan.

“Loan Term” means the repayment period of the loan.

“Maintenance and Operation Expense” means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties, but will not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

“Net Revenue” means the Gross Revenue less the Maintenance and Operation Expense.

“Original Engineer’s Estimate” means the engineer’s estimate of construction costs included with bid documents.

“Principal and Interest Account” means, for a loan that constitutes Revenue-Secured Debt, the account 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 agreement.

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed.

“Project Schedule” means that schedule for the project specified in the 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.

“Risk-Based Determination” means an approach to sub-recipient monitoring and oversight based on risk factors associated to a RECIPIENT or project.

“Scope of Work” means the tasks and activities constituting the project.

“Section 319” means the section of the Clean Water Act that provides funding to address nonpoint sources of water pollution.

“Senior Lien Obligations” means all revenue bonds and other obligations of the RECIPIENT outstanding on the date of execution of this loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or issued after the date of execution of this loan agreement having a claim or lien on the Gross Revenue of the Utility prior and superior to the claim or lien of the loan, subject only to Maintenance and Operation Expense.

“State Water Pollution Control Revolving Fund (Revolving Fund)” means the water pollution control revolving fund established by Chapter 90.50A.020 RCW.

“Termination Date” means the effective date of ECOLOGY’s termination of the agreement.

“Termination Payment Date” means the date on which the RECIPIENT is required to repay to ECOLOGY any outstanding balance of the loan and all accrued interest.

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been

determined to be eligible for ECOLOGY grant or loan funding.

“Total Project Cost” means the sum of all costs associated with a water quality project, including costs that are not eligible for ECOLOGY grant or loan funding.

“ULID” means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility.

“ULID Assessments” means all assessments levied and collected in any ULID. Such assessments are pledged to be paid into the Loan Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments will include principal installments and any interest or penalties which may be due.

“Utility” means the sewer system, stormwater system, or the combined water and sewer system of the RECIPIENT, the Net Revenue of which is pledged to pay and secure the loan.

SECTION 2: THE FOLLOWING CONDITIONS APPLY TO ALL RECIPIENTS OF WATER QUALITY COMBINED FINANCIAL ASSISTANCE FUNDING.

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference.

A. Architectural and Engineering Services: The RECIPIENT certifies by signing this agreement that the requirements of Chapter 39.80 RCW, “Contracts for Architectural and Engineering Services,” have been, or shall be, met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final negotiated agreement and submit a copy of the agreement to ECOLOGY.

B. Best Management Practices (BMP) Implementation: If the RECIPIENT installs BMPs that are not approved by ECOLOGY prior to installation, the RECIPIENT assumes the risk that part or all of the reimbursement for that activity may be delayed or ineligible. For more details regarding BMP Implementation, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY’s Water Quality Program funding website.

C. Cultural and Historic Resources Protection Compliance with Environmental Laws and Regulations. The RECIPIENT shall:

- 1) The RECIPIENT shall comply with all applicable federal, state and local environmental laws, statutes, regulations, executive orders, and permits.
- 2) The RECIPIENT shall comply with Ecology’s Archaeological Resource and Historic Property review process. The RECIPIENT agrees that in no case shall construction activities, ground disturbance, or excavation of any kind, begin until provisions of this process are complied with. The RECIPIENT is responsible for developing a complete Inadvertent Discovery Plan (IDP). The IDP must be immediately available by request by any party. An IDP must be immediately available and be implemented to address any discovery. The RECIPIENT will implement the procedures in the IDP, and immediately notify ECOLOGY, the Department of Archeology and Historic Preservation (DAHP), and tribal representatives if human remains, cultural, or archeological resources are discovered in the course of construction. For more details regarding requirements under this provision, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY’s Water Quality Program funding website.

D. Electronic Fund Transfers: The RECIPIENT must register as a statewide vendor in order to receive payment reimbursement. Washington State’s Department of Enterprise Services (DES) issues all payments. DES maintains a central vendor file for Washington State agency use to process vendor payments. The RECIPIENT can complete the

registration process online at <http://des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. This registration process also allows The RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If The RECIPIENT have questions about the vendor registration process or setting up direct deposit payments contact DES at the Payee Help Desk at (360) 664-7779 or payeehelpdesk@des.wa.gov.

E. Equipment Purchase: Equipment not included in the scope of work or a construction plan and specification approval must be pre-approved by ECOLOGY's project manager before purchase.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3 for Section 319 funded projects or 7 for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

G. Growth Management Planning: The RECIPIENT certifies by signing this agreement that it is in compliance with the requirements of Chapter 36.70A RCW, "Growth Management Planning by Selected Counties and Cities." If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify ECOLOGY in writing of this change within 30 days.

H. Interlocal: The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements necessary for the project are, or shall be, consistent with the terms of this agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the project to ECOLOGY.

I. Lobbying and Litigation: Costs incurred for the purposes of lobbying or litigation are not eligible for funding under this agreement.

J. Post Project Assessment Survey: The RECIPIENT agrees to participate in a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project approximately three years after project completion. A representative from ECOLOGY's Water Quality Program may contact the RECIPIENT to request this data. ECOLOGY may also conduct site interviews and inspections, and may otherwise evaluate the project, as part of this assessment.

K. Project Status Evaluation: ECOLOGY may evaluate the status of this project 18 months from the effective date of this agreement. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

L. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement will be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State. However, ECOLOGY may accept as eligible technical assistance, proposed practices, or project designs that do not meet these standards if approved in writing by the NRCS and ECOLOGY.

SECTION 3: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND ONLY CENTENNIAL CLEAN WATER FUNDED PROJECTS BEING USED TO MATCH SECTION 319 FUNDS.

The RECIPIENT must submit the following documents to ECOLOGY before this agreement is signed by ECOLOGY:

1. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.
2. Clean Water Act Section 319 Initial Data Reporting Sheet or the "Section 319 Initial Data Reporting" form in EAGL.

A. Disadvantaged Business Enterprise (DBE):

GENERAL COMPLIANCE, 40 CFR, Part 33 - The RECIPIENT agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D - A RECIPIENT must negotiate with the appropriate EPA award official or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

Current Fair Share Objective/Goal - The dollar amount of this assistance agreement is over \$250,000; or the total dollar amount of all of the RECIPIENT's non-TAG assistance agreements from EPA in the current fiscal year is over \$250,000. The Washington State Department of Ecology has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

MBE: SUPPLIES 8.00%; SERVICES 10.00%; EQUIPMENT 8.00%; CONSTRUCTION 10.00%

WBE: SUPPLIES 4.00%; SERVICES 4.00%; EQUIPMENT 4.00%; CONSTRUCTION 6.00%

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404 - If the RECIPIENT has not yet negotiated its MBE/WBE fair share objectives/goals, the RECIPIENT agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The RECIPIENT agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA shall respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C - Pursuant to 40 CFR, Section 33.301, the RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State, Local and Government recipients, this shall include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For

Indian Tribal, State and Local Government recipients, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

B. Funding Recognition and Outreach: In addition to Section 2.F of these Terms and Conditions, the RECIPIENT shall provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA logo and follow usage requirements available at <http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. To obtain the appropriate EPA logo or seal graphic file, the RECIPIENT may send a request to their Ecology's Financial Manager.

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement:

"This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute endorsement or recommendation for use."

C. Data Reporting: The RECIPIENT must complete and submit the "Clean Water Act Section 319 Initial Data Reporting Sheet" to ECOLOGY's Financial Manager with the signed agreement. The form is available in EAGL.

D. Load Reduction Reporting: The RECIPIENT shall complete and submit a "Clean Water Act Section 319 Load Reductions Reporting Form" to ECOLOGY's Financial Manager by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has submitted the completed form to the Financial Manager. This form is used to gather information on pollutant load reduction for each best management practice (BMP) installed as a part of this project. The form is available in EAGL.

E. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA's assistance agreement. In the event a time extension is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date.

SECTION 6: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

A. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal

year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at: <https://harvester.census.gov/fac/collect/ddeindex.html>. For complete information on how to accomplish the single audit submissions, go to the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>.

B. Archaeological Resources and Historic Properties (Section 106): See Section 2.C of the terms and conditions of this agreement, the RECIPIENT shall comply with the additional requirements under section 106 of the National Historic Preservation Act (NHPA, 36 CFR 800)

C. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that the organization's information in the System for Award Management (SAM), <https://www.sam.gov>, is kept current through project closeout. This requires that the RECIPIENT reviews and updates the information at least annually after the initial registration, and more frequently if information changes.

D. Electronic and Information Technology (EIT) Accessibility: RECIPIENTS shall ensure that loan funds provided under this agreement for costs incurred in the development or purchase of EIT systems or products provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology as per Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7. Systems or products funded under this agreement must be designed to meet the diverse needs of users without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

E. Hotel-Motel Fire Safety Act: The RECIPIENT shall ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (15 USC 2225a, PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act. Pursuant to 15 USC 2225a

F. Payment to Consultants: The RECIPIENT shall ensure that loan funds provided under this agreement to reimburse for costs incurred by individual consultants (excluding overhead) is limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed. Contracts for services awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the RECIPIENT with responsibility for the selection, direction, and control of the individuals who shall be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.36(j) for additional information.

G. Trafficking In Persons: The RECIPIENT and RECIPIENT employees that are private entities shall not engage in forms of trafficking in persons during the period of time this agreement is effective. This includes, but is not limited to the procurement of a commercial sex act or forced labor. The RECIPIENT shall notify ECOLOGY immediately of any information received from any source alleging a violation under this provision.

SECTION 7: THE FOLLOWING CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

The RECIPIENT must submit the following documents/forms to ECOLOGY before this agreement is signed by

ECOLOGY:

1. Opinion of RECIPIENT's Legal Council
2. Authorizing Ordinance or Resolution
3. Federal Funding Accountability and Transparency Act (FFATA) Form
4. CWSRF Federal Reporting Information form available in EAGL.
5. Fiscal Sustainability Plan Certification (only required if the project includes construction of a wastewater or stormwater facility construction.)

A. Alteration and Eligibility of Project: During the term of this agreement, the RECIPIENT (1) shall not materially alter the design or structural character of the project without the prior written approval of ECOLOGY and (2) shall take no action which would adversely affect the eligibility of the project as defined by applicable funding program rules and state statutes, or which would cause a violation of any covenant, condition, or provision herein.

B. American Iron and Steel (Buy American): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a "treatment works" as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

C. Authority of RECIPIENT: This agreement is authorized by the Constitution and laws of the state of Washington, including the RECIPIENT's authority, and by the RECIPIENT pursuant to the authorizing ordinance or resolution. The RECIPIENT shall submit a copy of the authorizing ordinance or resolution to the ECOLOGY Financial Manager before this agreement shall be signed by ECOLOGY.

D. Fiscal Sustainability Plan Certification: The RECIPIENT shall submit a completed Fiscal Sustainability Plan Certification before this agreement is signed by ECOLOGY. The Fiscal Sustainability Plan Certification is available from the ECOLOGY Financial Manager or on the Water Quality Program website.

E. Disadvantaged Business Enterprise (DBE): General Compliance, 40 CFR, Part 33. The RECIPIENT agrees to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises (MBE/WBE) 40CFR, Part 33 in procurement under this agreement.

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including, but not limited to Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).

In the event of the RECIPIENT's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this agreement may be rescinded, canceled, or terminated in whole or in part, and the RECIPIENT may be declared ineligible for further funding from ECOLOGY. The RECIPIENT shall, however, be given a reasonable time in which to cure this noncompliance.

Fair Share Objective/Goals, 40 CFR, Part 33, Subpart D. If the dollar amount of this 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 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 agreement. Records documenting compliance with the following six good faith efforts shall 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 shall 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 866-208-1064.

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 shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.

4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.

5) 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 are available on ECOLOGY's Water Quality Program funding 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 ECOLOGY'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 shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

“The Contractor will not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor will carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in termination of this Contract or other legally available remedies.”

Bidder List, 40 CFR, Section 33.501(b) and (c). The RECIPIENT agrees to create and maintain a bidders list. The bidders list shall include the following information for all firms that bid or quote on prime contracts, or bid or quote subcontracts, including both MBE/WBEs and non-MBE/WBEs.

1. Entity's name with point of contact
2. Entity's mailing address, telephone number, and e-mail address
3. The procurement on which the entity bid or quoted, and when
4. Entity's status as an MBE/WBE or non-MBE/WBE

F. Free Service: The RECIPIENT shall not furnish utility service to any customer free of charge if providing that free service affects the RECIPIENT's ability to meet the obligations of this agreement.

G. Insurance: The RECIPIENT shall 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 shall self-insure or

participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

H. Loan Interest Rate and Terms: This loan agreement shall remain in effect until the date of final repayment of the loan, unless terminated earlier according to the provisions herein.

When the Project Completion Date has occurred, ECOLOGY and the RECIPIENT shall execute an amendment to this loan agreement which details the final loan amount (Final Loan Amount), and ECOLOGY shall prepare a final loan repayment schedule. The Final Loan Amount shall be the combined total of actual disbursements made on the loan and all accrued interest to the computation date.

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a 365 day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments semiannually over the term of this loan "Loan Term" as outlined in this agreement.

I. 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 shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all of the covenants, agreements, and attachments contained herein.

2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.

3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.

4. For Revenue-Secured; Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.

6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

If the RECIPIENT defeases or advance refunds the loan, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay both of the following:

(i) The Loan Amount with interest

(ii) Any other obligations of the RECIPIENT to ECOLOGY under this agreement, unless in its sole discretion ECOLOGY finds that repayment from those additional sources would not be in the public interest.

Failure to repay the Loan Amount plus interest within the time specified in ECOLOGY's notice to make such repayment shall incur Late Charges and shall be treated as a Loan Default.

7. Refinancing or Early Repayment of the Project. So long as ECOLOGY shall hold this loan, the RECIPIENT shall give ECOLOGY thirty days written notice if the RECIPIENT intends to refinance or make early repayment of the loan.

Method and Conditions on Repayments

1. Semiannual Payments. Notwithstanding any other provision of this agreement, the first semiannual payment of principal and interest on this loan shall be due and payable no later than one year after the project completion date or initiation of operation date, whichever comes first.

Thereafter, equal payments shall be due every six months.

If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington State agencies, the payment shall be due on the next business day for Washington State agencies.

Payments shall be mailed to:

Department of Ecology
Cashiering Unit
P.O. Box 47611
Olympia WA 98504-7611

In lieu of mailing payments, electronic fund transfers can be arranged by working with ECOLOGY's Financial Manager.

No change to the amount of the semiannual principal and interest payments shall be made without a formal amendment to this agreement. The RECIPIENT shall continue to make semiannual payments based on this agreement until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended agreement.

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.

3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.

4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid

balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

J. Loan Security

Due Regard: For loans secured with a Revenue Obligation: The RECIPIENT shall exercise due regard for Maintenance and Operation Expense and the debt service requirements of the Senior Lien Obligations and any other outstanding obligations pledging the Gross Revenue of the Utility, and it has not obligated itself to set aside and pay into the loan Fund a greater amount of the Gross Revenue of the Utility than, in its judgment, shall be available over and above such Maintenance and Operation Expense and those debt service requirements.

Levy and Collection of Taxes (if used to secure the repayment of the loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of its electors on all of the taxable property within the boundaries of the RECIPIENT in an amount sufficient, together with other money legally available and to be used therefore, to pay when due the principal of and interest on the loan, and the full faith, credit and resources of the RECIPIENT are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

Not an Excess Indebtedness: For loans secured with a general obligation pledge or a general obligation pledge on special assessments: The RECIPIENT agrees that this agreement and the loan to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

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 shall 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 (1) to make, in part or in full, the final repayment to ECOLOGY of the loan amount or, (2) if not so applied, for any other lawful purpose of the RECIPIENT once the Loan Amount, plus interest and any other amounts owing to ECOLOGY, have been paid in full.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the loan Fund and used to pay the principal of and interest on the loan. The ULID Assessments in the ULID may be deposited into the Reserve Account to satisfy a Reserve Requirement if a Reserve Requirement is applicable.

K. Maintenance and Operation of a Funded Utility: The RECIPIENT shall at all times maintain and keep a funded Utility in good repair, working order and condition and also shall at all times operate the Utility and the business in an efficient manner and at a reasonable cost.

L. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an "Opinion of Legal Counsel to the RECIPIENT" to ECOLOGY before this agreement shall be signed. ECOLOGY will provide the form.

M. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and sub contracts in excess of \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act, and make such records available for review upon request.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves "public work" and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and make such records available for review upon request.

N. Litigation; Authority: No litigation is now pending, or to the RECIPIENT's knowledge, threatened, seeking to restrain, or enjoin:

- (i) the execution of this agreement; or
- (ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or
- (iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or
- (iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

O. Representations and Warranties: The RECIPIENT represents and warrants to ECOLOGY as follows:

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT which has not been disclosed in writing to ECOLOGY.

Existence; Authority. It is a duly formed and legally existing municipal corporation or political subdivision of the state of Washington or a federally recognized Indian Tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this agreement and to undertake the project identified herein.

Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this loan agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the project or to repay the principal of or interest on the loan, have occurred since the date of this loan agreement. Any changes in the RECIPIENT's financial condition shall be disclosed in writing to ECOLOGY by the RECIPIENT in its request for payment.

P. 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:

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; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the Utility from the portion of the Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the DEPARTMENT.

The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.

Q. Sewer-Use Ordinance or Resolution: If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution. Such ordinance or resolution shall be submitted to ECOLOGY upon request.

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater.
- 3) Require that new sewers and connections be properly designed and constructed.
- 4) Require connections necessary to meet debt obligations associated with the planning and construction of this facility as well as the expected costs of operation and maintenance.

R. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient

ECOLOGY or RECIPIENT funds.

2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all of its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

Procedures for Termination. If this loan agreement is terminated prior to project completion, ECOLOGY shall provide to the RECIPIENT a written notice of termination at least five working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the ECOLOGY shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the loan and all accrued interest (the "Termination Payment Date").

Termination and Default Remedies

No Further Payments. On and after the Termination Date, or in the event of a default event, ECOLOGY may, at its sole discretion, withdraw the loan and make no further payments under this agreement.

Repayment Demand. In response to an ECOLOGY initiated termination event, or in response to a loan default event, ECOLOGY may at its sole discretion demand that the RECIPIENT repay the outstanding balance of the Loan Amount and all accrued interest.

Interest after Repayment Demand. From the time that ECOLOGY demands repayment of funds, amounts owed by the RECIPIENT to ECOLOGY shall accrue additional interest at the rate of one percent per month, or fraction thereof.

Accelerate Repayments. In the event of a default, ECOLOGY may, in its sole discretion, declare the principal of and interest on the loan immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien Obligation upon the Net Revenue. That is, the loan is not subject to acceleration so long as any Senior Lien Obligations are outstanding. Repayments not made immediately upon such acceleration will incur Late Charges.

Late Charges. All amounts due to ECOLOGY and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur late charges.

Intercept State Funds. In the event of a default event and in accordance with Chapter 90.50A.060 RCW, "Defaults," any state funds otherwise due to the RECIPIENT may, at ECOLOGY's sole discretion, be withheld and applied to the repayment of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys,

drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due, or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this agreement.

Fees and Expenses. In any action to enforce the provisions of this agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) shall be awarded to the prevailing party as that term is defined in Chapter 4.84.330 RCW.

Damages. Notwithstanding ECOLOGY's exercise of any or all of the termination or default remedies provided in this agreement, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and/or the state of Washington because of any breach of this agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

S. User-Charge System: The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and shall adopt a system of user-charges to assure that each user of the utility shall pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the project.

In addition, the RECIPIENT shall regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the utility, to establish a reserve to pay for replacement, to establish the required Loan Reserve Account, and to repay the loan.

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department for assistance in obtaining a copy of those regulations..
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled

“CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

Federal Funding Accountability And Transparency Act (FFATA) Reporting Requirements:

RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any RECIPIENT that meets each of the criteria below must also report compensation for its five top executives, using 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

ECOLOGY will not pay any invoice until it has received a completed and signed FFATA Data Collection Form. ECOLOGY is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsr.gov <http://www.fsr.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsr.gov <http://www.fsr.gov>.

GENERAL TERMS AND CONDITIONS

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition". <https://fortress.wa.gov/ecy/publications/SummaryPages/1401002.html>
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological or cultural resources. Activities associated with archaeological and cultural resources are an eligible reimbursable cost subject to approval by ECOLOGY.

RECIPIENT shall:

- a) Immediately cease work and notify ECOLOGY if any archeological or cultural resources are found while conducting work under this Agreement.
- b) Immediately notify the Department of Archaeology and Historic Preservation at (360) 586-3064, in the event historical or cultural artifacts are discovered at a work site.
- c) Comply with Governor Executive Order 05-05, Archaeology and Cultural Resources, for any capital construction projects prior to the start of any work.
- d) Comply with RCW 27.53, Archaeological Sites and Resources, for any work performed under this Agreement, as applicable. National Historic Preservation Act (NHPA) may require the RECIPIENT to obtain a permit pursuant to Chapter 27.53 RCW prior to conducting on-site activity with the potential to impact cultural or historic properties.

4. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

5. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

6. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible may require approval by ECOLOGY prior to purchase.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State Department of Enterprise Services' Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@des.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT should submit final requests for compensation within thirty (30) days after the expiration date of this Agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable Federal, State and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

8. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

9. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

10. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the

review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this contract will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

11. ENVIRONMENTAL STANDARDS

- a) RECIPIENTS who collect environmental-monitoring data must provide these data to ECOLOGY using the Environmental Information Management System (EIM). To satisfy this requirement these data must be successfully loaded into EIM, see instructions on the EIM website at: <http://www.ecy.wa.gov/eim>.
- b) RECIPIENTS are required to follow ECOLOGY's data standards when Geographic Information System (GIS) data are collected and processed. More information and requirements are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENTS shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.
- c) RECIPIENTS must prepare a Quality Assurance Project Plan (QAPP) when a project involves the collection of environmental measurement data. QAPP is to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating data. RECIPIENTS must follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030). ECOLOGY shall review and approve the QAPP prior to start of work. The size, cost, and complexity of the QAPP should be in proportion to the magnitude of the sampling effort.

12. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

13. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

14. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

15. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

16. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

17. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any provisions or terms incorporated herein by reference including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (e) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS

RECIPIENT shall obtain ECOLOGY's approval for all communication materials or documents related to the fulfillment of this Agreement. Steps for approval:

- a) Provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution of any documents or materials compiled or produced.
- b) ECOLOGY reviews draft copy and reserves the right to require changes until satisfied.
- c) Provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets, such as a refrigerator magnet with a message as well as media announcements, and any other online communication products such as Web pages, blogs, and Twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT must provide a complete description including photographs, drawings, or printouts of the product that best represents the item.

RECIPIENT shall include time in their project timeline for ECOLOGY's review and approval process.

RECIPIENT shall acknowledge in the materials or documents that funding was provided by ECOLOGY.

19. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not

document timely use of funds.

- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT shall submit the Closeout Report within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY. RECIPIENT shall use the ECOLOGY provided closeout report format.

20. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
 - a. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
 - b. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
 - c. Conversions. Regardless of the agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

21. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.

- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

22. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

23. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

25. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or

any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

26. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, and 100% post-consumer recycled paper.

For more suggestions visit ECOLOGY's web page: Green Purchasing, <http://www.ecy.wa.gov/programs/swfa/epp>.

27. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this agreement, ECOLOGY, at its sole discretion, may elect to terminate the agreement, in whole or part, or renegotiate the agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

28. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

29. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.



Agreement WQC-2016-Spokane-00235

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

City of Spokane

This is a binding Agreement entered into by and between the State of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY" and City of Spokane, hereinafter referred to as the "RECIPIENT" to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	Havana Street Stormwater Improvements
Total Cost:	\$4,230,000.00
Total Eligible Cost:	\$1,015,400.00
Ecology Share:	\$761,550.00
Recipient Share:	\$253,850.00
The Effective Date of this Agreement is:	07/01/2015
The Expiration Date of this Agreement is no later than	12/31/2016
Project Type:	Stormwater Facility

Project Short Description:

This project will improve water quality in the Spokane River through installation of water quality facilities including porous asphalt and bioretention facilities at Havana Street and 37th Avenue in the City of Spokane. This project will provide treatment for Total Dissolved Solids (TSS), Dissolved Copper, and Dissolved Zinc, and will also reduce flows to the Spokane River by increasing stormwater infiltration and providing stormwater detention.

Project Long Description:

Havana Street currently relies on passive stormwater management techniques. The majority of the roadway has gravel and/or native brush shoulders with some portions having sidewalk installed within the shoulder. Side streets to the west are sloped away from Havana and contribute no runoff. Side streets to the east are sloped towards Havana but managed by corner swales and/or dry wells; exceptions are Sumac Drive, 47th Court, and a small portion of Glenrose Road. Curb is sparsely installed and mainly found on the west side of the street, south of 42nd Avenue. Havana was constructed by Spokane County before the area was annexed by the RECIPIENT. While this area has developed and become more urban, the stormwater management has not been updated.

Grassed bioretention areas have been utilized extensively for stormwater management in the greater Spokane area for many years. As the inventory of these bioretention areas has grown, it has become more difficult for the RECIPIENT's crews to maintain these facilities with decreasing budgets. This project provides an opportunity to see if porous asphalt bike lanes can be utilized as a stormwater treatment and detention area in lieu of standard bioretention areas. The porous asphalt will manage stormwater in the same space as the bicycle facility and provide efficient use of right-of-way space. This project may also provide information to develop a City standard to be used throughout the City. Street trees will also be planted to manage stormwater.

In addition to the pervious asphalt bike lanes, the project will include bioretention areas as a secondary facility should the pervious asphalt not infiltrate as expected. No curbs will be constructed. This is a different construction method than the RECIPIENT's usual design standards. The secondary stormwater facility will receive runoff through dispersion. This will provide Low Impact Development (LID) and detention by not concentrating the runoff into inlets and curb cuts. The project is integrated with a Drinking Water SRF funded project to reduce costs through a shared project.

Overall Goal:

This project will help protect and restore water quality in Washington by reducing stormwater impacts from existing infrastructure and development.

Agreement No: WQC-2016-Spokane-00235
Project Title: Havana Street Stormwater Improvements
Recipient Name: City of Spokane

RECIPIENT INFORMATION

Organization Name: City of Spokane

Federal Tax ID: 91-6001280
DUNS Number: 057531253

Mailing Address: 808 W. Spokane Falls Boulevard
Spokane, WA, 99201

Physical Address: 808 W. Spokane Falls Boulevard
Spokane, Washington, 99201-3343

Organization Email: mdavis@spokanecity.org
Organization Fax: (509) 343-5760

Contacts

Project Manager	Mark Papich Senior Engineer 808 W Spokane Falls Blvd Spokane, Washington, 99201 Email: mpapich@spokanecity.org Phone: (509) 625-6310
Billing Contact	Kevan Brooks Accountant II 808 W Spokane Falls Blvd, Spokane, Washington, 99201 Email: kbrooks@spokanecity.org Phone: (509) 625-6045
Authorized Signatory	David A Condon Mayor 808 W Spokane Falls Blvd. Spokane, Washington, 99201 Email: mayor@spokanecity.org Phone: (509) 625-6250

ECOLOGY INFORMATION

Mailing Address: Department of Ecology
Water Quality
PO BOX 47600
Olympia, WA 98504-7600

Physical Address: Water Quality
300 Desmond Drive
Lacey, WA 98503

Contacts

Project Manager	Cynthia Wall N. 4601 Monroe Spokane, Washington, 99205-1295 Email: cywa461@ecy.wa.gov Phone: (509) 329-3537
Financial Manager	Janel Bistrika P.O. Box 47600 Olympia, Washington, 98504-7600 Email: janel.bistrika@ecy.wa.gov Phone: (360) 407-6424
Technical Advisor	Douglas Howie Senior Stormwater Engineer P.O. Box 47600 Olympia, Washington, 98504-7600 Email: douglas.howie@ecy.wa.gov Phone: (360) 407-6444

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

RECIPIENT agrees to read, understand, and accept all information contained within this entire Agreement. Furthermore, RECIPIENT acknowledges that they have reviewed the terms and conditions of this Agreement, Scope of Work, attachments, all incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement.

IN WITNESS WHEREOF, the parties hereby sign this Agreement

**Washington State
Department of Ecology**

City of Spokane

Program Manager

Date

Heather Bartlett

Water Quality

David A Condon

Date

Mayor

SCOPE OF WORK

Task Number: 1 Task Cost: \$15,000.00

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and a recipient closeout report (including photos).

B. The RECIPIENT shall maintain documentation demonstrating compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

C. The RECIPIENT shall manage the project. Efforts include, but are not limited to: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant or loan administrative requirements.

Task Expected Outcome:

- * Timely and complete submittal of requests for reimbursement, quarterly progress reports, and RECIPIENT closeout report.
- * Properly maintained project documentation

Recipient Task Coordinator: Mark Papich

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

SCOPE OF WORK

Task Number: 2 Task Cost: \$80,000.00

Task Title: Design Plans and Specs, Environmental Review

Task Description:

The RECIPIENT will ensure the following items are completed and provide the associated deliverables to ECOLOGY.

- A. The RECIPIENT will coordinate the preparation and submittal of State Environmental Policy Act (SEPA) documentation.
- B. The RECIPIENT is responsible for application of, receipt of, and compliance with all required local, state, tribal and federal permits, licenses, easements, or property rights necessary for the project.
- C. The RECIPIENT will comply with Executive Order (05-05) cultural resources review requirements. To initiate cultural resources review the RECIPIENT will:
1. Submit a Department of Archaeology and Historic Preservation (DAHP) EZ-1 Form, Ecology Historic and Cultural Resource Project Review Form, or a cultural resources survey or assessment completed by a licensed archaeologist to ECOLOGY. All submitted materials must conform to the Washington State Standards for Cultural Resource Reporting (DAHP February 2014).
 2. Develop and submit an Inadvertent Discovery Plan (IDP) to ECOLOGY. The RECIPIENT will ensure that all contractors and subcontractors have a copy of the completed IDP prior to and while working on-site. An IDP template may be found at:
<http://www.ecy.wa.gov/programs/wq/funding/FundPrgms/CWSRF/CWSRFres/TemplateInadvDiscPlan060915.doc>
- Ground disturbing work (including geotechnical investigations) completed prior to receiving written notice to proceed from ECOLOGY shall not be eligible for reimbursement.
- D. The RECIPIENT will develop a project design. Projects must be designed in accordance with the Stormwater Management Manual for Eastern Washington, Stormwater Management Manual for Western Washington, or equivalent manual. Project must be reviewed and accepted in writing by ECOLOGY to be eligible for reimbursement.
- E. The RECIPIENT will submit one hard copy and one digital copy of the items listed below to ECOLOGY for acceptance. Design figures must be reduced to 11x17 inches in size and must be legible.
1. Design Report. For a complete list of required design report elements refer to:
<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWDesignDeliv081315.pdf>
 2. 90 Percent Design Package. At a minimum, this package must include 90 percent plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

For current bid inserts refer to:

<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramBidInsert032515.pdf>

For the current bid specification clause refer to:

WQC-2016-Spokane-00235

Agreement No: WQC-2016-Spokane-00235
Project Title: Havana Street Stormwater Improvements
Recipient Name: City of Spokane

<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramSpecClauses052912.pdf>

F. The RECIPIENT agrees to respond to ECOLOGY comments prior to proceeding to 90 percent design and/or project advertisement/bid and construction. At its discretion, ECOLOGY may require the RECIPIENT to resubmit revised documents for further ECOLOGY review prior to accepting the project design.

G. All materials submitted to ECOLOGY for acceptance must be approved by the RECIPIENT prior to submittal to ECOLOGY.

H. The RECIPIENT will submit to ECOLOGY a digital copy of the Final Bid Package including: project plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

Task Goal Statement:

The RECIPIENT will complete all design, environmental review and permitting tasks and respond to ECOLOGY comments in a timely manner.

Task Expected Outcome:

The project will meet the requirements set forth by the State Environmental Policy Act, cultural resource protection requirements, ECOLOGY water quality facility design standards, and all other applicable federal, state, and local laws and regulations.

Recipient Task Coordinator: Mark Papich

Design Plans and Specs, Environmental Review

Deliverables

Number	Description	Due Date
2.1	Copy of SEPA determination documentation. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.10	List of permits acquired, and environmental review documents. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.11	Proposed Construction Schedule. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.12	Final Bid Package. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.2	Complete DAHP EZ-1 Form or Ecology Historic and Cultural Resources Project Review Form; Submit supplemental cultural resources documentation if available. Upload to EAGL and notify ECOLOGY when upload is complete. Cultural resource surveys should be submitted directly to the ECOLOGY Project Manager and should not be uploaded to the EAGL system.	
2.3	Inadvertent Discovery Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.4	Design Report. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of Design Report to ECOLOGY Engineer.	
2.5	Responses to ECOLOGY Design Report Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.6	Ecology Design Report Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.7	90 percent Design Plans, Bid Specifications, and Engineer's Estimate. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of 90 percent Design Plans, Bid Specifications, and Engineer's Estimate to ECOLOGY Engineer.	
2.8	Responses to ECOLOGY 90 percent Design Plan Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.9	Ecology 90 percent Design Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 3 Task Cost: \$120,000.00

Task Title: Construction Management

Task Description:

- A. The RECIPIENT will provide construction oversight and management of the project.
- B. The RECIPIENT will submit a detailed construction quality assurance plan to ECOLOGY before the start of construction. This plan must describe how adequate and competent construction oversight will be performed.
- C. The RECIPIENT will conduct a pre-construction conference meeting and invite ECOLOGY to attend.
- D. The RECIPIENT will submit an updated project schedule with projected cash flow to ECOLOGY within 30 days of the start of construction. The project schedule will be revised and/or updated whenever major changes occur and at a minimum of every three months. The RECIPIENT will submit the updated schedule to ECOLOGY with the quarterly report. When changes in the construction schedule affect previous cash flow estimates, revised cash flow projections must also be submitted to ECOLOGY.
- E. Prior to execution, the RECIPIENT will submit any eligible change orders that are a significant deviation from ECOLOGY-accepted plans and specifications in writing for ECOLOGY review and acceptance for payment. Ecology must review and accept all change orders that impact grant eligible activities prior to implementation. All other change orders must be reviewed by ECOLOGY for technical merit and should be submitted within 30 days after execution. Change orders are to be signed by the contractor, the engineer (if appropriate), and the RECIPIENT prior to submittal to ECOLOGY for acceptance.
- F. The RECIPIENT will operate and maintain the constructed facility for the design life of the facility. Additionally, the RECIPIENT will develop and submit an operations and maintenance plan for all stormwater treatment, flow control, and low impact development (LID) features. The operation and maintenance plan will describe how the RECIPIENT will ensure project success consistent with the design manual used. The operation and maintenance plan must also address long-term activities to assure ongoing pollutant removal and flow-control capability of the project in accordance with the design manual.
- G. Upon completion of construction, the RECIPIENT will provide to ECOLOGY:
1. A Stormwater Construction Completion Form signed by a professional engineer indicating that the project was completed in accordance with the plans and specifications and major change orders approved by ECOLOGY's Project Engineer and shown on the Record Drawings. The Stormwater Construction Completion Form can be found at: <http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/FY11SWConstCompForm082415.doc>

2. GIS compatible project area data in an ECOLOGY-approved format.

Task Goal Statement:

The RECIPIENT will oversee and manage construction, communicate with ECOLOGY in a timely fashion, and provide ECOLOGY with all requested project documentation.

Task Expected Outcome:

Project will be constructed on schedule and in accordance with ECOLOGY-accepted plans.

Recipient Task Coordinator: Mark Papich

Construction Management

Deliverables

Number	Description	Due Date
3.1	Construction Quality Assurance Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.2	Project Schedule. Upload to EAGL using naming convention D3.2 SCHEDULE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.3	Revised Cash Flow Estimates when changes in construction schedule occur. Upload to EAGL using naming convention D3.3 CASHFLOW MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.4	Change Order(s). Upload to EAGL and notify ECOLOGY when upload is complete.	
3.5	Copy of Facility Operation and Maintenance Plan. Upload to EAGL using naming convention D3.5 OPANDMAINTENANCE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.6	Stormwater Construction Completion Form. Upload to EAGL using naming convention D3.6 SWCONSTRUCTIONCOMPLETIONFORM and notify ECOLOGY when upload is complete.	
3.7	Project Area Shapefile or ECOLOGY-approved equivalent. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.8	Pre-construction conference meeting minutes. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 4 **Task Cost: \$800,400.00**

Task Title: Construction

Task Description:

A. The RECIPIENT will, in accordance with ECOLOGY-accepted plans and specifications, complete construction of the project. The construction project will include installation of porous asphalt and bioretention facilities to mitigate runoff from 3.7 acres of pollution generating impervious surfaces.

B. Calculate and submit an equivalent new/re-development area for the completed retrofit project(s) using the methods outlined in Appendix N of the funding guidelines for State Fiscal Year 2016 Combined Water Quality Financial Assistance Program or other ECOLOGY-approved method.

Task Goal Statement:

Project will be constructed in accordance with ECOLOGY-accepted plans and specifications.

Task Expected Outcome:

Constructed project will provide water quality benefits including reductions in Total Suspended Solids (TSS), Dissolved Copper and Dissolved Zinc.

Recipient Task Coordinator: Mark Papich

Construction

Deliverables

Number	Description	Due Date
4.1	Copy of the contract documents (e.g. bid announcement, bid award, and bid tabulations). Upload to EAGL and notify ECOLOGY when upload is complete.	
4.2	Copy of signed and dated construction contract. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.3	Construction progress reports and photos included in quarterly reports.	
4.4	Completed equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY when upload is complete.	

Agreement No: WQC-2016-Spokane-00235
Project Title: Havana Street Stormwater Improvements
Recipient Name: City of Spokane

BUDGET

Funding Distribution EG160208

Funding Title: Stormwater Financial Assistance Program (SFAP)
Funding Type: Grant Funding Expiration Date: 12/31/2016
Funding Effective Date: 07/01/2015
Funding Source:

Title: SFAP - SFY16

Type: State

CFDA:

Assistance Agreement:

Description: Environmental Legacy Stewardship Account (ELSA) - State

Recipient Match %: 25
InKind Interlocal Allowed: No
InKind Other Allowed: No
Is this Funding Distribution used to match a federal grant? No

Stormwater Financial Assistance Program (SFAP)	Task Total
Project Administration/Management	\$ 15,000.00
Design Plans and Specs, Environmental Review	\$ 80,000.00
Construction Management	\$ 120,000.00
Construction	\$ 800,400.00

Total: \$ 1,015,400.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Stormwater Financial Assistance Program (SFAP)	25.00 %	\$ 253,850.00	\$ 761,550.00	\$ 1,015,400.00
Total		\$ 253,850.00	\$ 761,550.00	\$ 1,015,400.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

Unless otherwise provided, the following terms will have the respective meanings for all purposes of this agreement:

“Administration Charge” means a charge established in accordance with Chapter 90.50A RCW and Chapter 173-98 WAC, to be used to pay Ecology’s cost to administer the State Revolving Fund by placing a percentage of the interest earned in an Administrative Charge Account.

“Administrative Requirements” means the effective edition of ECOLOGY's ADMINISTRATIVE REQUIREMENTS FOR RECIPIENTS OF ECOLOGY GRANTS AND LOANS at the signing of this agreement.

“Annual Debt Service” for any calendar year means for any applicable bonds or loans including the loan, all interest plus all principal due on such bonds or loans in such year.

“Average Annual Debt Service” means, at the time of calculation, the sum of the Annual Debt Service for the remaining years of the loan to the last scheduled maturity of the loan divided by the number of those years.

“Centennial Clean Water Program” means the state program funded from various state sources.

“Contract Documents” means the contract between the RECIPIENT and the construction contractor for construction of the project.

“Cost Effective Analysis” means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water quality problem as described in Chapter 173-98-730 WAC.

“Defeasement” or “Defeasance” means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

“Effective Date” means the earliest date on which eligible costs may be incurred.

“Effective Interest Rate” means the total interest rate established by Ecology that includes the Administrative Charge.

“Estimated Loan Amount” means the initial amount of funds loaned to the RECIPIENT.

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount.

“Equivalency” means projects designated by ECOLOGY to meet additional federal requirements.

“Final Accrued Interest” means the interest accrued beginning with the first disbursement of funds to the RECIPIENT through such time as the loan is officially closed out and a final loan repayment schedule is issued.

“Final Loan Amount” means all principal of and interest on the loan from the Project Start Date through the Project Completion Date.

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount.

“Forgivable Principal” means the portion of a loan that is not required to be paid back by the borrower.

“General Obligation Debt” means an obligation of the RECIPIENT secured by annual ad valorem taxes levied by the RECIPIENT and by the full faith, credit, and resources of the RECIPIENT.

“General Obligation Payable from Special Assessments Debt” means an obligation of the RECIPIENT secured by a valid general obligation of the Recipient payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.

“Gross Revenue” means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to Defease or refund Utility obligations or (B) in an obligation redemption fund or account other than the Loan Fund until commingled with other earnings and revenues of the Utility or (C) held in a special account for the purpose of paying a rebate to the United States Government under the Internal Revenue Code.

“Guidelines” means the ECOLOGY's Funding Guidelines that that correlate to the State Fiscal Year in which the project is funded.

“Initiation of Operation Date” means the actual date the Water Pollution Control Facility financed with proceeds of the loan begins to operate for its intended purpose.

“Loan” means the Washington State Water Pollution Control Revolving Fund Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this loan agreement.

“Loan Amount” means either an Estimated Loan Amount or a Final Loan Amount, as applicable.

“Loan Fund” means the special fund of that name created by ordinance or resolution of the RECIPIENT for the repayment of the principal of and interest on the loan.

“Loan Security” means the mechanism by which the RECIPIENT pledges to repay the loan.

“Loan Term” means the repayment period of the loan.

“Maintenance and Operation Expense” means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties, but will not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

“Net Revenue” means the Gross Revenue less the Maintenance and Operation Expense.

“Original Engineer’s Estimate” means the engineer’s estimate of construction costs included with bid documents.

“Principal and Interest Account” means, for a loan that constitutes Revenue-Secured Debt, the account 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 agreement.

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed.

“Project Schedule” means that schedule for the project specified in the 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.

“Risk-Based Determination” means an approach to sub-recipient monitoring and oversight based on risk factors associated to a RECIPIENT or project.

“Scope of Work” means the tasks and activities constituting the project.

“Section 319” means the section of the Clean Water Act that provides funding to address nonpoint sources of water pollution.

“Senior Lien Obligations” means all revenue bonds and other obligations of the RECIPIENT outstanding on the date of execution of this loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or issued after the date of execution of this loan agreement having a claim or lien on the Gross Revenue of the Utility prior and superior to the claim or lien of the loan, subject only to Maintenance and Operation Expense.

“State Water Pollution Control Revolving Fund (Revolving Fund)” means the water pollution control revolving fund established by Chapter 90.50A.020 RCW.

“Termination Date” means the effective date of ECOLOGY’s termination of the agreement.

“Termination Payment Date” means the date on which the RECIPIENT is required to repay to ECOLOGY any outstanding balance of the loan and all accrued interest.

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been

determined to be eligible for ECOLOGY grant or loan funding.

“Total Project Cost” means the sum of all costs associated with a water quality project, including costs that are not eligible for ECOLOGY grant or loan funding.

“ULID” means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility.

“ULID Assessments” means all assessments levied and collected in any ULID. Such assessments are pledged to be paid into the Loan Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments will include principal installments and any interest or penalties which may be due.

“Utility” means the sewer system, stormwater system, or the combined water and sewer system of the RECIPIENT, the Net Revenue of which is pledged to pay and secure the loan.

SECTION 2: THE FOLLOWING CONDITIONS APPLY TO ALL RECIPIENTS OF WATER QUALITY COMBINED FINANCIAL ASSISTANCE FUNDING.

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference.

A. Architectural and Engineering Services: The RECIPIENT certifies by signing this agreement that the requirements of Chapter 39.80 RCW, “Contracts for Architectural and Engineering Services,” have been, or shall be, met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final negotiated agreement and submit a copy of the agreement to ECOLOGY.

B. Best Management Practices (BMP) Implementation: If the RECIPIENT installs BMPs that are not approved by ECOLOGY prior to installation, the RECIPIENT assumes the risk that part or all of the reimbursement for that activity may be delayed or ineligible. For more details regarding BMP Implementation, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY’s Water Quality Program funding website.

C. Cultural and Historic Resources Protection Compliance with Environmental Laws and Regulations. The RECIPIENT shall:

1) The RECIPIENT shall comply with all applicable federal, state and local environmental laws, statutes, regulations, executive orders, and permits.

2) The RECIPIENT shall comply with Ecology’s Archaeological Resource and Historic Property review process. The RECIPIENT agrees that in no case shall construction activities, ground disturbance, or excavation of any kind, begin until provisions of this process are complied with. The RECIPIENT is responsible for developing a complete Inadvertent Discovery Plan (IDP). The IDP must be immediately available by request by any party. An IDP must be immediately available and be implemented to address any discovery. The RECIPIENT will implement the procedures in the IDP, and immediately notify ECOLOGY, the Department of Archeology and Historic Preservation (DAHP), and tribal representatives if human remains, cultural, or archeological resources are discovered in the course of construction. For more details regarding requirements under this provision, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY’s Water Quality Program funding website.

D. Electronic Fund Transfers: The RECIPIENT must register as a statewide vendor in order to receive payment reimbursement. Washington State’s Department of Enterprise Services (DES) issues all payments. DES maintains a central vendor file for Washington State agency use to process vendor payments. The RECIPIENT can complete the

registration process online at <http://des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. This registration process also allows The RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If The RECIPIENT have questions about the vendor registration process or setting up direct deposit payments contact DES at the Payee Help Desk at (360) 664-7779 or payeehelpdesk@des.wa.gov.

E. Equipment Purchase: Equipment not included in the scope of work or a construction plan and specification approval must be pre-approved by ECOLOGY's project manager before purchase.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3 for Section 319 funded projects or 7 for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

G. Growth Management Planning: The RECIPIENT certifies by signing this agreement that it is in compliance with the requirements of Chapter 36.70A RCW, "Growth Management Planning by Selected Counties and Cities." If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify ECOLOGY in writing of this change within 30 days.

H. Interlocal: The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements necessary for the project are, or shall be, consistent with the terms of this agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the project to ECOLOGY.

I. Lobbying and Litigation: Costs incurred for the purposes of lobbying or litigation are not eligible for funding under this agreement.

J. Post Project Assessment Survey: The RECIPIENT agrees to participate in a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project approximately three years after project completion. A representative from ECOLOGY's Water Quality Program may contact the RECIPIENT to request this data. ECOLOGY may also conduct site interviews and inspections, and may otherwise evaluate the project, as part of this assessment.

K. Project Status Evaluation: ECOLOGY may evaluate the status of this project 18 months from the effective date of this agreement. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

L. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement will be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State. However, ECOLOGY may accept as eligible technical assistance, proposed practices, or project designs that do not meet these standards if approved in writing by the NRCS and ECOLOGY.

SECTION 3: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND ONLY CENTENNIAL CLEAN WATER FUNDED PROJECTS BEING USED TO MATCH SECTION 319 FUNDS.

The RECIPIENT must submit the following documents to ECOLOGY before this agreement is signed by ECOLOGY:

1. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.
2. Clean Water Act Section 319 Initial Data Reporting Sheet or the "Section 319 Initial Data Reporting" form in EAGL.

A. Disadvantaged Business Enterprise (DBE):

GENERAL COMPLIANCE, 40 CFR, Part 33 - The RECIPIENT agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D - A RECIPIENT must negotiate with the appropriate EPA award official or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

Current Fair Share Objective/Goal - The dollar amount of this assistance agreement is over \$250,000; or the total dollar amount of all of the RECIPIENT's non-TAG assistance agreements from EPA in the current fiscal year is over \$250,000. The Washington State Department of Ecology has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

MBE: SUPPLIES 8.00%; SERVICES 10.00%; EQUIPMENT 8.00%; CONSTRUCTION 10.00%
WBE: SUPPLIES 4.00%; SERVICES 4.00%; EQUIPMENT 4.00%; CONSTRUCTION 6.00%

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404 - If the RECIPIENT has not yet negotiated its MBE/WBE fair share objectives/goals, the RECIPIENT agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The RECIPIENT agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA shall respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C - Pursuant to 40 CFR, Section 33.301, the RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State, Local and Government recipients, this shall include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For

Indian Tribal, State and Local Government recipients, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

B. Funding Recognition and Outreach: In addition to Section 2.F of these Terms and Conditions, the RECIPIENT shall provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA logo and follow usage requirements available at <http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. To obtain the appropriate EPA logo or seal graphic file, the RECIPIENT may send a request to their Ecology's Financial Manager.

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement:

"This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute endorsement or recommendation for use."

C. Data Reporting: The RECIPIENT must complete and submit the "Clean Water Act Section 319 Initial Data Reporting Sheet" to ECOLOGY's Financial Manager with the signed agreement. The form is available in EAGL.

D. Load Reduction Reporting: The RECIPIENT shall complete and submit a "Clean Water Act Section 319 Load Reductions Reporting Form" to ECOLOGY's Financial Manager by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has submitted the completed form to the Financial Manager. This form is used to gather information on pollutant load reduction for each best management practice (BMP) installed as a part of this project. The form is available in EAGL.

E. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA's assistance agreement. In the event a time extension is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date.

SECTION 6: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

A. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal

year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at: <https://harvester.census.gov/fac/collect/ddeindex.html>. For complete information on how to accomplish the single audit submissions, go to the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>.

B. Archaeological Resources and Historic Properties (Section 106): See Section 2.C of the terms and conditions of this agreement, the RECIPIENT shall comply with the additional requirements under section 106 of the National Historic Preservation Act (NHPA, 36 CFR 800)

C. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that the organization's information in the System for Award Management (SAM), <https://www.sam.gov>, is kept current through project closeout. This requires that the RECIPIENT reviews and updates the information at least annually after the initial registration, and more frequently if information changes.

D. Electronic and Information Technology (EIT) Accessibility: RECIPIENTS shall ensure that loan funds provided under this agreement for costs incurred in the development or purchase of EIT systems or products provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology as per Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7. Systems or products funded under this agreement must be designed to meet the diverse needs of users without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

E. Hotel-Motel Fire Safety Act: The RECIPIENT shall ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (15 USC 2225a, PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act. Pursuant to 15 USC 2225a

F. Payment to Consultants: The RECIPIENT shall ensure that loan funds provided under this agreement to reimburse for costs incurred by individual consultants (excluding overhead) is limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed. Contracts for services awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the RECIPIENT with responsibility for the selection, direction, and control of the individuals who shall be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.36(j) for additional information.

G. Trafficking In Persons: The RECIPIENT and RECIPIENT employees that are private entities shall not engage in forms of trafficking in persons during the period of time this agreement is effective. This includes, but is not limited to the procurement of a commercial sex act or forced labor. The RECIPIENT shall notify ECOLOGY immediately of any information received from any source alleging a violation under this provision.

SECTION 7: THE FOLLOWING CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

The RECIPIENT must submit the following documents/forms to ECOLOGY before this agreement is signed by

ECOLOGY:

1. Opinion of RECIPIENT's Legal Council
2. Authorizing Ordinance or Resolution
3. Federal Funding Accountability and Transparency Act (FFATA) Form
4. CWSRF Federal Reporting Information form available in EAGL.
5. Fiscal Sustainability Plan Certification (only required if the project includes construction of a wastewater or stormwater facility construction.)

A. Alteration and Eligibility of Project: During the term of this agreement, the RECIPIENT (1) shall not materially alter the design or structural character of the project without the prior written approval of ECOLOGY and (2) shall take no action which would adversely affect the eligibility of the project as defined by applicable funding program rules and state statutes, or which would cause a violation of any covenant, condition, or provision herein.

B. American Iron and Steel (Buy American): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a "treatment works" as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

C. Authority of RECIPIENT: This agreement is authorized by the Constitution and laws of the state of Washington, including the RECIPIENT's authority, and by the RECIPIENT pursuant to the authorizing ordinance or resolution. The RECIPIENT shall submit a copy of the authorizing ordinance or resolution to the ECOLOGY Financial Manager before this agreement shall be signed by ECOLOGY.

D. Fiscal Sustainability Plan Certification: The RECIPIENT shall submit a completed Fiscal Sustainability Plan Certification before this agreement is signed by ECOLOGY. The Fiscal Sustainability Plan Certification is available from the ECOLOGY Financial Manager or on the Water Quality Program website.

E. Disadvantaged Business Enterprise (DBE): General Compliance, 40 CFR, Part 33. The RECIPIENT agrees to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises (MBE/WBE) 40CFR, Part 33 in procurement under this agreement.

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including, but not limited to Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).

In the event of the RECIPIENT's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this agreement may be rescinded, canceled, or terminated in whole or in part, and the RECIPIENT may be declared ineligible for further funding from ECOLOGY. The RECIPIENT shall, however, be given a reasonable time in which to cure this noncompliance.

Fair Share Objective/Goals, 40 CFR, Part 33, Subpart D. If the dollar amount of this 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 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 agreement. Records documenting compliance with the following six good faith efforts shall 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 shall 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 866-208-1064.

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 shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.

4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.

5) 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 are available on ECOLOGY's Water Quality Program funding 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 ECOLOGY'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 shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

“The Contractor will not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor will carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in termination of this Contract or other legally available remedies.”

Bidder List, 40 CFR, Section 33.501(b) and (c). The RECIPIENT agrees to create and maintain a bidders list. The bidders list shall include the following information for all firms that bid or quote on prime contracts, or bid or quote subcontracts, including both MBE/WBEs and non-MBE/WBEs.

1. Entity's name with point of contact
2. Entity's mailing address, telephone number, and e-mail address
3. The procurement on which the entity bid or quoted, and when
4. Entity's status as an MBE/WBE or non-MBE/WBE

F. Free Service: The RECIPIENT shall not furnish utility service to any customer free of charge if providing that free service affects the RECIPIENT's ability to meet the obligations of this agreement.

G. Insurance: The RECIPIENT shall 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 shall self-insure or

participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

H. Loan Interest Rate and Terms: This loan agreement shall remain in effect until the date of final repayment of the loan, unless terminated earlier according to the provisions herein.

When the Project Completion Date has occurred, ECOLOGY and the RECIPIENT shall execute an amendment to this loan agreement which details the final loan amount (Final Loan Amount), and ECOLOGY shall prepare a final loan repayment schedule. The Final Loan Amount shall be the combined total of actual disbursements made on the loan and all accrued interest to the computation date.

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a 365 day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments semiannually over the term of this loan "Loan Term" as outlined in this agreement.

I. 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 shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all of the covenants, agreements, and attachments contained herein.

2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.

3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.

4. For Revenue-Secured: Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.

6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

If the RECIPIENT defeases or advance refunds the loan, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay both of the following:

(i) The Loan Amount with interest

(ii) Any other obligations of the RECIPIENT to ECOLOGY under this agreement, unless in its sole discretion ECOLOGY finds that repayment from those additional sources would not be in the public interest.

Failure to repay the Loan Amount plus interest within the time specified in ECOLOGY's notice to make such repayment shall incur Late Charges and shall be treated as a Loan Default.

7. Refinancing or Early Repayment of the Project. So long as ECOLOGY shall hold this loan, the RECIPIENT shall give ECOLOGY thirty days written notice if the RECIPIENT intends to refinance or make early repayment of the loan.

Method and Conditions on Repayments

1. Semiannual Payments. Notwithstanding any other provision of this agreement, the first semiannual payment of principal and interest on this loan shall be due and payable no later than one year after the project completion date or initiation of operation date, whichever comes first.

Thereafter, equal payments shall be due every six months.

If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington State agencies, the payment shall be due on the next business day for Washington State agencies.

Payments shall be mailed to:

Department of Ecology
Cashiering Unit
P.O. Box 47611
Olympia WA 98504-7611

In lieu of mailing payments, electronic fund transfers can be arranged by working with ECOLOGY's Financial Manager.

No change to the amount of the semiannual principal and interest payments shall be made without a formal amendment to this agreement. The RECIPIENT shall continue to make semiannual payments based on this agreement until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended agreement.

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.

3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.

4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid

balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

J. Loan Security

Due Regard: For loans secured with a Revenue Obligation: The RECIPIENT shall exercise due regard for Maintenance and Operation Expense and the debt service requirements of the Senior Lien Obligations and any other outstanding obligations pledging the Gross Revenue of the Utility, and it has not obligated itself to set aside and pay into the loan Fund a greater amount of the Gross Revenue of the Utility than, in its judgment, shall be available over and above such Maintenance and Operation Expense and those debt service requirements.

Levy and Collection of Taxes (if used to secure the repayment of the loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of its electors on all of the taxable property within the boundaries of the RECIPIENT in an amount sufficient, together with other money legally available and to be used therefore, to pay when due the principal of and interest on the loan, and the full faith, credit and resources of the RECIPIENT are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

Not an Excess Indebtedness: For loans secured with a general obligation pledge or a general obligation pledge on special assessments: The RECIPIENT agrees that this agreement and the loan to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

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 shall 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 (1) to make, in part or in full, the final repayment to ECOLOGY of the loan amount or, (2) if not so applied, for any other lawful purpose of the RECIPIENT once the Loan Amount, plus interest and any other amounts owing to ECOLOGY, have been paid in full.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the loan Fund and used to pay the principal of and interest on the loan. The ULID Assessments in the ULID may be deposited into the Reserve Account to satisfy a Reserve Requirement if a Reserve Requirement is applicable.

K. Maintenance and Operation of a Funded Utility: The RECIPIENT shall at all times maintain and keep a funded Utility in good repair, working order and condition and also shall at all times operate the Utility and the business in an efficient manner and at a reasonable cost.

L. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an “Opinion of Legal Counsel to the RECIPIENT” to ECOLOGY before this agreement shall be signed. ECOLOGY will provide the form.

M. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and sub contracts in excess of \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act, and make such records available for review upon request.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves "public work" and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and make such records available for review upon request.

N. Litigation; Authority: No litigation is now pending, or to the RECIPIENT's knowledge, threatened, seeking to restrain, or enjoin:

- (i) the execution of this agreement; or
- (ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or
- (iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or
- (iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

O. Representations and Warranties: The RECIPIENT represents and warrants to ECOLOGY as follows:

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT which has not been disclosed in writing to ECOLOGY.

Existence; Authority. It is a duly formed and legally existing municipal corporation or political subdivision of the state of Washington or a federally recognized Indian Tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this agreement and to undertake the project identified herein.

Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this loan agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the project or to repay the principal or of interest on the loan, have occurred since the date of this loan agreement. Any changes in the RECIPIENT's financial condition shall be disclosed in writing to ECOLOGY by the RECIPIENT in its request for payment.

P. 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:

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; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the Utility from the portion of the Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the DEPARTMENT.

The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.

Q. Sewer-Use Ordinance or Resolution: If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution. Such ordinance or resolution shall be submitted to ECOLOGY upon request.

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater.
- 3) Require that new sewers and connections be properly designed and constructed.
- 4) Require connections necessary to meet debt obligations associated with the planning and construction of this facility as well as the expected costs of operation and maintenance.

R. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient

ECOLOGY or RECIPIENT funds.

2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all of its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

Procedures for Termination. If this loan agreement is terminated prior to project completion, ECOLOGY shall provide to the RECIPIENT a written notice of termination at least five working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the ECOLOGY shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the loan and all accrued interest (the "Termination Payment Date").

Termination and Default Remedies

No Further Payments. On and after the Termination Date, or in the event of a default event, ECOLOGY may, at its sole discretion, withdraw the loan and make no further payments under this agreement.

Repayment Demand. In response to an ECOLOGY initiated termination event, or in response to a loan default event, ECOLOGY may at its sole discretion demand that the RECIPIENT repay the outstanding balance of the Loan Amount and all accrued interest.

Interest after Repayment Demand. From the time that ECOLOGY demands repayment of funds, amounts owed by the RECIPIENT to ECOLOGY shall accrue additional interest at the rate of one percent per month, or fraction thereof.

Accelerate Repayments. In the event of a default, ECOLOGY may, in its sole discretion, declare the principal of and interest on the loan immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien Obligation upon the Net Revenue. That is, the loan is not subject to acceleration so long as any Senior Lien Obligations are outstanding. Repayments not made immediately upon such acceleration will incur Late Charges.

Late Charges. All amounts due to ECOLOGY and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur late charges.

Intercept State Funds. In the event of a default event and in accordance with Chapter 90.50A.060 RCW, "Defaults," any state funds otherwise due to the RECIPIENT may, at ECOLOGY's sole discretion, be withheld and applied to the repayment of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys,

drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due, or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this agreement.

Fees and Expenses. In any action to enforce the provisions of this agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) shall be awarded to the prevailing party as that term is defined in Chapter 4.84.330 RCW.

Damages. Notwithstanding ECOLOGY's exercise of any or all of the termination or default remedies provided in this agreement, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and/or the state of Washington because of any breach of this agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

S. User-Charge System: The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and shall adopt a system of user-charges to assure that each user of the utility shall pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the project.

In addition, the RECIPIENT shall regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the utility, to establish a reserve to pay for replacement, to establish the required Loan Reserve Account, and to repay the loan.

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department for assistance in obtaining a copy of those regulations..
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled

“CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

Federal Funding Accountability And Transparency Act (FFATA) Reporting Requirements:

RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any RECIPIENT that meets each of the criteria below must also report compensation for its five top executives, using 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

ECOLOGY will not pay any invoice until it has received a completed and signed FFATA Data Collection Form. ECOLOGY is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsrs.gov <http://www.fsrs.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsrs.gov <http://www.fsrs.gov>.

GENERAL TERMS AND CONDITIONS

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition". <https://fortress.wa.gov/ecy/publications/SummaryPages/1401002.html>
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological or cultural resources. Activities associated with archaeological and cultural resources are an eligible reimbursable cost subject to approval by ECOLOGY.

RECIPIENT shall:

- a) Immediately cease work and notify ECOLOGY if any archeological or cultural resources are found while conducting work under this Agreement.
- b) Immediately notify the Department of Archaeology and Historic Preservation at (360) 586-3064, in the event historical or cultural artifacts are discovered at a work site.
- c) Comply with Governor Executive Order 05-05, Archaeology and Cultural Resources, for any capital construction projects prior to the start of any work.
- d) Comply with RCW 27.53, Archaeological Sites and Resources, for any work performed under this Agreement, as applicable. National Historic Preservation Act (NHPA) may require the RECIPIENT to obtain a permit pursuant to Chapter 27.53 RCW prior to conducting on-site activity with the potential to impact cultural or historic properties.

4. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

5. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

6. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible may require approval by ECOLOGY prior to purchase.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State Department of Enterprise Services' Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@des.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT should submit final requests for compensation within thirty (30) days after the expiration date of this Agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable Federal, State and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

8. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

9. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

10. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the

review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this contract will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

11. ENVIRONMENTAL STANDARDS

- a) RECIPIENTS who collect environmental-monitoring data must provide these data to ECOLOGY using the Environmental Information Management System (EIM). To satisfy this requirement these data must be successfully loaded into EIM, see instructions on the EIM website at: <http://www.ecy.wa.gov/eim>.
- b) RECIPIENTS are required to follow ECOLOGY's data standards when Geographic Information System (GIS) data are collected and processed. More information and requirements are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENTS shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.
- c) RECIPIENTS must prepare a Quality Assurance Project Plan (QAPP) when a project involves the collection of environmental measurement data. QAPP is to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating data. RECIPIENTS must follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030). ECOLOGY shall review and approve the QAPP prior to start of work. The size, cost, and complexity of the QAPP should be in proportion to the magnitude of the sampling effort.

12. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

13. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

14. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

15. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

16. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

17. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any provisions or terms incorporated herein by reference including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (e) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS

RECIPIENT shall obtain ECOLOGY's approval for all communication materials or documents related to the fulfillment of this Agreement. Steps for approval:

- a) Provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution of any documents or materials compiled or produced.
- b) ECOLOGY reviews draft copy and reserves the right to require changes until satisfied.
- c) Provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets, such as a refrigerator magnet with a message as well as media announcements, and any other online communication products such as Web pages, blogs, and Twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT must provide a complete description including photographs, drawings, or printouts of the product that best represents the item.

RECIPIENT shall include time in their project timeline for ECOLOGY's review and approval process.

RECIPIENT shall acknowledge in the materials or documents that funding was provided by ECOLOGY.

19. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not

document timely use of funds.

- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT shall submit the Closeout Report within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY. RECIPIENT shall use the ECOLOGY provided closeout report format.

20. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
 - a. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
 - b. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
 - g) Conversions. Regardless of the agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

21. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.

- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

22. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

23. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

25. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or

any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

26. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, and 100% post-consumer recycled paper.

For more suggestions visit ECOLOGY's web page: Green Purchasing, <http://www.ecy.wa.gov/programs/swfa/epp>.

27. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this agreement, ECOLOGY, at its sole discretion, may elect to terminate the agreement, in whole or part, or renegotiate the agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

28. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

29. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.



Agenda Sheet for City Council Meeting of:
11/23/2015

<u>Date Rec'd</u>	11/10/2015
<u>Clerk's File #</u>	OPR 2015-0961
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	BID #4190-15
<u>Requisition #</u>	RE #17571,73,74,76

<u>Submitting Dept</u>	FLEET SERVICES
<u>Contact Name/Phone</u>	GENE JAKUBCZAK 625-7865
<u>Contact E-Mail</u>	GJAKUBCZAK@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Purchase w/o Contract
<u>Agenda Item Name</u>	5100 - FLEET SERVICES PURCHASE OF FORD INTERCEPTOR POLICE PURSUIT VEHICLES

Agenda Wording

Low bid meeting specifications of Lake City Ford (Coeur d'Alene, ID) for Ford Interceptor Police 4x4 Vehicles - \$464,055.74 including tax

Summary (Background)

On October 19, 2015 sealed bids were opened to provide the City of Spokane Fleet Services Department with fourteen (14) or more Ford Interceptor Police 4x4 Vehicles. Three (3) responses were received with Lake City Ford being the lowest bidder.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 464,055.74	#	5901-79115-94000-56404
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	JAKUBCZAK, GENE	<u>Study Session</u>	
<u>Division Director</u>	ROMERO, RICK	<u>Other</u>	PWC 11/9/15
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	TPRINCE	
<u>For the Mayor</u>	SANDERS, THERESA	GJAKUBCZAK	
<u>Additional Approvals</u>		FLEETSERVICES	
<u>Purchasing</u>	PRINCE, THEA	TAXES & LICENSES	

BRIEFING PAPER
Public Works Committee
Fleet Services
November 9, 2015

Subject

Purchase fourteen Ford Interceptor Police 4x4 utility vehicles.

Background

This purchase will replace vehicles in the Police Fleet that have reached or exceeded their economic service life. Per the results of Bid #4190-15, award to Lake City Ford Inc. of Coeur d'Alene, Idaho for \$464,055.74 (tax included).

Impact

These vehicles will allow the Police Department to continue to maintain their fleet of patrol vehicles.

Action

Recommend approval

Funding

Funds are available in the Police Department's 2015 budget.

MEMORANDUM

11/3/15

TO: PURCHASING DEPARTMENT

FROM: GENE JAKUBCZAK
FLEET SERVICES DIRECTOR

SUBJ: BID # 4190-15

After careful consideration, the Fleet Services Department recommends bid #4190-15 be awarded to Lake City Ford, Inc. of Coeur d'Alene, Idaho as the lowest responsive bidder for the purchase of 14 Ford Interceptor AWD Utility Police patrol vehicles. These are replacement vehicles for the Police Department.

Units 428511 – 428514
RE 17571

QTY	ITEM	UNIT PRICE	TOTAL
4	Ford Police Interceptor AWD Utility Vehicles Color – Shadow Black	\$26,308.44	\$105,233.76
	OPTIONS		
4	Police Wire harness connector kit	\$91.00	\$364.00
4	Siren/speaker 100w	\$262.00	\$1,048.00
4	Noise suppression (ground straps)	\$87.00	\$348.00
4	Dark car feature	\$17.00	\$68.00
4	Dome light - cargo area	\$45.00	\$180.00
4	Fleet keyed alike	\$45.00	\$180.00
4	Reverse sensing system	\$240.00	\$960.00
4	Remappable switches	\$136.00	\$544.00
4	Spot lamp, dual	\$306.00	\$1,224.00
4	Two tone vinyl wrap #1	\$733.00	\$2,932.00
4	Front headlamp housing only	\$110.00	\$440.00
4	Keys, 2 extra sets	\$5.00	\$20.00
4	Push bumper upgrade, fender wraps	\$360.00	\$1,440.00
4	Push bumper HD w/welded upper cross support	\$361.00	\$1,444.00
4	Partition, rear polycarbonate panel	\$425.00	\$1,700.00
TOTAL		\$29,531.44	\$118,125.76
Sales Tax	8.9%		\$10,513.19
TOTAL			\$128,638.95

Units 428503 – 428510
RE 17574

QTY	ITEM	UNIT PRICE	TOTAL
8	Ford Police Interceptor AWD Utility Vehicles Color – Shadow Black		
		\$26,308.44	\$210,467.52
	OPTIONS		
8	Police Wire harness connector kit	\$91.00	\$728.00
8	Siren/speaker 100w	\$262.00	\$2,096.00
8	Noise suppression (ground straps)	\$87.00	\$696.00
8	Dark car feature	\$17.00	\$136.00
8	Dome light - cargo area	\$45.00	\$360.00
8	Door/ locks Hidden....	\$130.00	\$1,040.00
8	Fleet keyed alike	\$45.00	\$360.00
8	Reverse sensing system	\$240.00	\$1,920.00
8	Remappable switches	\$136.00	\$1,088.00
8	Spot lamp, dual	\$306.00	\$2,448.00
8	Two tone vinyl wrap #1	\$733.00	\$5,864.00
8	Front headlamp housing only	\$110.00	\$880.00
8	Keys, 2 extra sets	\$5.00	\$40.00
8	Push bumper upgrade, fender wraps	\$360.00	\$2,880.00
8	Push bumper HD w/welded upper cross support	\$361.00	\$2,888.00
8	Door panels, rear doors	\$215.00	\$1,720.00
8	Window barriers, rear doors, HD steel bars	\$180.00	\$1,440.00
8	Partition, front horizontal.....	\$949.00	\$7,592.00
8	Partition, XL upgrade	\$0.00	\$0.00
8	Partition, rear polycarbonate panel	\$425.00	\$3,400.00
8	AEDEC upgrade adds double bucket system	\$95.00	\$760.00
8	Seat, Setina HD TPO rear prisoner transport seat	\$568.00	\$4,544.00
TOTAL			\$253,347.52
Sales Tax	8.9%		\$22,547.93
TOTAL			\$275,895.45

Units 428500 – 428501
RE 17573

QTY	ITEM	UNIT PRICE	TOTAL
2	Ford Police Interceptor AWD Utility Vehicles Color – Shadow Black		
		\$26,308.44	\$52,616.88

	OPTIONS		
2	Police Wire harness connector kit	\$91.00	\$182.00
2	Noise suppression (ground straps)	\$87.00	\$174.00
2	Fleet keyed alike	\$45.00	\$90.00
2	Reverse sensing system	\$240.00	\$480.00
2	Remappable switches	\$136.00	\$272.00
2	Spot lamp, dual	\$306.00	\$612.00
2	Front headlamp housing only	\$110.00	\$220.00
2	Keys, 2 extra sets	\$5.00	\$10.00
TOTAL			\$54,656.88
Sales Tax	8.9%		\$4,864.46
TOTAL			\$59,521.34
	TOTAL AWARD		
GRAND TOTAL			\$426,130.16
GRAND TOTAL SALES TAX			\$37,925.58
GRAND TOTAL			\$464,055.74

cc: Shane Phillips
Dan Smith

**Ford Police Interceptor AWD SUV
4190-15**

Item	Wendle	Lake City	Columbia
Unit	\$26,802.89	\$26,308.44	\$26,587.00
Police Wire harness connector kit	\$97.00	\$91.00	\$95.00
Siren/speaker 100w	\$280.00	\$262.00	\$268.00
Noise suppression (ground straps)	\$93.00	\$87.00	\$90.00
Dark car feature	\$19.00	\$17.00	\$16.00
Dome light - cargo area	\$48.00	\$45.00	\$46.00
Door/ locks Hidden....	\$130.00	\$130.00	\$125.00
Fleet keyed alike	\$48.00	\$45.00	\$44.00
Reverse sensing system	\$266.00	\$240.00	\$245.00
Remappable switches	\$145.00	\$136.00	\$139.00
Spot lamp, dual	\$327.00	\$306.00	\$297.00
Two tone vinyl wrap #1	\$783.00	\$733.00	\$748.00
Front headlamp housing only	\$117.00	\$110.00	\$113.00
Keys, 2 extra sets	\$0.00	\$5.00	\$10.00
Push bumper upgrade, fender wraps	\$308.00	\$360.00	\$364.00
Push bumper HD w/welded upper cross support	\$318.99	\$361.00	\$388.00
Door panels, rear doors		\$215.00	\$218.00
Window barriers, rear doors, HD steel bars	\$199.00	\$180.00	\$178.00
Partition, front horizontal.....	\$329.30	\$949.00	\$955.00
Partition, XL upgrade	\$666.99	\$0.00	\$100.00
Partition, rear polycarbonate panel	\$399.00	\$425.00	\$440.00
AEDEC upgrade adds double bucket system	\$690.01	\$95.00	\$70.00
Seat, Setina HD TPO rear prisoner transport seat		\$568.00	\$568.00

428511- 428514

Item	Wendle	Lake City	Columbia
Unit	\$26,802.89	\$26,308.44	\$26,587.00
Police Wire harness connector kit	\$97.00	\$91.00	\$95.00
Siren/speaker 100w	\$280.00	\$262.00	\$268.00
Noise suppression (ground straps)	\$93.00	\$87.00	\$90.00
Dark car feature	\$19.00	\$17.00	\$16.00
Dome light - cargo area	\$48.00	\$45.00	\$46.00
Fleet keyed alike	\$48.00	\$45.00	\$44.00
Reverse sensing system	\$266.00	\$240.00	\$245.00
Remappable switches	\$145.00	\$136.00	\$139.00
Spot lamp, dual	\$327.00	\$306.00	\$297.00
Two tone vinyl wrap #1	\$783.00	\$733.00	\$748.00
Front headlamp housing only	\$117.00	\$110.00	\$113.00
Keys, 2 extra sets	\$0.00	\$5.00	\$10.00
Push bumper upgrade, fender wraps	\$308.00	\$360.00	\$364.00
Push bumper HD w/welded upper cross support	\$318.99	\$361.00	\$388.00
Partition, rear polycarbonate panel	\$399.00	\$425.00	\$440.00

Unit total w/selected options	\$30,051.88	\$29,531.44	\$29,890.00
Qty 4	\$120,207.52	\$118,125.76	\$119,560.00 tax

Total

428503- 428510

Item	Wendle	Lake City	Columbia
Unit	\$26,802.89	\$26,308.44	\$26,587.00
Police Wire harness connector kit	\$97.00	\$91.00	\$95.00
Siren/speaker 100w	\$280.00	\$262.00	\$268.00
Noise suppression (ground straps)	\$93.00	\$87.00	\$90.00
Dark car feature	\$19.00	\$17.00	\$16.00
Dome light - cargo area	\$48.00	\$45.00	\$46.00
Door/ locks Hidden....	\$130.00	\$130.00	\$125.00
Fleet keyed alike	\$48.00	\$45.00	\$44.00
Reverse sensing system	\$266.00	\$240.00	\$245.00
Remappable switches	\$145.00	\$136.00	\$139.00
Spot lamp, dual	\$327.00	\$306.00	\$297.00
Two tone vinyl wrap #1	\$783.00	\$733.00	\$748.00
Front headlamp housing only	\$117.00	\$110.00	\$113.00
Keys, 2 extra sets	\$0.00	\$5.00	\$10.00
Push bumper upgrade, fender wraps	\$308.00	\$360.00	\$364.00
Push bumper HD w/welded upper cross support	\$318.99	\$361.00	\$388.00
Door panels, rear doors		\$215.00	\$218.00
Window barriers, rear doors, HD steel bars	\$199.00	\$180.00	\$178.00
Partition, front horizontal.....	\$329.30	\$949.00	\$955.00
Partition, XL upgrade	\$666.99	\$0.00	\$100.00
Partition, rear polycarbonate panel	\$399.00	\$425.00	\$440.00
AEDEC upgrade adds double bucket system	\$690.01	\$95.00	\$70.00
Seat, Setina HD TPO rear prisoner transport seat		\$568.00	\$568.00

Unit total w/selected options \$32,067.18 \$31,668.44 \$32,104.00

Qty 8 \$256,537.44 **\$253,347.52** \$256,832.00 tax
TOTAL

428500- 428501

Unit	\$26,802.89	\$26,308.44	\$26,587.00
Police Wire harness connector kit	\$97.00	\$91.00	\$95.00
Noise suppression (ground straps)	\$93.00	\$87.00	\$90.00
Fleet keyed alike	\$48.00	\$45.00	\$44.00
Reverse sensing system	\$266.00	\$240.00	\$245.00
Remappable switches	\$145.00	\$136.00	\$139.00
Spot lamp, dual	\$327.00	\$306.00	\$297.00
Front headlamp housing only	\$117.00	\$110.00	\$113.00
Keys, 2 extra sets	\$0.00	\$5.00	\$10.00

Unit total w/selected options \$27,895.89 \$27,328.44 \$27,620.00

Qty 2 \$55,791.78 **\$54,656.88** \$55,240.00 tax

TOTAL AWARD Less tax \$432,536.74 **\$426,130.16** \$431,632.00
\$37,925.58
\$464,055.74

AWARD

\$105,233.76
\$364.00
\$1,048.00
\$348.00
\$68.00
\$180.00
\$180.00
\$960.00
\$544.00
\$1,224.00
\$2,932.00
\$440.00
\$20.00
\$1,440.00
\$1,444.00
\$1,700.00
\$0.00
\$118,125.76
\$10,513.19

\$128,638.95

AWARD

\$210,467.52

\$728.00

\$2,096.00

\$696.00

\$136.00

\$360.00

\$1,040.00

\$360.00

\$1,920.00

\$1,088.00

\$2,448.00

\$5,864.00

\$880.00

\$40.00

\$2,880.00

\$2,888.00

\$1,720.00

\$1,440.00

\$7,592.00

\$0.00

\$3,400.00

\$760.00

\$4,544.00

\$0.00

\$253,347.52

\$22,547.93

\$275,895.45

\$52,616.88

\$182.00

\$174.00

\$90.00

\$480.00

\$272.00

\$612.00

\$220.00

\$10.00

\$0.00

\$54,656.88

\$4,864.46

\$59,521.34



Agenda Sheet for City Council Meeting of: 11/23/2015

<u>Date Rec'd</u>	11/10/2015
<u>Clerk's File #</u>	OPR 2015-0962
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	BID #4184-15
<u>Requisition #</u>	RE #17577

<u>Submitting Dept</u>	FLEET SERVICES
<u>Contact Name/Phone</u>	GENE JAKUBCZAK 625-7865
<u>Contact E-Mail</u>	GJAKUBCZAK@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Purchase w/o Contract
<u>Agenda Item Name</u>	5100 - FLEET SERVICES PURCHASE OF POLICE MOTORCYCLES

Agenda Wording

Low bid meeting specifications of A&L Powersports, dba Powersports NW (Centralia, WA) for police motorcycles - \$122,000.00 including tax

Summary (Background)

On November 2, 2015 sealed bids were opened to provide the City of Spokane Fleet Services Department with four (4) or more police motorcycles. Three (3) responses were received with A&L Powersports being the lowest bidder.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 122,000.00	#	5901-79115-94000-56404
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	JAKUBCZAK, GENE	<u>Study Session</u>	
<u>Division Director</u>	ROMERO, RICK	<u>Other</u>	PWC 11/9/15
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	TPRINCE	
<u>For the Mayor</u>	SANDERS, THERESA	GJAKUBCZAK	
<u>Additional Approvals</u>		FLEETSERVICES	
<u>Purchasing</u>	PRINCE, THEA	TAXES & LICENSES	

BRIEFING PAPER
Public Works Committee
Fleet Services
November 9, 2015

Subject

Purchase four Honda Police motorcycles for the Police Department.

Background

This purchase will replace vehicles in the Police Fleet that have reached or exceeded their economic service life. The results of Bid #4184-15 are being reviewed, and it is anticipated the award amount will be approximately \$122,000, including tax.

Impact

These vehicles will allow the Police Department to continue to maintain their fleet of patrol vehicles.

Action

Recommend approval

Funding

Funds are available in the Police Department's 2015 budget.

MEMORANDUM

11/3/15

TO: PURCHASING DEPARTMENT

**FROM: GENE JAKUBCZAK
FLEET SERVICES DIRECTOR**

SUBJ: BID # 4184-15

After careful consideration, the Fleet Services Department recommends bid #4184-15 be awarded to A&L Sports Inc., DbA Powersports NW of Centralia, Washington as the lowest responsive bidder for the purchase of four Honda Police motorcycles. These are replacement vehicles for the Police Department.

Units 428495 – 428497, 428499
RE 17577

QTY	ITEM	UNIT PRICE	TOTAL
4	Honda ST-1300 PAF Police Motorcycles	\$17,999.00	\$71,996.00
	OPTIONS		
4	#1. Front lighting	\$853.00	\$3,412.00
4	#2. Rear lighting	\$324.00	\$1,296.00
4	#3. Siren: Siren driver, Whelen	\$795.00	\$3,180.00
4	#5. Siren Speaker	\$290.00	\$1,160.00
4	#6 Light/siren set-up	\$0.00	\$0.00
4	#7. Front protection bars	\$405.00	\$1,620.00
4	#8. Rear protection bars For larger rear protection bars – M/C 1300-02 - Chrome	\$569.00	\$2,276.00
4	#10. 12v acc. Outlet in fairing pocket	\$57.00	\$228.00
4	#11 Jump start lead kit	\$62.00	\$248.00
4	#12. 2-way radio head handlebar mounts	\$320.00	\$1,280.00
4	#13. Add baton/flashlight holder	\$60.00	\$240.00
4	#14. Add Corbin heated seat	\$453.00	\$1,812.00
4	#15. Install moving radar system supplied by the city	\$395.00	\$1,580.00
4	#16. Upgraded fuse protection	\$358.00	\$1,432.00
4	#17. Flashing front parking lights	\$343.00	\$1,372.00
4	#18. Dash mtd. Red LED flash light indicator	\$78.00	\$312.00
4	#19. Heated grips - HONDA brand	\$354.00	\$1,416.00
4	#21. Battery conversion kit	\$375.00	\$1,500.00
4	#22. Addl. 12v acc. Outlet in rear trunk	\$34.00	\$136.00
4	#23. 4" 2-way coaxial weather proof speaker in fairing	\$91.00	\$364.00
4	#24. Improved custom rear antenna bracket for radio	\$118.00	\$472.00
4	#26. Addl. license plate lights	\$147.00	\$588.00

QTY	ITEM	UNIT PRICE	TOTAL
4	#27. Install helmet interface kit	\$8.00	\$32.00

4	#28. Mic clip, grounded	\$44.00	\$176.00
4	#29. Gun holder lock	\$150.00	\$600.00
4	#30. Spot lights - Rigid	\$392.00	\$1,568.00
4	#32. Trunk lighting	\$754.00	\$3,016.00
4	Install Police Radio (radio provided by city)	\$320.00	1,280.00
	TOTAL	\$26,148.00	\$104,592.00
	Sales Tax – 8.9%		\$9,308.69
	TOTAL		\$113,900.69

cc: Shane Phillips
John Griffin

Option Item	South Sound Powersports NW NOTES		
Unit	\$17,958.00	\$17,999.00	
1 Front lighting	\$1,035.00	\$853.00	
2 Rear lighting	\$465.00	\$324.00	see note Powersports
3 Siren: Siren driver, Whelen	\$550.00	\$795.00	
5 Siren Speaker	\$310.00	\$290.00	
6 Light/siren set-up	\$0.00	\$0.00	see note South Sound
7 Front protection bars	\$465.00	\$405.00	
8 Rear protection bars	\$547.00	\$569.00	see note South Sound
10 12v acc. Outlet in fairing pocket	\$85.00	\$57.00	
11 Jump start lead kit	\$124.99	\$62.00	
12 2-way radio head handlebar mounts	\$750.00	\$320.00	
13 Add baton/flashlight holder	\$95.00	\$60.00	
14 Add Corbin heated seat	\$565.00	\$453.00	
15 Install moving radar system supplied	\$300.00	\$395.00	
16 Upgraded fuse protection	\$165.00	\$358.00	see note South Sound
17 Flashing front parking lights	\$475.00	\$343.00	
18 Dash mtd. Red LED flash light indicator		\$78.00	see note South Sound
19 Heated grips - HONDA brand	\$349.99	\$354.00	
21 Battery conversion kit	\$350.00	\$375.00	see note South Sound
22 Addl. 12v acc. Outlet in rear trunk	\$85.00	\$34.00	
23 4" 2-way coaxial weather proof speaker in fairing	\$100.00	\$91.00	see note South Sound
24 Improved custom rear antenna bracket for radio	\$0.00	\$118.00	see notes
26 Addl. license plate lights	\$135.00	\$147.00	
27 Install helmet interface kit		\$8.00	see notes
28 Mic clip, grounded		\$44.00	see note South Sound
29 Gun holder lock	\$150.00	\$150.00	see note- Powersports
30 Spot lights - Rigid	\$425.00	\$392.00	
32 Trunk lighting	\$1,105.00	\$754.00	
Install city provided radio		\$320.00	
	\$26,589.98	\$26,148.00	\$441.98



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/9/2015
Clerk's File #	OPR 2015-0850
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	17645-000
Agenda Item Name	1101 WAVETRONIX SMARTSENSOR RADAR DETECTION SYSTEM

Agenda Wording

Amendment adding the purchase of four additional Wavetronix Smartsensor Radar Detection Systems for an additional amount of \$87,635.16 for a total not to exceed \$128,500.00.

Summary (Background)

On September 28, 2015 an agenda was presented to Council for the purchase of two Wavetronix Smartsensor Radar Detection Systems. It was intended that the agenda also reflect the future purchase of four additional systems as funding became available in 2015 and 2016. This amended agenda adds an additional \$87,635.16 to the request for a total amount not to exceed \$128,500.00 for a total of six Wavetronix Smartsensor Radar Detection Systems that were originally requested.

Fiscal Impact

Budget Account

Expense	\$ 87,635.16	# 1100 21300 94000 56401 99999
Select	\$	#
Select	\$	#
Select	\$	#

Approvals

Council Notifications

<u>Dept Head</u>	SCHENK, ANDREW	<u>Study Session</u>	
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	Public Works 9/14/15
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	lhattenburg@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	vmelvin@spokanecity.org	
<u>Additional Approvals</u>		mhughes@spokanecity.org	
<u>Purchasing</u>		jahensley@spokanecity.org	
		kschmitt@spokanecity.org	

BRIEFING PAPER
Public Works Committee
Street Department
September 14, 2015

Subject

Purchase of Wavetronix Smartsensor radar detection systems from Advanced Traffic Products using State Contract 03709.

Background

The City of Spokane Signal and Lighting intends to upgrade eighteen year-old video detection systems with radar detection systems. Existing video detection systems have reached the end of useful life and some have failed. Wavetronix Smartsensor radar detection systems have demonstrated reliability in detecting motorized and non-motorized vehicles at the stop bar.

Signal & Lighting crews will install these systems.

Impact

The total material cost to the Street Department for six (6) radar detection systems is approximately \$128,500.

Action

Recommend approval.

Funding

Six (6) existing video detection systems are in need of upgrade. Signal & Lighting intends to replace two (2) systems in 2015 and four (4) or fewer in 2016, depending upon availability of funds. Funding source is Signal and Lighting's annual operations and maintenance budget. Availability of funds is dependent upon unplanned maintenance needs.



Agenda Sheet for City Council Meeting of: 11/23/2015

Date Rec'd	11/10/2015
Clerk's File #	PRO 2015-0039
Renews #	

Submitting Dept	WATER & HYDROELECTRIC SERVICES	Cross Ref #	
Contact Name/Phone	STEVE BURNS 625-8154	Project #	
Contact E-Mail	SBURNS@SPOKANECITY.ORG	Bid #	4181-15
Agenda Item Type	Contract Item	Requisition #	CR 16203
Agenda Item Name	4100 - UPRIVER DAM SPILLWAY REHABILITATION PHASE II		

Agenda Wording

Upriver Dam Spillway Rehabilitation Phase II. Construction will be for the downstream concrete apron, spillway drains, energy dissipation blocks, pier abutment steel plate anchoring, and trunnion arm reinforcement awarded to McMillen LLC (Boise, ID).

Summary (Background)

The Upriver Dam Spillway Rehabilitation Project includes the addition of a reinforced concrete topping slab at the spillway secondary apron, replacement of the reinforced concrete baffle blocks at the primary and secondary aprons, installation of apron drains, and structural reinforcing of the spillway radial gates. The project is scheduled to be constructed during the 2016 low flow season, which typically starts in mid-July. The construction duration is estimated to be approximately 3-5 months.

Fiscal Impact		Budget Account	
Expense	\$ 1,686,879.00	#	4250-42300-94000-56501-04100
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	SAKAMOTO, JAMES	Study Session	
Division Director	ROMERO, RICK	Other	PWC 8/12/2015
Finance	KECK, KATHLEEN	Distribution List	
Legal	PICCOLO, MIKE	acline	
For the Mayor	SANDERS, THERESA	sburns	
Additional Approvals		dkegley	
Purchasing	PRINCE, THEA		



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

This rehabilitation work will increase the factor of safety and extend the life of the spillway. By replacing the energy dissipation blocks and anchoring the steel plates, annual maintenance and repairs will be reduced. Drains are a critical part of maintaining the stability of the spillway. The new drainage system that will be constructed will reduce the possibility of winnowing of fine grain materials from beneath the spillway. The FERC has been notified of the scope of work and the City is waiting for their reply. The project will be funded by the Integrated Capital Budget. The engineer's estimate for this project is \$1.7 million , including tax. Sealed Bids were opened on 11/2/15 with ten (10) responses received. McMillen is the lowest responsive bidder.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$		#
Select	\$		#
<u>Distribution List</u>			

BRIEFING PAPER
Public Works Committee
Engineering Services
August 12, 2015

Subject

Upriver Dam Spillway Rehabilitation Phase II. Construction will be for the downstream concrete apron, spillway drains, energy dissipation blocks, pier abutment steel plate anchoring, and trunnion arm reinforcement.

Background

The Upriver Dam Spillway Rehabilitation Project (Project) includes the addition of a reinforced concrete topping slab at the spillway secondary apron, replacement of the reinforced concrete baffle blocks at the primary and secondary aprons, installation of apron drains, and structural reinforcing of the spillway radial gates. The project is scheduled to be constructed during the 2016 low flow season, which typically starts in mid-July. The construction duration is estimated to be approximately 3-5 months.

Impact

This rehabilitation work will increase the factor of safety and extend the life of the spillway. By replacing the energy dissipation blocks and anchoring the steel plates, annual maintenance and repairs will be reduced. Drains are a critical part of maintaining the stability of the spillway. The new drainage system that will be constructed will reduce the possibility of winnowing of fine grain material from beneath the spillway. The FERC has been notified of the scope of work and the city is waiting for their reply.

Action

This project will go out to bid approximately September 9, 2015. Bids are anticipated to be opened on October 12, 2015. The Water Department recommends approval of Upriver Dam Spillway Rehabilitation construction project.

Funding

This project is funded by Water Department capital budget. The engineer's estimate for this project is \$1.7 million, including tax.

BID TABULATION

BID #4181-15 UPRIVER DAM SPILLWAY REHABILITATION PHASE II
DUE: MONDAY, NOVEMBER 2, 2015

DESCRIPTION	MJ HUGHES CONST. 11510 NE 87 TH AVE VANCOUVER WA 98662 (360) 314-2024 Michael Hughes	RECORD STEEL & CONST. INC. DBA RSCI 333 W ROSSI ST., STE 200 BOISE ID 83706 (208) 887-1401 X 195 Zeke Johnson	WM WINKLER CO. PO BOX 430 NEWMAN LAKE WA 99025 (509) 489-6100 Brian Winkler	WEST COMPANY PO BOX 519 AIRWAY HTS WA 99001 (509) 468-8535 Jason West	IMCO GEN. CONST. 2116 BUCHANAN LOOP FERNDAL E WA 98230 (360) 671-3936 Tyler Kimberley	MCMILLEN LLC 1401 SHORELINE DR BOISE ID 83702 (208) 342-4214 Mara McMillen	GARCO CONST. PO BOX 2946 SPOKANE WA 99206 (509) 535-4688 Clancy Welsh	LYDIG CONST. INC 11001 E MONTGOMERY DR. SPOKANE VALLEY WA 99206 (509) 534-0451 Kenneth Schwartz	PCL CIVIL CONST. 3650 131 ST AVE SE #600 BELLEVUE WA 98006 (425) 394-4200	N.A. DEGERSTROM 3303 N SULLIVAN RD SPOKANE VALLEY 99216 (509) 928-3333
BASE BID	\$1,966.300.00	\$1,555.580.00	\$1,718,341.00	\$2,206.350.00	\$1,671,964.00	\$1,541,412.35	\$1,648,150.00	\$1,546,424.00	\$2,134,394.00	\$2,347,180.00
TRENCHING SYSTEM	0.00	0.00	\$1.00	0.00	\$500.00	0.00	0.00	\$300.00	0.00	0.00
SALES TAX	\$ 171,068.10	\$ 135,335.00	\$149,495.75	\$191,952.45	\$145,504.37	\$145484.65	\$143,389.05	\$134,565.00	\$185,692.28	\$204,204.66
TOTAL PROJECT BID	\$2,137,368.10	\$1,690.915.00	\$1,867,837.75	\$2,398,302.45	\$1,817,968.37	\$1,686.879.00	\$1,791,539.05	\$1,681,289.00	\$2,320.086.28	\$2,551,384.66
Addenda Acknowledged	1- 5	1 - 5	1-5	1-5	1-5	1-5	1-5	1-5	1-5	1-5
Subcontractors	NONE	NONE	NONE	NONE	NONE	Crux Subsurface, Inc. Pressure Relief Drain Installation Harris Rebar Columbia Basin Fabrication & Installation of Rebar Western Partitions Inc. Sandblasting & Painting	Power City Elec Electrical	NONE	NONE	NONE
Washington State Contractor's Registration Number	MJHUGCI973DM	RECORSC033QK	WMWINC*935LA	WESTCCI897DA	IMCOGI*215R1	MCMILL*910JL	GARCOCI928D5	LYDIGC*264JC	PCLCICC898B6	DEGERNA375N0
U.B.I. Number	602-279-235	601-802-913	602-703-784	601-349-642	600-320-655	602-492-470	602-809-160	328-046-357	601-095-467	328-042-324
Washington Employee Security Department Number	586167-00-5	093151-00-8	364262-00-9	735477-00-6	434472-00-3	000-399193-00-0	42091-000-9	212607-00-9	423757-00-0	230315-00-0
Washington Excise Tax Registration Number	A17-2079 13	601-802-913	602-703-784	91-1535846	600-320-655	602-492-470	602-809-160	328-046-357	601-095-467	328-042-324

City of Spokane Business License Number			T11099851BUS			T11054877BUS	T12054470BUS	328-046-357		
Bid Bond Present	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES

The bid request was sent to 81 contractor/suppliers/placenters/Labor Unions, with 10 bid responses received.

PLEASE NOTE THAT THIS BID TABULATION IS NOT AN INDICATION OF AWARD RECOMMENDATION. CRITERIA, IN ADDITION TO PRICE, ARE EVALUATED TO DETERMINE RESPONSIVE BID MEETING SPECIFICATIONS AND BIDDER RESPONSIBILITY. AWARD OF BID IS MADE BY CITY COUNCIL.



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/10/2015
Clerk's File #	OPR 2015-0963
Renews #	

Submitting Dept	SOLID WASTE DISPOSAL	Cross Ref #	
Contact Name/Phone	CHUCK 625-6524	Project #	
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG	Bid #	RFB#4174-15
Agenda Item Type	Purchase w/o Contract	Requisition #	
Agenda Item Name	4490 VALUE BLANKET FOR PURCHASE OF ACTIVATED CARBON		

Agenda Wording

Value Blanket for the purchase of Activated Carbon for the Waste to Energy Facility. \$70,000.00 including taxes.

Summary (Background)

The Title V Air Operating Permit for the WTE facility requires that the pollution control equipment reduce mercury and dioxin and furans that could potentially be released into the atmosphere. Activated Carbon injected into the flue gas aids in this reduction and is required to be in compliance with the Permit. If the pollution control equipment is not operating, the WTE facility would have to shut down or risk violating permit conditions or potentially causing harm to the environment.

Fiscal Impact		Budget Account	
Expense	\$ 70,000.00	#	4490-44100-37148-53203
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	CONKLIN, CHUCK	Study Session	PWC 11/9/2015
Division Director	ROMERO, RICK	Other	
Finance	KECK, KATHLEEN	Distribution List	
Legal	JACOBSON, ERIN	ttauscher@spokanecity.org	
For the Mayor	SANDERS, THERESA	jsalstrom@spokanecity.org	
Additional Approvals		tprince@spokanecity.org	
Purchasing	PRINCE, THEA		



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

On October 8, 2015, the City issued Request for Bids #4174-15 to procure Activated Carbon for use in the WTE facility. Bids were received from 1. Carbon Activated Corp, Compton, CA 2. Umicore Marketing Services USA, Inc, Raleigh, NC 3. Calgon Carbon Corp, Moon Township, PA 4. Cabot Norit Activated Carbon, Marshall, TX 5. BHS Specialty Chemical Products, Nampa, ID 6. Prominent Systems Inc., City of Industry, CA After review, it was determined that Cabot Norit Activated Carbon was the lowest cost bidder meeting all specifications.

Fiscal Impact

Select \$

Budget Account

#

Select \$

#

Distribution List

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
November 9, 2015

Subject

Value Blanket for purchase of Activated Carbon for use at the WTE Facility. \$70,000.00 including taxes.

Background

On October 8, 2015, the City issued Request for Bids #4174-15 to procure Activated Carbon for use in the WTE facility. Bids were received from

1. Carbon Activated Corp, Compton, CA
2. Umicore Marketing Services USA, Inc, Raleigh, NC
3. Calgon Carbon Corp, Moon Township, PA
4. Cabot Norit Activated Carbon, Marshall, TX
5. BHS Specialty Chemical Products, Nampa, ID
6. Prominent Systems Inc., City of Industry, CA

After review, it was determined that Cabot Norit Activated Carbon was the lowest cost bidder meeting all specifications.

Impact

The Air Operating Permit for the WTE facility requires that the pollution control equipment reduce mercury and dioxin and furans that could potentially be released into the atmosphere. Activated Carbon injected into the flue gas aids in this reduction and is required to be in compliance with the Title V Air Operating Permit. If the pollution control equipment is not operating, the WTE facility would have to shut down or risk violating permit conditions or potentially causing harm to the environment.

Action

Recommend approval.

Funding

Funding is included in the 2016 operations budget for the WTE.



Agenda Sheet for City Council Meeting of: 11/23/2015

<u>Date Rec'd</u>	11/10/2015
<u>Clerk's File #</u>	OPR 2015-0964
<u>Renews #</u>	
<u>Cross Ref #</u>	OPR 2014-0703
<u>Project #</u>	
<u>Bid #</u>	4057-14
<u>Requisition #</u>	VALUE BLANKET ORDER

<u>Submitting Dept</u>	SOLID WASTE DISPOSAL
<u>Contact Name/Phone</u>	CHUCK CONKLIN 625-6524
<u>Contact E-Mail</u>	CCONKLIN@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Purchase w/o Contract
<u>Agenda Item Name</u>	4490 RENEWAL OF VALUE BLANKET FOR ANHYDROUS AMMONIA AND PHOSPHORIC ACID

Agenda Wording

Renewal of Value Blanket with Brenntag Pacific, Inc., for purchase of Anhydrous Ammonia and Phosphoric Acid for 2016. \$692,000.00.

Summary (Background)

Anhydrous Ammonia and Phosphoric Acid are required for the operation of the WTE Facility. Continued on-time deliveries of Anhydrous Ammonia and Phosphoric Acid will allow for the uninterrupted operation of the WTE. On September 29, 2014, sealed bids were opened to provide the City with these chemicals on an annual basis. The original value blanket was for 1 year, with the option of 4 1-year renewals. This is the first of those renewals.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 692,000.00	#	4490-44100-37148-53203
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	CONKLIN, CHUCK	<u>Study Session</u>	PWC 11/9/2015
<u>Division Director</u>	ROMERO, RICK	<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	ttauscher@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	jsalstrom@spokanecity.org	
<u>Additional Approvals</u>			
<u>Purchasing</u>	PRINCE, THEA		

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
November 9, 2015

Subject

Renewal of Value Blanket with Brenntag Pacific, Inc., for purchase of Anhydrous Ammonia and Phosphoric Acid for 2016. \$692,000.00.

Background

Anhydrous Ammonia and Phosphoric Acid are required for the operation of the WTE Facility. On September 29, 2014, sealed bids were opened to provide the City with these chemicals on an annual basis. The original value blanket was for 1 year, with the option of 4 1-year renewals. This is the first of those renewals.

Impact

Continued on-time deliveries of Anhydrous Ammonia and Phosphoric Acid will allow for the uninterrupted operation of the WTE.

Action

Recommend approval.

Funding

Funding for these items are included in the 2016 WTE operations budget.



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/10/2015
Clerk's File #	OPR 2015-0965
Renews #	
Cross Ref #	
Project #	
Bid #	RFB#4066-14
Requisition #	

Submitting Dept	SOLID WASTE DISPOSAL
Contact Name/Phone	CHUCK CONKLIN 625-6524
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG
Agenda Item Type	Purchase w/o Contract
Agenda Item Name	4490 RENEWAL OF VALUE BLANKET WITH ATLAS COPCO FOR COMMPRESSOR RENTAL

Agenda Wording

Renewal of Value Blanket with Atlas Copco of Arlington, WA, for compressor rental during scheduled outages, and on an as needed basis, January 1, 2016, through December 31, 2016. \$113,915.60

Summary (Background)

In response to RFB#4066-14, sealed bids were opened on November 27, 2014, with one response being received from Atlas Copco. Compressor rental is required for the WTE Facility during scheduled and unscheduled outages and on an as needed basis. The original bid was for one year, with 4 additional one-year renewals. This is the first of those renewals.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 113,915.60	#	4490-44100-37148-54803
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	CONKLIN, CHUCK	<u>Study Session</u>	PWC 11/9/2015
<u>Division Director</u>	ROMERO, RICK	<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	JACOBSON, ERIN	ttauscher@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	jsalstrom@spokanecity.org	
<u>Additional Approvals</u>			
<u>Purchasing</u>	PRINCE, THEA		

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
November 9, 2015

Subject

Renewal of Value Blanket with Atlas Copco of Arlington, WA, for compressor rental during scheduled outages, and on an as needed basis, January 1, 2016, through December 31, 2016. \$113,915.60

Background

In response to RFB#4066-14, sealed bids were opened on November 27, 2014, with one response being received from Atlas Copco.

Compressor rental is required for the WTE Facility during scheduled and unscheduled outages and on an as needed basis.

The original bid was for one year, with 4 additional one-year renewals. This is the first of those renewals.

Impact

Rental of these compressors will allow the WTE Facility to support maintenance operations during routine and non-routine outages, as well as support operation of the facility in the event of a compressor failure.

Action

Recommend approval.

Funding

Funding is included in the 2016 operations budget for the WTE Facility.



Agenda Sheet for City Council Meeting of: 11/23/2015

Date Rec'd	11/10/2015
Clerk's File #	OPR 2015-0966
Renews #	
Cross Ref #	OPR 2014-0705
Project #	
Bid #	
Requisition #	

Submitting Dept	SOLID WASTE DISPOSAL
Contact Name/Phone	CHUCK CONKLIN 625-6524
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG
Agenda Item Type	Purchase w/o Contract
Agenda Item Name	4490 RENEWAL OF VALUE BLANKET WITH WW GRAINGER

Agenda Wording

Renewal of Value Blanket with W.W. Grainger, Inc., for miscellaneous operating supplies for the WTE Facility. \$110,000.00.

Summary (Background)

Operation and maintenance of the WTE Facility requires various minor operating supplies on a day to day basis. The City can purchase these supplies under Washington State Contract #01711. By utilizing this contract, the City is assured competitive pricing is maintained while avoiding the costs of issuing multiple requests for bids that would be required for the different types of supplies that are needed at the WTE Facility.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 110,000.00	#	4490-44100-37148-53201
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	CONKLIN, CHUCK	<u>Study Session</u>	PWC 11/9/2015
<u>Division Director</u>	ROMERO, RICK	<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	ttauscher@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	jsalstrom@spokanecity.org	
<u>Additional Approvals</u>			
<u>Purchasing</u>			

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
November 9, 2015

Subject

Value Blanket with W.W. Grainger, Inc., for miscellaneous operating supplies for the WTE Facility. \$110,000.00.

Background

Operation and maintenance of the WTE Facility requires various minor operating supplies on a day to day basis. The City can purchase these supplies under Washington State Contract #01711. By utilizing this contract, the City is assured competitive pricing is maintained while avoiding the costs of issuing multiple requests for bids that would be required for the different types of supplies that are needed at the WTE Facility.

Impact

Purchasing of the ongoing operating supplies will allow the WTE Facility to continue uninterrupted operations.

Action

Recommend approval.

Funding

Funding is included in the 2016 operation and maintenance budget for the WTE Facility.



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/10/2015
Clerk's File #	OPR 2015-0967
Renews #	
Cross Ref #	OPR 2015-0096
Project #	
Bid #	RFP#4090-14
Requisition #	

Submitting Dept	SOLID WASTE DISPOSAL
Contact Name/Phone	CHUCK 625-6524
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	4490 RENEWAL OF CONTRACT WITH BIG SKY INDUSTRIAL

Agenda Wording

Renewal of Contract with Big Sky Industrial of Spokane for vacuum support services at the WTE Facility for January 1 through December 31, 2016. \$150,000.00.

Summary (Background)

During maintenance outages at the WTE Facility sandblasting material is used throughout the boiler. Vacuum support services are needed for vacuuming sandblast sand and cleanup of various levels after sandblasting is complete. Also required is the vacuuming of sump and water jet transfer line in the ash house and vacuuming of carbon room and overflow areas, as well as water wash of air cooled condensers. All work must be done with no vacuum exhaust being released outside the building.

Fiscal Impact		Budget Account	
Expense	\$ 150,000.00	#	4490-44100-37148-54803
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	CONKLIN, CHUCK	Study Session	PWC 11/9/2015
Division Director	ROMERO, RICK	Other	
Finance	KECK, KATHLEEN	Distribution List	
Legal	WHALEY, HUNT	ttauscher@spokanecity.org	
For the Mayor	SANDERS, THERESA	jsalstrom@spokanecity.org	
Additional Approvals			
Purchasing	PRINCE, THEA		



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

The sandblasting of the boilers and other outage related cleaning produces sand, ash, and other materials that must be collected and disposed of for employee safety and environmental protection. All materials will be disposed on site at the waste to energy facility. Two responses were received to RFP#4090-14, with Big Sky Industrial being the lowest cost proposer. The original contract was for one year, with 4 additional one-year extensions. This is the first of those extensions.

Fiscal Impact

Select **\$**

Budget Account

#

Select **\$**

#

Distribution List

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
September 14, 2015

Subject

Renewal of Contract with Big Sky Industrial of Spokane for vacuum support services at the WTE Facility for January 1 through December 31, 2016. \$150,000.00.

Background

During maintenance outages at the WTE Facility sandblasting material is used throughout the boiler depending on work being performed. Vacuum support services are needed for vacuuming sandblast sand and cleanup of various levels after sandblasting is complete.

Also required is the vacuuming of sump and water jet transfer line in the ash house and vacuuming of carbon room and overflow areas, as well as water wash of air cooled condensers. All work must be done with no vacuum exhaust being released outside the building. All materials will be disposed on site at the waste to energy facility.

The original contract was for one year, with 4 additional one-year extensions. This is the first of those extensions.

Impact

The sandblasting of the boilers and other outage related cleaning produces sand, ash, and other materials that must be collected and disposed of for employee safety and environmental protection. This contract allows this work to be done in a safe and environmentally conscious manner.

Action

Recommend approval.

Funding

Funding is included in the 2016 operation and maintenance budget for the WTE Facility.

C O N T R A C T

THIS CONTRACT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and BIG SKY INDUSTRIAL, whose address is 9711 West Euclid Avenue, Spokane, Washington 99224, as "Contractor".

1. **PERFORMANCE.** The Contractor will do all work, furnish all labor, materials, tools, construction equipment, transportation, supplies, supervision, organization and other items of work and costs necessary for the proper execution and completion of the work described in the specifications entitled VACUUM SUPPORT SERVICES FOR VACUUMING SANDBLAST SAND WATER, WASH AIR COOLED CONDENSERS, VACUUM SUMP AND WATER JET TRANSFER LINES, AND VACUUM CARBON ROOM AND OVERFLOW AREAS.

2. **CONTRACT DOCUMENTS.** This Contract, the request for proposals other than as expressly excepted to in the Contractor's bid proposal, and the Contractor's proposal constitute the contract documents and are complementary. Federal and state requirements and the terms of this Contract, respectively, supersede other inconsistent provisions. These contract documents are on file with the Solid Waste Disposal, 2900 South Geiger Boulevard, Spokane, Washington, and are incorporated into this Contract by reference as if they were set forth at length.

3. **TIME OF PERFORMANCE.** The Contract shall begin upon notice to proceed, and run through December 31, 2015. The Contract may be extended upon mutual agreement four (4) additional one (1) year periods.

4. **TERMINATION.** The City may, without cause, terminate this Contract at any time. In the event of such termination, the Contractor shall be entitled to receive payment for work performed and costs incurred up to the date of termination.

5. **PUBLIC WORK MAINTENANCE.** The following public work maintenance requirements apply to the work under this Contract:

A. The Contractor shall pay state prevailing wages. The Contractor and all subcontractors will submit a "Statement of Intent to Pay Prevailing Wages" certified by the industrial statistician of the State Department of Labor and Industries, prior to any payments. The "Statement of Intent to Pay Prevailing Wages" shall include: (1) the Contractor's registration number; and (2) the prevailing wages under RCW 39.12.020 and the number of workers in each classification. Each voucher claim submitted by a Contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the "Statement(s) of Intent to Pay Prevailing Wages" on file with the City. At the end of the work, the Contractor and subcontractors must submit an "Affidavit of Wages Paid" certified by the industrial statistician.

B. A payment/performance bond is NOT required.

C. Statutory retainage is NOT required.

6. COMPENSATION. The City will pay a maximum of ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$150,000.00), the amount in the Contractor's proposal, as full compensation for everything furnished and done under this Contract, subject to allowable additions and deductions as provided.

7. TAXES. Retail sales tax where applicable shall be added to the amounts due and the Contractor shall be responsible for making payment of the tax to Washington State. The City reserves the right to claim any exemption authorized by law.

8. PAYMENT. The Contractor will send its applications for payment to the Director of Solid Waste Disposal, 2900 South Geiger Boulevard, Spokane, Washington 99224. Payment will be made within thirty (30) days after receipt of the Contractor's application except as provided in RCW 39.76.

9. INDEMNIFICATION. The Contractor agrees to defend, indemnify and hold the City harmless from any and all claims, demands, losses and liabilities to or by third parties arising from, resulting from or connected with services performed or to be performed under this Contract by the Contractor, its agents or employees to the fullest extent permitted by law. The Contractor's duty to indemnify the City shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City, its agent or employees. The Contractor's duty to indemnify the City for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City or its agents or employees, and (b) the Contractor or its agents or employees, shall apply only to the extent of negligence of the Contractor or its agents or employees. The Contractor's duty to defend, indemnify and hold the City harmless shall include, as to all claims, demands, losses and liability to which it applies, the City's personnel-related costs, reasonable attorneys' fees, court costs and all other claim-related expenses. **The Contractor waives immunity under Title 51 RCW to the extent necessary to protect the City's interests under this indemnification. This provision has been specifically negotiated.**

10. INSURANCE. During the term of the Contract, the Contractor shall maintain in force at its own expense, the following insurance coverages:

A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers; and

B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$5,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Contractor's services to be provided under this Contract;

- C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without forty five (45) days written notice from the Contractor or its insurer(s) to the City.

As evidence of the insurance coverages required by this Contract, the Contractor shall furnish an acceptable Certificate of Insurance (COI) to the City at the time it returns the signed Contract. The COI shall specify all of the parties who are additional insured, and include applicable policy endorsements, and the deductible or retention level, as well as policy limits. Insuring companies or entities are subject to City acceptance and must have a rating of A- or higher by Best. Copies of all applicable endorsements shall be provided. The Contractor shall be solely financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

11. CONTRACTOR'S WARRANTY. The Contractor guarantees all work, labor and materials under this Contract for one (1) year following final acceptance. If any unsatisfactory condition or defect develops within that time, the Contractor will immediately place the work in a condition satisfactory to the City and repair all damage caused by the condition or defect. The Contractor will repair or restore to the City's satisfaction, in accordance with the contract documents and at its expense, all property damaged by its performance under this Contract. This warranty is in addition to any manufacturer's or other warranty in the contract documents.

12. WAGES. The Contractor and all subcontractors will submit a "Statement of Intent to Pay Prevailing Wages" certified by the industrial statistician of the Department of Labor and Industries, prior to any payments. The "Statement of Intent to Pay Prevailing Wages" shall include: (1) the Contractor's registration number; and (2) the prevailing wages under RCW 39.12.020 and the number of workers in each classification. Each voucher claim submitted by the Contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the "Statement(s) of Intent to Pay Prevailing Wages" on file with the City. Prior to the payment of funds held under RCW 60.28, the Contractor and subcontractors must submit an "Affidavit of Wages Paid" certified by the industrial statistician.

13. FEES. Reimbursement for the fees paid by the Contractor for the approval of "Statements of Intent to Pay Prevailing Wages" and certification of "Affidavits of Wages Paid" by the industrial statistician of the State Department of Labor and Industries will be added to the amounts due the Contractor. The Contractor will remain responsible for the actual submittal of the documents to the industrial statistician. In order to receive this reimbursement the Contractor will be required to submit to the City, prior to final acceptance of the work, a list of its subcontractors at all tiers and have their "Statements of Intent to Pay Prevailing Wages" on file with the City.

14. STATEMENT OF INTENT TO PAY PREVAILING WAGES TO BE POSTED. The Contractor and each subcontractor required to pay the prevailing rate of wages shall post in a location readily visible at the job site: (1) a copy of a "Statement of Intent to Pay Prevailing Wages" approved by the industrial statistician of the State Department of Labor and Industries; and (2) the address and telephone number of the industrial statistician of

the Department of Labor and Industries where a complaint or inquiry concerning prevailing wages may be made.

15. SUBCONTRACTOR RESPONSIBILITY.

- A. The Contractor shall include the language of this section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. Upon request of the City, the Contractor shall promptly provide documentation to the City demonstrating that the subcontractor meets the subcontractor responsibility criteria below. The requirements of this section apply to all subcontractors regardless of tier.
- B. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:
 - 1. Have a current certificate of registration in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;
 - 2. Have a current Washington Unified Business Identifier (UBI) number;
 - 3. If applicable, have:
 - a. Have Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW;
 - b. A Washington Employment Security Department number, as required in Title 50 RCW;
 - c. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;
 - d. An electrical contractor license, if required by Chapter 19.28 RCW;
 - e. An elevator contractor license, if required by Chapter 70.87 RCW.
 - 4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

16. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Contractor agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Contractor.

17. ASSIGNMENTS. The Contractor may not assign, transfer or sublet any part of the work under this Contract, or assign any monies due, without the written approval of the City, except as may be required by law. In the event of assignment of accounts or monies due under this Contract, the Contractor specifically agrees to give immediate written notice to the City Administrator, no later than five (5) business days after the assignment.

18. ANTI-KICKBACK. No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in the Contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the Contract.

19. COMPLIANCE WITH LAWS. Each party shall comply with all applicable federal, state, and local laws and regulations that are incorporated herein by reference.

20. DISPUTES. This Contract shall be performed under the laws of the State of Washington. Any litigation to enforce this Contract or any of its provisions shall be brought in Spokane County, Washington.

21. SEVERABILITY. In the event any provision of this Contract should become invalid, the rest of the Contract shall remain in full force and effect.

22. AUDIT / RECORDS. The Contractor and its subcontractors shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Contract. The Contractor and its subcontractors shall provide access to authorized City representatives, at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Contract, the federal law shall prevail.

23. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Contractor shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

24. CONSTRUAL. The Contractor acknowledges receipt of a copy of the contract documents and agrees to comply with them. The silence or omission in the contract documents concerning any detail required for the proper execution and completion of the work means that only the best general practice is to prevail and that only material and workmanship of the best quality are to be used. This Contract shall be construed neither in favor of nor against either party.

24. MODIFICATIONS. The City may modify this Contract and order changes in the work whenever necessary or advisable. The Contractor will accept modifications when ordered in writing by the Director of Solid Waste Disposal, and the Contract time and compensation will be adjusted accordingly.

25. INTEGRATION. This Contract, including any and all exhibits and schedules referred to herein or therein set forth the entire Agreement and understanding between the parties pertaining to the subject matter and merges all prior agreements, negotiations and discussions between them on the same subject matter.

Dated: 03/18/2015



Attest:

[Signature]
City Clerk (**Acting**)

Dated: MARCH 05, 2015

CITY OF SPOKANE

By: [Signature]
Title: David A. Condon
Mayor
City of Spokane

Approved as to form:

[Signature]
Assistant City Attorney

BIG SKY INDUSTRIAL

Email Address, if available: _____

PERRY@BIGSKY.PRO

By: [Signature]
Title: VICE-PRESIDENT

15-033



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/10/2015
Clerk's File #	OPR 2015-0969
Renews #	
Cross Ref #	OPR 2015-0092
Project #	
Bid #	RFP#4075-14
Requisition #	

Submitting Dept	SOLID WASTE DISPOSAL
Contact Name/Phone	CHUCK 625-6524
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	4490 RENEWAL OF CONTRACT WITH KONECRANES INC.

Agenda Wording

Renewal of contract with Konecranes, Inc., Spokane Valley, for quarterly crane/hoist/trolley and lifeline preventative maintenance inspections and scheduled and unscheduled service calls at the waste to energy. Not to exceed \$136,418.68.

Summary (Background)

The WTE facility utilizes five cranes, including double girder top-riding cranes, and in-house monorail cranes, and two lifelines in its operations. All of this equipment requires quarterly inspections and as-needed repairs, which must be completed by certified inspectors and technicians. Any equipment that is not maintained on scheduled, and in accordance with safety regulations, must be taken out of service. This contract will allow for the continued safe operations of the WTE facility.

Fiscal Impact		Budget Account	
Expense	\$ 136,418.68	#	4490-44100-37148-54803
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	CONKLIN, CHUCK	Study Session	PWC 11/9/2015
Division Director	ROMERO, RICK	Other	
Finance	KECK, KATHLEEN	Distribution List	
Legal	JACOBSON, ERIN	ttauscher@spokanecity.org	
For the Mayor	SANDERS, THERESA	jsalstrom@spokanecity.org	
Additional Approvals			
Purchasing	PRINCE, THEA		



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

Responses of RFP#4075-14 were opened November 3, 2014, and Konecranes Inc., of Spokane Valley, was the only respondent. The original contract was for one year with the option of 4 one-year renewals. This is the first of those renewals.

Fiscal Impact		Budget Account
Select	\$	#
Select	\$	#
<u>Distribution List</u>		

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
November 9, 2015

Subject

Renewal of contract with Konecranes Inc., of Spokane Valley, for quarterly crane/hoist/trolley and lifeline preventative maintenance inspections and unscheduled service calls at the waste to energy (WTE) facility, for an annual cost not to exceed \$136,418.68 excluding taxes, if any.

Background

The WTE facility utilizes five cranes, including double girder top-riding cranes, and in-house monorail cranes, and two lifelines in its operations. All of this equipment requires quarterly inspections and as-needed repairs.

Responses of RFP#4075-14 were opened November 3, 2014, and Konecranes Inc., of Spokane Valley, was the only respondent. The original contract was for one year with the option of 4 one-year renewals. This is the first of those renewals.

Impact

The cranes, hoists, and lifelines used at the waste to energy facility must be inspected on schedule, and all inspections and maintenance completed by certified inspectors and technicians. Any equipment that is not maintained on schedule, and in accordance with safety regulations must be taken out of service. This contract will allow for the continued safe operations of the cranes/hoist/ trolley and lifelines at the WTE facility.

Action

Recommend approval.

Funding

Funding is included in the 2016 operation and maintenance budget for the WTE facility.

CONTRACT

THIS CONTRACT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and KONECRANES INC., whose address is 3020 North Sullivan Road, Suite C, Spokane Valley, Washington 99216, as "Contractor".

The parties agree as follows:

1. PERFORMANCE. The Contractor will do all work, furnish all labor, materials, tools, construction equipment, transportation, supplies, supervision, organization, and other items of work and costs necessary for the proper execution and completion of the work to provide QUARTERLY CRANE/HOIST/TROLLEY AND LIFELINE PREVENTATIVE MAINTENANCE INSPECTIONS AND UNSCHEDULED SERVICE CALL REQUESTS AT THE CITY'S WASTE TO ENERGY FACILITY, in accordance with the Contractor's response to the City's RFP #4075-14.

A. Associated Costs shall be at the following pricing schedule estimate:

Quarterly Crane Inspections:	\$13,261.40
Quarterly Lifeline Inspections:	\$ 2,652.28
Unscheduled Crane Service:	\$ 5,300.00 (Estimate 35 hours at \$178/hr)
Estimated spare parts:	<u>\$115,200.00</u>

Contract Total	\$136,418.68
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2. CONTRACT DOCUMENTS. This Contract and the Contractor's quote constitute the contract documents and are complementary. Federal and state requirements and the terms of this Contract, respectively, supersede other inconsistent provisions. These contract documents are on file with the Spokane Solid Waste Disposal Department, 2900 South Geiger Boulevard, Spokane, and are incorporated into this Contract by reference as if they were set forth at length.

3. TIME OF PERFORMANCE. The Contract shall begin on December 1, 2014 and run through December 31, 2015.

4. TERMINATION. Either party may terminate this Contract by ten (10) days written notice to the other party. In the event of such termination, the City shall pay the Contractor for all work previously authorized and performed prior to the termination date.

5. PUBLIC WORK MAINTENANCE. The following public work maintenance requirements apply to the work under this Contract:

A. The Contractor shall pay state prevailing wages. The Contractor and all subcon-

tractors will submit a "Statement of Intent to Pay Prevailing Wages" certified by the industrial statistician of the State Department of Labor and Industries, prior to any payments. The "Statement of Intent to Pay Prevailing Wages" shall include: (1) the Contractor's registration number; and (2) the prevailing wages under RCW 39.12.020 and the number of workers in each classification. Each voucher claim submitted by a Contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the "Statement(s) of Intent to Pay Prevailing Wages" on file with the City. At the end of the work, the Contractor and subcontractors must submit an "Affidavit of Wages Paid" certified by the industrial statistician.

B. A payment/performance bond is NOT required.

C. Statutory retainage is NOT required.

6. COMPENSATION. The City will pay ONE HUNDRED THIRTY SIX THOUSAND FOUR HUNDRED EIGHTEEN AND 68/100 DOLLARS (\$136,418.68), excluding taxes if applicable, the amount in the Contractor's proposal, as full compensation for everything furnished and done under this Contract, subject to allowable additions and deductions as provided.

7. PAYMENT. The Contractor will send its applications for payment to the Spokane Solid Waste Disposal Department, 2900 South Geiger Boulevard, Spokane, Washington 99224. Payment will be made within thirty (30) days after receipt of the Contractor's application except as provided in RCW 39.76.

8. INDEMNIFICATION. The Contractor agrees to defend, indemnify and hold the City harmless from any and all claims, demands, losses and liabilities to or by third parties arising from, resulting from or connected with services performed or to be performed under this Contract by the Contractor, its agents or employees to the fullest extent permitted by law. The Contractor's duty to indemnify the City shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City, its agent or employees. The Contractor's duty to indemnify the City for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City or its agents or employees, and (b) the Contractor or its agents or employees, shall apply only to the extent of negligence of the Contractor or its agents or employees. The Contractor's duty to defend, indemnify and hold the City harmless shall include, as to all claims, demands, losses and liability to which it applies, the City's personnel-related costs, reasonable attorneys' fees, court costs and all other claim-related expenses. **The Contractor waives immunity under Title 51 RCW to the extent necessary to protect the City's interests under this indemnification. This provision has been specifically negotiated.**

9. INSURANCE. During the term of the Contract, the Contractor shall maintain in force at its own expense, the following insurance coverage:

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers;
- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,500,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Contractor's services to be provided under this Contract;
- C. Property insurance if materials and supplies are furnished by the contractor. The amount of the insurance coverage shall be the value of the materials and supplies of the completed value of improvement. Hazard or XCU (explosion, collapse, underground) insurance should be provided if any hazard exists; and
- D. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$500,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the City. As evidence of the insurance coverage required by this Contract, the Contractor shall furnish an acceptable insurance certificate to the City at the time it returns the signed Contract. The certificate shall specify all of the parties who are additional insured, and include applicable policy endorsements and the deductible or retention level, as well as policy limits. Insuring companies or entities are subject to City acceptance and must have a rating of A- or higher by Best. Copies of all applicable endorsements shall be provided. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

10. CONTRACTOR'S WARRANTY. The Contractor guarantees all work, labor and materials under this Contract for one (1) year following final acceptance. If any unsatisfactory condition or defect develops within that time, the Contractor will immediately place the work in a condition satisfactory to the City and repair all damage caused by the condition or defect. The Contractor will repair or restore to the City's satisfaction, in accordance with the contract documents and at its expense, all property damaged by its performance under this Contract. This warranty is in addition to any manufacturer's or other warranty in the contract documents.

11. FEES. Reimbursement for the fees paid by the Contractor for the approval of "Statements of Intent to Pay Prevailing Wages" and certification of "Affidavits of Wages Paid" by the industrial statistician of the State Department of Labor and Industries will be added to the amounts due the Contractor. The Contractor will remain responsible for the actual submittal of the documents to the industrial statistician. In order to receive this reimbursement the Contractor will be required to submit to the City, prior to final acceptance of the work, a list of its subcontractors at all tiers and have their "Statements

of Intent to Pay Prevailing Wages" on file with the City.

12. SUBCONTRACTOR RESPONSIBILITY.

- A. The Contractor shall include the language of this section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. Upon request of the City, the Contractor shall promptly provide documentation to the Owner demonstrating that the subcontractor meets the subcontractor responsibility criteria below. The requirements of this section apply to all subcontractors regardless of tier.
- B. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:
 - 1. Have a current certificate of registration in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;
 - 2. Have a current Washington Unified Business Identifier (UBI) number;
 - 3. If applicable, have:
 - a. Have Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW;
 - b. A Washington Employment Security Department number, as required in Title 50 RCW;
 - c. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;
 - d. An electrical contractor license, if required by Chapter 19.28 RCW;
 - e. An elevator contractor license, if required by Chapter 70.87 RCW.
 - 4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

13. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Contractor agrees to comply with, and to

require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Contractor.

14. ASSIGNMENTS. The Contractor may not assign, transfer or sublet any part of the work under this Contract, or assign any monies due, without the written approval of the City, except as may be required by law. In the event of assignment of accounts or monies due under this Contract, the Contractor specifically agrees to give immediate written notice to the City Administrator, no later than five (5) business days after the assignment.

15. ANTI-KICKBACK. No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in the Contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the Contract.

16. COMPLIANCE WITH LAWS. Each party shall comply with all applicable federal, state, and local laws and regulations that are incorporated herein by reference.

17. DISPUTES. This Contract shall be performed under the laws of the State of Washington. Any litigation to enforce this Contract or any of its provisions shall be brought in Spokane County, Washington.

18. SEVERABILITY. In the event any provision of this Contract should become invalid, the rest of the Contract shall remain in full force and effect.

19. AUDIT / RECORDS. The Contractor and its subcontractors shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Contract. The Contractor and its subcontractors shall provide access to authorized City representatives, at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Contract, the federal law shall prevail.

20. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Contractor shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

21. CONTRACTOR'S ACKNOWLEDGEMENT. The Contractor acknowledges that it has visited the site of the work, has examined it, and is qualified to perform the work required by this Contract.

22. STATEMENT OF INTENT TO PAY PREVAILING WAGES TO BE POSTED. The Contractor and each subcontractor required to pay the prevailing rate of wages shall post in a location readily visible at the job site: (1) a copy of a "Statement of Intent to Pay Prevailing Wages" approved by the industrial statistician of the State Department of Labor and Industries; and (2) the address and telephone number of the industrial statistician of the Department of Labor and Industries where a complaint or inquiry concerning prevailing wages may be made.

23. MODIFICATIONS. The City may modify this Contract and order changes in the work whenever necessary or advisable. The Contractor will accept modifications when ordered in writing by the Director of Asset Management, and the Contract time and compensation will be adjusted accordingly.

Dated: 4/21/15

CITY OF SPOKANE



By: David A. Condon

David A. Condon

Title: Mayor

City of Spokane

Attest:

City Clerk

Approved as to form:

Assistant City Attorney

Dated: 3-31-15

KONECRANES INC.

Email Address, if available: RAY.MOORE@KONECRANES.COM

By: Ray Moore

Title: OWNER / ASST. SECRETARY

14-668

OPR 2015-0092



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
03/27/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Northeast, Inc. Columbus OH Office 445 Hutchinson Avenue Suite 900 Columbus OH 43235 USA	CONTACT NAME: PHONE (A/C. No., Ext.): (866) 283-7122 FAX (A/C. No.): (800) 363-0105 E-MAIL ADDRESS:																					
INSURED Konecranes, Inc. 1401 Gateway Blvd. Springfield OH 45502-9339 USA	<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A:</td> <td>Allianz Global Risks US Insurance Co.</td> <td>35300</td> </tr> <tr> <td>INSURER B:</td> <td>Liberty Mutual Fire Ins Co</td> <td>23035</td> </tr> <tr> <td>INSURER C:</td> <td>Liberty Insurance Corporation</td> <td>42404</td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Allianz Global Risks US Insurance Co.	35300	INSURER B:	Liberty Mutual Fire Ins Co	23035	INSURER C:	Liberty Insurance Corporation	42404	INSURER D:			INSURER E:			INSURER F:		
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INSURER D:																						
INSURER E:																						
INSURER F:																						

Holder Identifier:

COVERAGES CERTIFICATE NUMBER: 570057141437 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. Limits shown are as requested.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			CGL2005222	10/01/2014	10/01/2015	EACH OCCURRENCE \$5,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$5,000,000 GENERAL AGGREGATE \$5,000,000 PRODUCTS - COMP/OP AGG \$5,000,000 SIR/Deductible \$500,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION			AS2-641-004434-114	10/01/2014	10/01/2015	COMBINED SINGLE LIMIT (Per accident) \$2,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in MI) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WA764D004434094	10/01/2014	10/01/2015	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000

Certificate No.: 570057141437

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Named Insured includes: Konecranes, Inc., 3020 N. Sullivan Rd., Suite C, Spokane Valley, WA 99216. City of Spokane, its officers and employees are included as Additional Insured in accordance with the policy provisions of the General Liability Policy, as required by written contract. Should any of the above described policies be cancelled before the expiration date thereof, the policy provisions will govern how notice of cancellation may be delivered to certificate holders in accordance with the policy provisions of each policy.

CERTIFICATE HOLDER

CANCELLATION

City of Spokane
 2900 South Geiger Blvd.
 Spokane WA 99224 USA

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Northeast, Inc.



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/10/2015
Clerk's File #	OPR 2015-0098
Renews #	

Submitting Dept	SOLID WASTE DISPOSAL	Cross Ref #	
Contact Name/Phone	CHUCK 625-6524	Project #	
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG	Bid #	RFP#4091-14
Agenda Item Type	Contract Item	Requisition #	
Agenda Item Name	4490 EXTENSION OF CONTRACT WITH BAY VALVE SERVICE LLC		

Agenda Wording

Extension of contract with Bay Valve Service, LLC, Longview, WA, for on-site valve repair services at the Waste to Energy Facility, January 1, 2016 through December 31, 2016. \$100,000.00.

Summary (Background)

The waste to energy has numerous types of valves, many of which are critical to the operation of the plant. On-site repair of valves at the waste to energy facility may be as-needed or scheduled in conjunction with a maintenance outage. Valve repair services may include, but are not limited to: boiler safety valves, relief valves, main boiler stops, critical service valves, high pressure valves, control valves, and removal and installation of various high pressure components.

Fiscal Impact		Budget Account	
Expense	\$ 100,000.00	#	4490-44100-37148-54803
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	CONKLIN, CHUCK	Study Session	PWC 11/9/2015
Division Director	ROMERO, RICK	Other	
Finance	KECK, KATHLEEN	Distribution List	
Legal	WHALEY, HUNT	ttauscher@spokanecity.org	
For the Mayor	SANDERS, THERESA	jsalstrom@spokanecity.org	
Additional Approvals			
Purchasing	PRINCE, THEA		



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

RFP #4091-14 was issued, and two responses received; Bay Valve Service, LLC of Longview, WA; and Professional Piping Inc., of Spokane Valley. After review it was determined that Bay Valve Service, LLC, was the most responsive and least cost proposal. The term of the original contract was through December 31, 2015, and allowed for 4 additional one-year extensions. This is the first of those extensions.

Fiscal Impact

Select \$

Budget Account

#

Select \$

#

Distribution List

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
November 9, 2015

Subject

Extension of contract with Bay Valve Service, LLC, Longview, WA, for on-site valve repair services at the Waste to Energy Facility, January 1, 2016 through December 31, 2016. \$100,000.00.

Background

On-site repair of valves at the waste to energy facility may be as-needed or scheduled in conjunction with a maintenance outage. Valve repair services may include, but are not limited to: boiler safety valves, relief valves, main boiler stops, critical service valves, high pressure valves, control valves, and removal and installation of various high pressure components.

RFP #4091-14 was issued, and two responses received; Bay Valve Service, LLC of Longview, WA; and Professional Piping Inc., of Spokane Valley. After review it was determined that Bay Valve Service, LLC, was the most responsive and least cost proposal.

The term of the original contract was through December 31, 2015, and allowed for 4 additional one-year extensions. This is the first of those extensions.

Impact

The waste to energy has numerous types of valves, many of which are critical to the operation of the plant. Maintaining these valves is required for safe and efficient operation. Failure of these critical valves could result in a shutdown of the plant.

Action

Recommend approval.

Funding

Funding is included in the 2016 operation and maintenance budget.



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/10/2015
Clerk's File #	OPR 2011-0537
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	ACCOUNTING
Contact Name/Phone	KIM BUSTOS X6034
Contact E-Mail	KBUSTOS@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	5600-CONTRACT EXTENSION (US BANK)

Agenda Wording

Optional one year contract amendment with US Bank to extend the banking services contract (OPR 2011-0537) through July 31, 2015.

Summary (Background)

Extension of the contract brings the City into compliance with the terms of the original contract. The City expects to do a RFP process in 2016 to secure a new banking services contract.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 200,000/year (estimated net exp)	#	Various (GL 54914)
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	BUSTOS, KIM	<u>Study Session</u>	
<u>Division Director</u>	DUNIVANT, TIMOTHY	<u>Other</u>	11/05/15 Finance Committee
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE	mqureshi@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	kbustos@spokanecity.org	
<u>Additional Approvals</u>		GAIL.HEINSELMAN@usbank.com	
<u>Purchasing</u>		gcooley@spokanecity.org	

BRIEFING PAPER
Finance Committee
Banking Services Contract Extension
November 02, 2015

Subject

Optional one year contract amendments with US Bank to extend the banking services contract (OPR 2011-0537) through July 31, 2016.

Background

US Bank has been the provider of the City's banking services since July 01, 2011. The original contract was for a 3-year term with 2 optional one-year extensions.

Impact

Extension of the contract brings the City into compliance with the terms of the original contract. The City expects to do a RFP process in 2016 to secure a new banking services contract.

Action

Approval of both contract extensions.

Funding

There are no additional, unanticipated impacts to the City.

CONTRACT EXTENSION #1

THIS CONTRACT EXTENSION is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and U.S. BANK, located at 428 West Riverside Avenue, Spokane, Washington 99201 as "Bank".

WHEREAS, the parties entered into a Contract wherein the Bank agreed to provide banking services to the City of Spokane; and

WHEREAS, the initial Contract called for a possible two (2) one-year extensions after the conclusion of the original term; and

WHEREAS, the parties would like to extend the Contract for the first (1st) of two (2) allowable one-year extensions; -- Now, Therefore,

The parties agree as follows:

1. CONTRACT DOCUMENTS. The Contract dated June 29, 2011 and July 1, 2011, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.
2. EXTENSION. The contract documents are hereby extended and shall run through July 31, 2015.

Dated: _____

CITY OF SPOKANE

By: _____
Title: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Dated: July 21, 2015

U.S. BANK

E-Mail address, if available:

gail.heinselman@usbank.com

By:

Gail Heinselman

Gail Heinselman

Title: Vice President

15-534



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/10/2015
Clerk's File #	OPR 2011-0537
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	ACCOUNTING
Contact Name/Phone	KIM BUSTOS X6034
Contact E-Mail	KBUSTOS@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	5600-CONTRACT EXTENSION (US BANK)

Agenda Wording

Optional one year contract amendment with US Bank to extend the banking services contract (OPR 2011-0537) through July 31, 2016.

Summary (Background)

Extension of the contract brings the City into compliance with the terms of the original contract. The City expects to do a RFP process in 2016 to secure a new banking services contract.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ \$200,000/year (estimated net exp)	#	Various (GL 54914)
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	BUSTOS, KIM	<u>Study Session</u>	
<u>Division Director</u>	DUNIVANT, TIMOTHY	<u>Other</u>	11/05/15 Finance Committee
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE	mqureshi@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	kbustos@spokanecity.org	
<u>Additional Approvals</u>		GAIL.HEINSELMAN@usbank.com	
<u>Purchasing</u>		gcooley@spokanecity.org	

BRIEFING PAPER
Finance Committee
Banking Services Contract Extension
November 02, 2015

Subject

Optional one year contract amendments with US Bank to extend the banking services contract (OPR 2011-0537) through July 31, 2016.

Background

US Bank has been the provider of the City's banking services since July 01, 2011. The original contract was for a 3-year term with 2 optional one-year extensions.

Impact

Extension of the contract brings the City into compliance with the terms of the original contract. The City expects to do a RFP process in 2016 to secure a new banking services contract.

Action

Approval of both contract extensions.

Funding

There are no additional, unanticipated impacts to the City.

CONTRACT EXTENSION #2

THIS CONTRACT EXTENSION is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and U.S. BANK, located at 428 West Riverside Avenue, Spokane, Washington 99201 as "Bank".

WHEREAS, the parties entered into a Contract wherein the Bank agreed to provide banking services to the City of Spokane; and

WHEREAS, the initial Contract called for a possible two (2) one-year extensions after the conclusion of the original term; and

WHEREAS, the parties would like to extend the Contract for the second (2nd) of two (2) allowable one-year extensions; -- Now, Therefore,

The parties agree as follows:

1. **CONTRACT DOCUMENTS.** The Contract dated June 29, 2011 and July 1, 2011, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

2. **EXTENSION.** The contract documents are hereby extended and shall run through July 31, 2016.

Dated: _____

CITY OF SPOKANE

By: _____
Title: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Dated: __October 14, 2015__

U.S. BANK

E-Mail address, if available:

Gail.Heinselman@usbank.com

By: Gail Heinselman
Title :Vice President
Government Banking__

15-535



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/10/2015
Clerk's File #	OPR 2014-0883
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	
Submitting Dept	SOLID WASTE DISPOSAL
Contact Name/Phone	CHUCK CONKLIN 625-6524
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	4490 AMENDMENT TO SERVICE AGREEMENT WITH BRAND ENERGY

Agenda Wording

Amendment to Assignment of Wheelabrator Service Agreement with Brand Energy of Tacoma, WA, for Scaffolding Services at the Waste to Energy facility. \$75,500.00

Summary (Background)

On June 1, 2015, Council approved expenditures for the Scaffolding Services for the WTE Facility outage scheduled to begin May 25, 2015. It was anticipated at that time that additional money would need to be added to this contract for any additional outages occurring in 2015. Scaffolding Services will be required for the outage that is scheduled to begin on November 30, 2015.

Fiscal Impact

Budget Account

Expense	\$ 75,500.00	# 4490-44100-37148-54201
Select	\$	#
Select	\$	#
Select	\$	#

Approvals

Council Notifications

<u>Dept Head</u>	CONKLIN, CHUCK	<u>Study Session</u>	PWC 11/9/2015
<u>Division Director</u>	ROMERO, RICK	<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	JACOBSON, ERIN	ttauscher@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	jsalstrom@spokanecity.org	

Additional Approvals

Purchasing

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
September 14, 2015

Subject

Amendment to Assignment of Wheelabrator Service Agreement with Brand Energy of Tacoma, WA, for Scaffolding Services for the WTE Facility, \$75,500.00.

Background

On June 1, 2015, Council approved expenditures for the Scaffolding Services for the WTE Facility outage scheduled to begin May 25, 2015. It was anticipated at that time that additional money would be needed to be added to this contract for any additional outages occurring in 2015. Scaffolding Services will be required for the outage that is scheduled to begin on November 30, 2015.

Impact

Scaffolding Services are required for the safe performance of the work required during scheduled and unscheduled maintenance outages.

Action

Recommend approval.

Funding

Funding is included in the 2015 operation and maintenance budget for the WTE.

Assignment

This Assignment of Wheelabrator Service Agreement ("Assignment") dated as of Nov 17, 2014, is entered into among Wheelabrator Environmental Systems Inc. ("Wheelabrator"), the City of Spokane ("City") and Brand Energy Services, LLC ("Contractor") (collectively, the Wheelabrator, the City and the Contractor are referred to as the "Parties").

WHEREAS, Wheelabrator and Contractor are parties to that certain Wheelabrator Service Agreement dated December 1, 2013 ("Agreement"), which is attached hereto as Exhibit "A", whereby Contractor performs certain Services for Wheelabrator at the waste-to-energy facility located in Spokane, Washington ("Spokane Facility"); and

WHEREAS, as of November 17, 2014 (the "Effective Date"), the City will take over operation of Spokane Facility; and

WHEREAS, the City seeks for Contractor to continue providing the Services it currently provides to the Spokane Facility under the Agreement; and

WHEREAS, the Parties wish to document a partial Assignment of the Agreement for Services to be provided at the Spokane Facility on and after the Effective date on the terms herein.

NOW, THEREFORE, the Parties, intending to be legally bound, hereby agree as follows:

1. Capitalized terms used herein without definition shall have the definitions ascribed to them in the Agreement.
2. Except as otherwise provided herein, the Agreement, solely as it pertains to any Services performed by the Contractor at the Spokane Facility on or after the Effective Date, is hereby assigned by Wheelabrator to the City. From and after the Effective Date, the City assumes all rights and obligations of Wheelabrator under the Agreement with respect to the Spokane Facility. Any and all obligations of Wheelabrator with respect to the Spokane Facility arising prior to the Effective Date shall remain the responsibility of Wheelabrator.
3. Contractor acknowledges the foregoing Assignment of the Agreement by Wheelabrator with respect to Services performed at the Spokane Facility on or after the Effective Date and the assumption by the City of all Wheelabrator obligations related thereto. Any Services performed by Contractor at the Spokane Facility on or after the Effective Date shall be for and at the behest of the City and shall be completed under the terms and

conditions of the Agreement. Contractor hereby releases Wheelabrator from any and all obligations or liability with respect to Services performed at the Spokane Facility on or after the Effective Date.

4. Notwithstanding the foregoing, the Parties acknowledge the possibility that Wheelabrator may be retained by the City to conduct and oversee certain repair and maintenance work at the Spokane Facility after the Effective Date. In the event Wheelabrator is so retained and seeks to subcontract Services from Contractor, Wheelabrator shall issue a purchase order to Contractor and specify that the terms and conditions of the Agreement shall apply to such work. Under these limited circumstances, the terms of the Agreement shall apply to Wheelabrator for Services conducted at the Spokane Facility and Contractor's obligations under the Service Agreement shall run to Wheelabrator.
5. Each of the Parties hereto covenants and agrees, at its own expense, to execute and deliver, at the request of any other party hereto, such further instruments of transfer and assignment and to take such other action as such other party may reasonably request to more effectively consummate the assignments and assumptions contemplated by this Assignment.
6. Other than the partial Assignment of the Agreement contained herein, the Agreement shall remain in full force and effect and otherwise shall remain unchanged with respect to Services performed by Contractor at Wheelabrator's other Facilities.

WITNESS the execution hereof as of the date first above written.

WHEELABRATOR ENVIRONMENTAL
SYSTEMS INC.

By: _____

Name: Arthur Cole

Title: Vice President

City of Spokane

By: _____

SOLID WASTE DISPOSAL
DIRECTOR

CITY OF SPOKANE

By: _____

Name: Kent Gimpel

Title: Assistant Utilities Director

conditions of the Agreement. Contractor hereby releases Wheelabrator from any and all obligations or liability with respect to Services performed at the Spokane Facility on or after the Effective Date.

4. Notwithstanding the foregoing, the Parties acknowledge the possibility that Wheelabrator may be retained by the City to conduct and oversee certain repair and maintenance work at the Spokane Facility after the Effective Date. In the event Wheelabrator is so retained and seeks to subcontract Services from Contractor, Wheelabrator shall issue a purchase order to Contractor and specify that the terms and conditions of the Agreement shall apply to such work. Under these limited circumstances, the terms of the Agreement shall apply to Wheelabrator for Services conducted at the Spokane Facility and Contractor's obligations under the Service Agreement shall run to Wheelabrator.
5. Each of the Parties hereto covenants and agrees, at its own expense, to execute and deliver, at the request of any other party hereto, such further instruments of transfer and assignment and to take such other action as such other party may reasonably request to more effectively consummate the assignments and assumptions contemplated by this Assignment.
6. Other than the partial Assignment of the Agreement contained herein, the Agreement shall remain in full force and effect and otherwise shall remain unchanged with respect to Services performed by Contractor at Wheelabrator's other Facilities.

WITNESS the execution hereof as of the date first above written.

WHEELABRATOR ENVIRONMENTAL
SYSTEMS INC.

By: _____
Name: _____
Title: _____

CITY OF SPOKANE

By:  _____
Name: CHUCK CONKLIN
Title: SOLID WASTE DISPOSAL DIRECTOR

BRAND ENERGY SERVICES, LLC

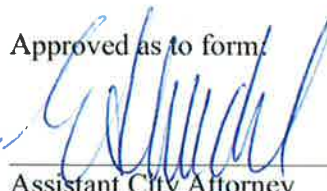
By: 

Name: AARON DURHAM

Title: PROJECT MANAGER

Attest:


City Clerk

Approved as to form:

Assistant City Attorney



14-616

WHEELABRATOR SERVICE AGREEMENT

This Agreement dated as of **December 1, 2013** between **Brand Energy Services, LLC** ("Contractor") with its principal place of business at **1324 1381 Industrial Way, Longview, WA 98632** and **Wheelabrator Spokane Inc.** ("Company") with its principal place of business at **2900 South Geiger Blvd, Spokane, WA 99224-5400**.

WHEREAS, Contractor is engaged in supplying certain services, more particularly described herein; and

WHEREAS, Company wishes to obtain those services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Services. Contractor shall perform faithfully and diligently for Company the services described in **Attachment A** hereto (the "Services"). In the event of any inconsistency between the terms and conditions of this Agreement and those set forth in any Order, the terms and conditions of this Agreement shall prevail. Contractor shall provide all equipment, labor and material necessary to perform the Services. Contractor will coordinate its activities with and report to **Mike Derocher** of Company, or his designee. Contractor shall devote such working time as is necessary to the proper performance of the Services as promptly as possible but no later than any date(s) required hereunder.

2. Compensation.

(a) The compensation to be paid by Company to Contractor for the Services is set forth on **Attachment B** hereto. Company will pay Contractor for Services properly performed within Payment terms Net 45 days of the date on which each invoice, properly prepared and submitted, is received by Company. All payments to Contractor for satisfactory performance of the Services shall not exceed the amounts listed on **Attachment B** without advance written approval by the Facility issuing the Order.

(b) Contractor shall include with each request or invoice for payment, and it shall be a condition precedent to Company's obligation to pay Contractor, that Contractor include duly executed releases of liens, or in the case of work partially completed, partial releases of liens, in form and substance satisfactory to Company, of Contractor and all subcontractors (including, without limitation, sub-subcontractors and below) and materialmen whose work and/or materials are to be paid pursuant to such request or invoice.

(c) Contractor has been informed and agrees Services to be performed under this Agreement within the State of Washington is subject to Washington's law governing Prevailing Wages on Public Works, RCW 39.12. Accordingly, for such Services, Contractor agrees to comply with RCW 39.12 and to require any subcontractors under Contractor to comply with RCW 39.12.

(d) With respect to Services provided within the State of Washington, no progress or any other payments will be made until the conditions set forth in RCW 39.12.040 are met. A copy of the Statement of Intent to Pay Prevailing Wages approved by the Industrial Statistician must be forwarded to Wheelabrator Spokane Inc.

(e) For Services provided within the State of Washington, a retainage of 5% of the total project cost will be withheld until such time as the conditions set forth in RCW 39.12.040 and RCW 60.28.010 are met. A copy of the Affidavit of Prevailing Wages Paid approved by the Industrial Statistician must be forwarded to Wheelabrator Spokane Inc.

Links to Washington State's Department of Labor and Industries.

<http://www.lni.wa.gov/TradesLicensing/PrevWage/EmployerResp/default.asp>

<http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp>

<http://www.lni.wa.gov/TradesLicensing/PrevWage/Basics/default.asp>

<http://www.lni.wa.gov/PrevailingWage/jwages/20062/co32.asp>

3. Term. Unless earlier terminated pursuant hereto, the term of this Agreement shall commence on the date hereof and expire on **December 31, 2015**.

4. Independent Contractor. Contractor shall act as an independent contractor pursuant to this Agreement and nothing herein shall create an agency relationship between Company and Contractor. Furthermore, Contractor understands that it has no authority to make or imply any commitments that are binding upon Company. None of Contractor's employees or agents shall be considered or in any way represent themselves as being employees of Company or be entitled to any of the benefits supplied by Company to their own employees. Contractor shall at all times have a designated supervisor for its employees and its subcontractors at Company's facility throughout the performance of the Services. Company shall have the right, in its sole discretion, to determine that any personnel of Contractor are unfit to be working at Company's facility and, in such event, Contractor shall promptly replace any such personnel.

5. Compliance with Laws and Company Safety and Environmental Requirements.

(a) Contractor shall, and shall require all of its employees, subcontractors, consultants and agents to, comply with all (i) federal, state, and local laws, regulations, rules, ordinances and orders of any kind which are applicable to Contractor's performance of the Services and (ii) safety, health, environmental or other administrative requirements, rules, regulations or procedures adopted by Company, including, without limitation, those Company safety and environmental requirements set forth in **Attachment C** hereto, to the extent applicable to the Services being performed by Contractor.

(b) Contractor shall cause the Declaration in the form attached hereto as **Attachment C-1** to be executed by its authorized representative and shall complete **Attachment C-2** prior to the

performance of any Services hereunder. During the term hereof, Contractor shall comply with all of its obligations in the Declaration and will maintain in effect and comply with all of the policies, procedures, programs and systems described therein. All representatives and employees of Contractor completing Services on site at Company's location shall participate in the on-site or on-line Environmental Health and Safety orientation, RCRA Awareness Training if deemed by Company to be necessary based on the Services to be performed hereunder, site-specific Environmental Health and Safety Briefing, and any other on-site or on-line trainings deemed necessary by Company for the safe completion of Services hereunder, and shall verify attendance by signing an attendance sheet attached to the On-Site Declaration (OSD). Notwithstanding the foregoing, no trainings or briefings offered by Company shall limit the responsibility of Contractor to ensure compliance with the obligations of Contractor set forth in this Section 5.

(c) Contractor represents, warrants, and certifies that all workers placed at Company's facility are and will be authorized to work in the United States throughout the term of this Agreement, and that Contractor has and will review all necessary documentation to this effect as required by the Immigration Reform and Control Act of 1986, including, without limitation, work visas and I-9 forms. Contractor understands and acknowledges that it is solely responsible for reviewing all such documentation, and that Company shall have the right to request copies of all such documentation to conduct an audit of Contractor's compliance with this section upon at least 24 hours' notice to Contractor. Upon the Company's request, Contractor will participate in any state or federal employment eligibility verification programs adopted or enrolled in by the Company.

(d) Contractor shall comply with, and shall cause its employees, affiliates, agents and subcontractors to comply with, the "Supplier Code of Conduct" set forth on **Attachment D**, as may be amended by Company from time to time. Any breach of this Section may result in immediate termination of this Agreement and any outstanding Orders by Company upon prior written notice.

6. Indemnification. Contractor shall indemnify, hold harmless and defend Company, its affiliates and parent companies, from and against any and all claims, actions, suits, damages, liabilities, costs and/or expenses (including, without limitation, reasonable attorneys' fees and expenses of investigation), regardless of whether they arise out of, or result from, third party claims, resulting from (a) personal injury (including, without limitation, death) to any party (including, without limitation, Contractor, Company and their respective employees), or damage to the property thereof, which are caused by or arise in connection with Contractor's performance under this Agreement, irrespective of the cause of such injuries or damage, except to the extent caused Company's sole negligence or willful misconduct or (b) any breach by Contractor of this Agreement. The indemnity obligations in this Section 6 shall survive in all respects the expiration or termination of this Agreement.

7. Insurance. Contractor shall carry the insurance, and comply with all of the terms and conditions, set forth in **Attachment E** hereto.

8. Standard of Performance.

(a) Contractor warrants that the Services shall be performed by qualified individuals in a

good, professional and workmanlike manner, consistent with that level of care and skill ordinarily exercised by other reputable contractors under similar circumstances at the time the Services are performed, and in conformance with the specifications (if any) set forth on **Attachment A**. Contractor further warrants that Contractor will have good title, free and clear of any liens, to any and all materials and supplies provided by Contractor hereunder and such materials and supplies shall be new, merchantable, fit for their intended purpose, free from any defects and conform to the specifications and descriptions set forth herein, if any. The foregoing warranties shall survive any inspection or acceptance of the materials, supplies and Services and payment therefor by Company and shall run to Company and its successors, assigns and customers and shall not be exclusive.

(b) Contractor shall, at its expense, re-perform all Services and replace all materials and supplies that fail to conform to the foregoing warranties. If Contractor fails to perform the Services or supply materials and supplies in accordance with the terms hereof or fails to promptly correct any defective Services or replace any defective materials or supplies after notification to Contractor and reasonable opportunity to correct, Company may arrange for another entity to provide the Services or materials and supplies and any increased cost incurred by Company in connection therewith shall be paid promptly by Contractor or deducted by Company from the amounts otherwise due to Contractor hereunder. These remedies shall be in addition to any other remedies provided for by law or equity.

9. Confidential Information.

(a) In its performance of the Services, Contractor may come into contact with or become aware of information, data or communications of a proprietary nature to Company ("Confidential Information"). Contractor shall hold secret and protect the Confidential Information, not make copies of the written versions thereof and not discuss with, or disclose to, any third party the Confidential Information, without the prior written consent of the applicable Facility. Contractor shall make its employees aware of Contractor's obligations hereunder and secure their agreement to the terms hereof. Upon termination of this Agreement, Contractor shall return to Company all Confidential Information within Contractor's possession. These obligations of confidentiality shall survive the termination of this Agreement.

(b) Notwithstanding the foregoing, the obligations in this Section 9 shall not apply to information that is:

- (i) already in the public domain;
- (ii) disclosed to Contractor by a third party with the right to disclose it in good faith; or
- (iii) specifically exempted in writing from the applicability of this Agreement.

10. Ownership of Intellectual Property. Company shall be the owner of all intellectual property rights in and to any work product first developed by Contractor during the course of this Agreement

and arising from the Services ("New Developments"). Contractor hereby assigns, and agrees to assign, to the Company all of its respective right, title and interest in and to such New Developments. Each copyrightable element of the New Developments shall be a "work made for hire" for the purposes of U.S. copyright laws. Upon Company's request, Contractor agrees to provide reasonable assistance to the Company (at the Company's expense) to obtain patent or copyright protection for such New Developments, including but not limited to the execution of such documents or assignments as may be reasonably requested by Company.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state in which Company's facility is located without regard to its conflict-of-law rules.

12. Termination. This Agreement may be terminated by Company, effective on the tenth day after written notice is personally served or deposited in the United States mail, postage prepaid by Company (the "Termination Date") addressed to Contractor at its address set forth herein. In the event of such termination, Company shall pay Contractor for work properly performed up to the Termination Date.

13. Assignment. Contractor will not assign this Agreement in whole or in part (including, but not limited to, any transfer by merger, sale of assets, or operation by law), or delegate any of its obligations hereunder, to any third party without the express written approval of Company. Any attempted or purported assignment contrary to this provision shall be deemed null and void.

14. Permits, Licenses, Taxes. Contractor has and will maintain during the term of this Agreement all licenses and permits required for the performance of the Services. Contractor shall be responsible for the payment of any taxes arising out of its performance under this Agreement that may be assessed against Contractor.

15. Audit and Inspection. Contractor shall maintain records of all contracts, papers, correspondence, proof of payment affidavits, employee time sheets or ledgers, books, accounts and other information relating to payments made, and Contractor's performance, hereunder. Upon reasonable notice to Contractor, Company shall have the right to audit and inspect, at Contractor's place(s) of business and during normal business hours, during the term hereof and within one year after the termination hereof, books and records pertinent to Contractor's performance of its obligations under this Agreement.

16. Entire Agreement. This Agreement supersedes all earlier letters, conversations, purchase orders, proposals, memorandums and other written and oral communications as of the date hereof concerning the subject matter hereof, including without limitation, any terms and conditions of Contractor, and it contains all the terms agreed on by the parties, and no changes in, additions to, or subtractions from, this Agreement will be binding on the parties unless in writing and signed by Contractor and Company.

17. Set Off. Company shall be entitled at all times to set off any amount owing at any time from Contractor to Company against any amount payable at any time by Company to Contractor in connection with this Agreement.

18. Severability. If any term or provision of this Agreement or the application thereof to any circumstance shall be invalid or unenforceable the remainder of this Agreement or the application thereof to any circumstance other than that to which it is invalid or unenforceable shall not be affected thereby.

19. Counterparts. This agreement may be executed in one or more counterparts, all of which shall be considered one and the same instrument.

WITNESS the execution hereof as of the date first above written.

Wheelabrator Spokane Inc.

By: 
Chuck Conklin

Title: **Plant Manager**

Brand Energy Services, LLC

By: 
(Signature)

CLIFF Malta - 8/8/13
(Printed Name)

Title: MGR.

ATTACHMENT A

SCOPE OF SERVICES

Contractor will provide scaffolding and insulation services as per scopes of work provided by Wheelabrator Spokane Inc., as needed to include but not limited to:

- Furnish Supervision / Labor
- Furnish Materials/Tools/Equipment to erect/dismantle scaffolding

ATTACHMENT B

COMPENSATION

Compensation will be paid to the Contractor based on proper performance of each scope of work as set forth on purchase orders issued by Facility on either a firm lump sum price basis or fixed unit prices for time and/or material. Contractor's invoice shall not exceed the amount of the Final Purchase Order without the prior written approval of the facility.

A time-and-materials arrangement may be used only when it is not possible, at the time of the purchase order, to accurately estimate the extent or duration of the work or to anticipate costs with any reasonable degree of confidence. Any time-and-materials arrangement shall be subject to the below maximum agreement rates and terms, and will be guaranteed not to exceed a stated ceiling price.

To be detailed on purchase orders issued for each phase, visit, or project. Payment terms will be net 45 unless early payment discount of 2% is offered. .

Reference BRAND Energy Services, LLC attached rate sheet for to valid for the term of this service agreement, December 1, 2013 through December 31, 2015; unless there is an increase in prevailing wages.

Contractor must have an approved Statement of Intent to Pay Prevailing Wages by Washington State Department of Labor and Industries on file before commencing any work on site; if applicable.

Contractor must provide proof is has Washington Sates Business License.

BRAND

... Safe. Smart. Efficient

Wheelabrator
Scaffold Services
Proposal #0813-16416

BRAND Energy Services, LLC

Quality Results from Quality People

Date: August 9, 2013

CUSTOMER: WHEELABRATOR

Phone: 509-624-6575

Email: rrinderl@wm.com

Brand Energy Services, LLC.

7811 Portland Ave East

Tacoma, WA 98404

Aaron Durham/ Project Manager

Phone: 253 302-5428

Cell: 206 550 7944

Email: aaron.durham@beis.com

Dear Rick,

We are pleased to submit our proposal for the project below. Brand will furnish supervision, labor, material, tools and equipment to erect and dismantle scaffolding in accordance with the general terms and conditions shown hereinafter.

SCOPE OF WORK & PRICING:	CURRENT LABOR RATES-	12-1-2013 THRU 12-31-2015
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<u>RATE</u>	<u>STRAIGHT TIME</u>	<u>OVER TIME</u>	<u>DOUBLE TIME</u>
1 ST THREE MEN	\$ 61.89	\$ 83.82	\$ 106.75
3 MEN AND OVER	\$ 55.89	\$ 83.82	\$ 106.75

ATTACHMENT C
WHEELABRATOR SAFETY and ENVIRONMENTAL REQUIREMENTS

2012-2013

1.0 General Workplace Safety

1.1 Zero Tolerance for Unsafe Acts, Behaviors and Conditions

- Contractors working at Wheelabrator facilities must understand that safety is paramount to the success of all work and that poor safety work practices will not be tolerated. Safety performance is a factor used when selecting Contractors for future work. Wheelabrator requires its Contractors to properly supervise its employees, agents and sub-contractors to ensure strict compliance with applicable federal, state and local regulations and Wheelabrator Safety Rules at all times. Violators may be removed from a facility.

1.2 Contractor Safety and Environmental Evaluations

- Contractors must ensure that Wheelabrator's safety and environmental requirements are clearly communicated to all Contractors' employees for the duration of the work. Contractors are responsible for designating one person per shift to provide safety and environmental supervision for their own employees, agents and sub-contractors, and that designated person or their designee must remain on-site while the Contractor is working.
- If Wheelabrator observes safety hazards or environmental incidents caused by a Contractor which pose an imminent danger to people or the environment, Wheelabrator will stop the work and require the Contractor's supervisor to take immediate corrective action to eliminate the hazard(s).
- Contractor's employees who demonstrate an attitude of indifference towards safety or the environment may result in Wheelabrator staff removing them from the site or terminating the contract.
- If Wheelabrator observes safety hazards or environmental incidents caused by a Contractor that do not pose an imminent danger, the hazards will be reported to the Contractor's supervisor and to the Wheelabrator Facility Management.
- Contractors or Contractor's employees who fail to perform work in compliance with the contract requirements may be permanently removed from the site.

1.3 Arriving at the Facility – Security

- At the beginning of each working shift, the Contractor shall supply to Wheelabrator a list of all Contractors' employees who are on-site during that shift. The list shall be updated whenever the Contractor's employees leave the Wheelabrator site or if additional Contractor employees arrive on site.

- Wheelabrator reserves the right to require each Contractor's employee to register any daily entry and exit from the facility property upon manual or electronic systems provided by Wheelabrator.
- Wheelabrator reserves the right to require each Contractor's employee to wear an identification badge provided by the facility.
- All Contractors must be covered by a valid contract including:
 - Attachment A – Scope of Services
 - Attachment B – Compensation
 - Attachment C – Wheelabrator Safety and Environmental Requirements
 - Attachment C-1 – Contractor's Corporate Declaration
 - Attachment C-2 – Contractor's Safety Information
 - Attachment D – Supplier Code of Conduct
 - Attachment E – Insurance
- Contractors must have valid licenses and certificates applicable for the work being performed.
- On an annual basis, all representatives or employees of the contractor completing services on site shall participate in:
 - 1) An (on-site or on-line) general EHS orientation and RCRA Awareness Training session.
 - 2) An on-site task-specific EHS pre-job briefing (On-Site Declaration) conducted by Wheelabrator. Hardhat stickers will be given to all attendees to verify participation.

Verification of attendance will be made by signing an attendance form for all on-site sessions or by registering on-line for the general orientation.

1.4 Communications

- Communication to the Control Room must be available at all times as prescribed by the facility.

- The Contractor's designated person must be able to converse with their employees in the language they can understand and must be able to communicate with Wheelabrator plant personnel.

1.5 First Aid and Medical Attention

- Each Contractor must have a first-aid kit available. Bloodborne pathogen training and related equipment is the responsibility of the Contractor.
- Contractors are required to report all work-related injuries or illnesses that require an evaluation or treatment by a medical provider or hospital and serious near misses immediately to the Control Room.
- Where emergency services are required, the call will be made through the Control Room. Contact the Control Room for all emergencies. In general, Contractors should not dial 911 from a cellular phone.
- Contractors shall familiarize themselves with the facility and know where the closest emergency eyewash and shower stations are located and how to operate them before starting a job assignment.

1.6 Incident Investigation and Reporting

- Contractors must complete an Incident Investigation Report, within 24 hours of occurrence of an incident. An incident is defined as a work-related injury or illness requiring an evaluation or treatment by a medical provider or hospital or any near miss that could have resulted in similar medical treatment or evaluation. The investigation shall contain, at a minimum, the information required on the Federal or State OSHA's Recordkeeping Form (Federal OSHA Form 301) and the following: causal factor(s), root cause(s), corrective actions, and alternative solutions for preventing a re-occurrence of the event. The completed report shall be provided to the Control Room.

1.7 Drug and Alcohol Program

- All Contractors or subcontractors working at Wheelabrator facilities must have a fully implemented drug and alcohol program. Elements of the program shall include, but not be limited to, the following:
 - A Contractor's employee shall not show up for work at the facility while under the influence of drugs or alcohol;
 - A random drug and alcohol testing program and drug and alcohol testing when there is reasonable suspicion. The program must also provide that anyone who tests positive will be prohibited from working at a Wheelabrator facility;

- A method for communicating to the contactor when the Contractor's employee is taking prescription medications that could influence work performance; and
- Prohibits possession of illegal drugs and/or alcohol on Company property (and that possession is grounds for immediate and permanent removal from the site).
- Wheelabrator is not responsible for the administration of the program.

1.8 Unsafe Acts, Horseplay, Intoxicants, Firearms

- No unsafe acts, horseplay, intoxicants, or firearms are allowed on-site.
- Follow instructions in all posted areas—observe all warning signs!

1.9 Pre-Job Briefings

- Contractors shall provide pre-job safety briefings to their employees before the start of each new job. At a minimum, topics covered should include:
 - Hazards associated with the job
 - Work procedures involved
 - Special precautions
 - Energy source controls
 - Personal protective equipment (PPE) requirements
 - Location of eyewash/shower, fire extinguishers, plant phone, and or public address system
 - Closest point of egress from the work area
 - How to evacuate the facility based on where they are working in the facility and the designated muster point following the evacuation

1.10 Personal Hygiene

- The power plant ash contains varying concentrations of heavy metals (e.g., lead, cadmium, inorganic arsenic) and silica. Contractor's employees are required to thoroughly wash their hands and face before eating or drinking and before leaving the facility.
- Contractor's clothing and boots containing ash shall be removed or cleaned with a vacuum fitted with a high-efficiency particulate air (HEPA) filter before leaving the facility.

- Contractors may not enter lunchrooms or administrative areas with dirty or dusty protective work clothing or equipment.

1.11 Parking

- Park only in areas designated by Wheelabrator.
- Never block building exits, emergency routes, fire lanes, or emergency or fire equipment.

1.12 Speed Limit

- All vehicles operated on Wheelabrator property shall obey posted speed limits and always provide pedestrians with the right-of-way.
- Adjust speed in response to reduced visibility or slippery conditions.

1.13 Barrier Tape

- Yellow Tape in the plant – Contractors can enter the area with caution.
- Red Tape in the plant – Do Not Enter.

1.14 Smoking, Eating and Drinking

- Smoking or chewing tobacco is only permitted in designated areas.
- Eating or drinking is not permitted at any time within the facility except in designated areas.

2.0 Personal Protective Equipment (PPE)

- Contractors must provide all required PPE to their employees, agents and sub-contractors and must provide full instruction and training on the proper use of PPE before the start of the work.
- Contractors are required to properly supervise all employees, agents and sub-contractors to ensure compliance in the use of protective equipment and clothing.
- All PPE shall be worn in accordance with manufacturer instructions (e.g., hard hats facing forward).
- Welding helmets are required to be fitted with hard hats.
- Unless otherwise designated, hard hats are required in all areas of the facility. Wheelabrator reserves the right to require Contractors to wear hard hats of a specified color.

- Safety glasses with permanently-affixed side shields are required at all times on site except in designated areas. Mirrored safety glass lenses or shades of any color greater than 10% are not permitted while working indoors.
- Work boots with hardened (steel, fiberglass) toes are required. Sneakers are not permitted.
- Work gloves shall be worn, when needed, to protect hands from chemical, physical (i.e., abrasions, heat, etc.) or other hazards.
- Hearing protection is required in all areas inside of the facility. Double hearing protection is required when working in areas where signs are posted.
- Face shields are required for all grinding and chemical transfer operations.
- Goggles are required when working, or around others working, in areas containing airborne ash/flyash, dry chemical or dust hazards (e.g., windy conditions, positioned below ash-laden parts or equipment; ash or dry chemical handling such as lime). Splash goggles and a full face shield are required when conducting tasks where actual or potential liquid chemical splash hazards exist and in areas where dust, particulate and/or chemicals are present.
- Shaded eye protection is required while cutting, burning and welding.
- Hot Work activities require "leathers" or other appropriate protection. If using TYVEK-type suits, only those that are flame resistant or flame retardant shall be worn during Hot Work activities.
- Protective equipment is required for work involving chemical exposures.
- Use properly tested and rated electrical gloves for "live" work.
- Contractors are required to follow the instructions on all posted signs.

2.1 Respiratory Protection

- Wheelabrator employees are required to wear respiratory protection while performing specific tasks or while working in specific environmental conditions. Respiratory protection selection is based on air sampling data collected during these tasks and in various conditions.
- Contractors shall wear respiratory protection in all posted areas.
- Contractors must select the appropriate respiratory protection for their employee's exposures. Contractors are welcome to review Wheelabrator industrial hygiene air

sampling data to assist in selecting the appropriate respiratory protection. However, Wheelabrator's air sampling data may not be relevant to the tasks the Contractor will be performing. Contractors are required under OSHA Standards to assess their employees' exposure(s) to air contaminants. Contractors wanting to conduct air sampling on Wheelabrator sites must coordinate these activities with the facility before they begin. A contractor air sampling plan will be required and approved by a Wheelabrator Hampton OHS Manager before any air sampling is performed. An example of an approved air sampling plan and associated field observation sheets can be provided upon request.

- Contractors using respiratory protection are required by Federal or State OSHA to have a respiratory protection program.
- In accordance with State or Federal OSHA Standards, Contractors wearing tight fitting respirators must not have any facial hair, including a one day's growth, between the face-to-respirator seal or at a length to impact the exhalation valve operation.

2.2 Apparel

- Loose clothing shall not be worn around exposed rotating equipment or energized electrical parts.
- Do not wear loose-fitting clothing or jewelry around rotating tools and machinery.
- Do not wear conductive articles like jewelry, chains, watches, earrings, and key rings around exposed energized lines and equipment.
- Keep hair secured out of the way if it could become entangled in tools and machinery or obscure your vision.
- Full-length pants extending below the ankle are required.
- Long-sleeve shirts must be worn in those areas of the facility where Contractor's employees are potentially exposed to: thermal or chemical burns and cuts, scrape, and abrasion hazards. Tank tops are not permitted at any time.
- All clothing, including outer- (e.g., pants, shirts) and under-garments must meet State or Federal OSHA standards when working on or near exposed energized parts (i.e., 100% cotton or flame retardant materials only, no synthetics).

2.3 Fall Protection

- Workers shall be protected from fall hazards, including, unprotected sides and edges which are 4 feet or more above a lower level, floor holes (a gap or void 2 inches

or more in its least dimension) and wall openings (a gap or void 30 inches or more high and 18 inches or more wide) by the use of either:

- Guardrail systems
 - Covers
 - Safety net systems
 - A personal fall arrest or restraint system consisting of a full body harness and lanyard with locking snap hooks attached to a secure and approved anchor point.
or
 - Warning line systems, as determined by a qualified person
- Contractors must pre-plan to provide for prompt rescue of workers in the event of a fall.
 - Chains/safety gates on all work platforms must be closed when the platform is occupied.
 - Excavation fall hazards must be eliminated by use of the fall protection methods described above, or a fence or barricade which restricts access to the excavation area.

3.0 Work Area Protection

3.1 Walking/Working Surfaces

- Keep all walking/working surfaces free of debris, trip hazards (cords, hoses and lines), slippery or spilled materials.
- Keep emergency/fire equipment, eyewash stations/safety showers clear at all times.
- Keep exits, stairways and corridors clear of obstructions at all times.

3.2 Materials Handling

- Do not store materials in a manner that restricts access, blocks emergency/fire equipment or obstructs views of roadways or walkways.
- Do not stack materials too high. Acceptable height is based on the stability of the materials being stacked.
- Materials must be able to be self supported or by using vertical, horizontal and diagonal braces.
- All materials stored in elevated areas must be securely fastened to prevent falling.

- High-pressure bottles (e.g., O₂ and acetylene) shall be in carts or properly secured.

3.3 Ladders

- Portable metal ladders and other portable conductive ladders may not be used near exposed energized lines or equipment.
- Portable ladders shall have nonconductive side rails if they are used where the employee or the ladder could contact exposed energized parts.
- Portable extension ladders must be extended 3 feet above the point of support and shall be tied off or held securely by another employee.
- Do not separate extension ladders for individual use.
- Portable "A" frame ladders must be fully opened before use.
- Do not climb stepladders that are leaned against walls, tanks or other vertical surfaces.
- No damaged or modified ladders are permitted on-site.
- Do not use "job-built" ladders or make-shift ladders (like pallets).
- Face the ladder at all times and maintain three points of contact.

3.4 Scaffolding

- All scaffolding must comply with applicable State or Federal OSHA standards.
- Do not make changes to scaffolding. All changes must be coordinated through the scaffolding-competent person.
- All scaffolds over 6 feet must have a guardrail system (Top rail: 42" ± 3", Mid rail, 4"-high toe board).
- Overhead protection is required beneath on-going work or in areas where debris may fall (e.g., inside boilers).
- Screened sides are required above walkways.
- A competent person must inspect erected scaffolding each shift.
 - Contractors shall report all deficiencies with the scaffolding to the Control Room.
 - If the competent person determines that it is safe for the scaffolding to be used, he or she must hang an *All Clear tag* at all entrances of scaffolding.

- Contractor's employees, agents and sub-contractors shall not step onto scaffolding unless an *All Clear* tag is visible.

3.5 Restricted Areas

- Tipping Floor, Fuel Yards (e.g., wood, tires, culm, and ash and metal recovery loading/unloading areas) are restricted to authorized persons.
- Contractors are not permitted to enter the Restricted Areas unless authorized by a Wheelabrator employee. Entry onto the Restricted Areas must follow the plant-specific policy.
- Contractors are not permitted in warehouse areas unless accompanied by a Wheelabrator employee.

3.6 Nuclear Level Gauges

- Do not open, move or remove nuclear-level gauge devices. These devices are labeled specifying them as a radioactive hazard.

3.7 Conveyor Safety

- Never ride conveyors. Cross over conveyors only at crosswalks or when the conveyor is de-energized and locked out.
- Do not walk on conveyor covers.
- Be aware of the location of emergency pull cords; use the pull cords to stop a conveyor in the case of an emergency.
- Do not use the emergency pull cord for situations other than emergencies (e.g., to work on conveyor).
- Keep hands clear from rollers and keep all guards in place when in service.
- Contractor's employees shall not remove any machine guards without prior Wheelabrator approval.
- Do not clean pulleys or rollers when the belt is moving. Implement the lockout procedure before working on the conveyor.
 - When cleaning up around a conveyor, always shovel in the direction the belt is moving.

4.0 Safe Work Procedures

4.1 Chemical Unloading and Transfer

- All chemical unloading shall comply with Wheelabrator site-specific chemical unloading procedures, which specifies PPE for those involved and verification the closest eyewash station to the unloading is operating correctly. Contact the Wheelabrator Control Room before unloading any delivery.
- All deliveries cannot be made unless they are supervised by Wheelabrator personnel.

4.2 Hazard Communications

- Contractors will have MSDS for all chemicals they bring on-site. All MSDS must be available on-site for Wheelabrator review. Contractors will follow the facility chemical storage and disposal requirements; when in doubt, ask a Wheelabrator supervisor for clarification.
- Contractors must coordinate with the facility before storing any hazardous materials. Information such as: the quantity, location to drains and material compatibility will be addressed.
- Containers, lines and tanks are labeled at the facility. If you have a question, ask the Control Room.
- MSDSs for all hazardous materials used on the site by Wheelabrator are available through Wheelabrator's Internal Document Control System –O-Box. If you have a question about a hazardous material used at the site, ask the Control Room.

4.3 Lockout/Tagout (LOTO) Permit Authorization

- Proper lockout permit/authorization is required for all jobs with hazardous energy sources.
- Obtain proper authorization or lockout permit from the Control Room.
- At a minimum, a Contractor's supervisor shall use an individual lock on the lock box with a tag to identify it as a Contractor's lock for each work crew. Contractor's employees should have some means of controlling access to the key of that lock following Contractor's LO/TO procedure.
- All guards and safety interlocks shall be replaced when work is completed.
- Notify the Control Room when work is completed.

4.4 Confined Spaces

- Permit Required Confined Spaces (PRCSs) exist at the facility and have been labeled. Contractors will not work in an area that has been labeled as a PRCS or which

Contractors believe is a PRCs without first notifying the Control Room and obtaining proper authorization (i.e., Wheelabrator-issued PRCs permit). PRCs that have been posted as a reclassified "Non-Permit Required" space do not require authorization to enter.

- A PRCs permit/reclassification is required for all confined space work. A permit/reclassification must be posted at the job location. When the work is completed, Contractors must return the permit to the Control Room where Contractors will be required to complete the "Contractor Debriefing" section.
- Attendant and retrieval devices are the responsibility of Contractors and required for all PRCs entry jobs unless alternative, specific arrangements have been made with the facility.
- Wheelabrator evaluates PRCs for its employees. Contractors must have their own program in place, including a means for rescue, unless specific arrangements have been made with the facility for a different means of rescue. In all cases, Contractor rescue procedures must be coordinated with Wheelabrator's procedures.

4.5 Tools and Equipment

- All tools and equipment must be in good condition with safety devices.
- Do not use defective tools or equipment.
- Contractors are not allowed to use Wheelabrator tools or equipment unless and until the equipment has been specified in the Contractor's Corporate Declaration Attachment C-1.
- Compressed air cannot be used for cleaning (e.g., clothing, housekeeping).

4.6 Bins/Hoppers/Bunkers/Silos

- Never open doors or covers without authorization.
- Always assume all ash is hot.

4.7 Jacking

- Inspect the jack before using it.
- Do not use a jack that is leaking fluid.
- The jack set-up shall be stable before lifting the load.

4.8 Power Washers

- Electric power washers shall not be used unless GFCI-protected.

- Gasoline-, diesel- or propane-powered engines shall not be used inside building structures because of the exhaust emissions they generate. The emissions can accumulate and cause health issues. Where such engines are required by Contractors, they must first receive Wheelabrator authorization before beginning use.
- Housekeeping is a continuous effort; Contractors are required to keep work areas clean and orderly.

5.0 Electrical Safety

5.1 Electrical

- The Control Room issues Lockout/Tagout permits for electrical work.
- Do not leave exposed conductors.
- Only "Qualified" persons knowledgeable in the construction and operation of electric power generation and transmission equipment and the associated hazards may work on exposed energized lines or equipment operating at 50 volts or more.
- Keep areas in front of electrical panels clear for at least 36 inches.
- All electrical distribution panels, breakers, disconnects, switches, and junction box doors and covers shall be kept closed unless work requiring the doors or covers to be open is in progress.
- Use only non-conductive (such as plastic-cased) flashlights around electrical lines and equipment.
- Do not alter safety features of any electrical equipment.
- Use only 3-wire industrial extension cords rated for the work environment conditions. All extension cords must be in good condition. Spliced extension cords are not permitted.
- All cord- and plug-connected equipment must be either double insulated or equipped with ground fault circuit interrupters (GFCIs).
- Avoid placing extension cords or welding leads in contact with wet areas; avoid creating trip hazards (e.g., string overhead where appropriate); avoid doorways and travel areas.
- Do not use wire to support welding leads.

- High voltage and live line work must be coordinated with the Control Room and local power utility.

6.0 Vehicle and Equipment Operation

6.1 Mobile Equipment

- Contractors are not permitted to use any Wheelabrator equipment unless and until such equipment has been specified in the Contractor's Corporate Declaration Attachment C-1. If Contractor's employees are authorized to use Wheelabrator equipment, Contractor shall be responsible for training such employees to properly operate such equipment, and ensuring that such employees are familiar with all operating and safety procedures associated with the equipment.
- Only qualified personnel shall operate equipment.
- Reverse alarms shall be operable on all equipment.
- All equipment shall be operated at a safe speed and as designated by the facility.
- No employees shall be exposed to "pinch point" locations.
- No persons are permitted to ride on the outside of vehicles.
- No mobile equipment is permitted on the site without a restraining device (e.g., seatbelt). Seatbelts must be used at all times while operating equipment.

6.2 Excavations

- All excavations shall be covered or barricaded to restrict access.
- Excavated materials must be placed or stored at least 2 feet from the excavation and be safely sloped.
- Shoring is required for trenches over 5 feet deep.

6.3 Hoisting and Rigging

- Good rigging practices are to be used; no unstable loads are permitted.
- Clear communication between the signalperson and the operator must be maintained. If visual contact cannot be maintained, continuous radio communications shall be required. If continuous communications cannot be maintained, stop operations until the communications are re-established. Only designated signal persons who have documented 3rd party or employer certified qualifications shall direct movement and give signals.

- Hand signals to crane and derrick operators shall be those prescribed by ANSI for the type of crane in use. An illustration of the signals used by the contractor shall be with them on-site.
- Crane work zones shall be designated. Where power lines are within designated work zones, encroachment prevention measures shall be implemented.
- Walking under loads is prohibited.
- Never put yourself in pinch point positions, such as between moving and stationary objects—particularly when hoisting materials or working around mobile equipment.
- No persons are permitted in the boiler during large/heavy lifts. These include, but are not limited to: water wall and superheater partial and full pendants. Dutchmen are not considered heavy lifts.
- Allowing persons to be inside the furnace during rigging operations working under the bullnose (i.e., ram feeder) are not permitted during heaving lifting operations.
- When two or more hoisting machines are lifting the same load, only one designated signal person will direct the movements. The operator shall acknowledge an emergency stop signal from anyone. The operator shall stop the lift if a signal is not understood.
- "Tag lines" must be used to control large loads.
- Only those slings and chains that have been inspected and are free from defects shall be used at a facility.
- All hoist and rigging, lifting chains and slings must have visible load rating tags.
- Never attach rigging or any lifting device to a stairway or platform railing (such as handrails/guardrails) for purposes of lifting or supporting a load.
- Do not allow the load to exceed the rated capacity of any individual component.
- Do not expose nylon slings to sharp edges or hot materials.
- Chain falls and come-a-longs must have a functional safety latch.
- Contractors are not permitted to use Wheelabrator hoisting or rigging equipment unless and until the equipment has been specified in the Contractor's Corporate Declaration Attachment C-1.

7.0 Maintenance Activities: Hot Work

7.1 Hot Work-Fire Safety

- A Hot Work Permit is required for all jobs involving welding, cutting, heating, grinding, open flames, high temperatures, or other activities that generate sparks except for those jobs occurring in areas that have been designated by the facility as non-permit areas. A Hot Work Permit must be posted on the job.
- Obtain Hot Work Permits from the Control Room. When the work is completed, return the permit to the Control Room.
- Where practical, all combustibles shall be relocated beyond a 35 ft radius from the work area. Where relocation is impractical, combustibles shall be protected with metal or flameproof covers.
- Do not allow solvents or other flammable material in areas where Hot Work is being performed.
- Grate surfaces or openings which could allow cutting and welding sparks or spatter to drop onto lower levels shall be covered with fire-resistant material. Where not feasible, red-tape off the area or use a fire watch.
- Persons performing fire watch duties shall:
 - Know and understand the communication method to be used for reporting a fire
 - Not perform other tasks that will interfere with the primary duty to monitor fires
 - When necessary, warn others of Hot Work activities and prevent unauthorized entry
 - Remain at the Hot Work area for at least 1 hour after work is complete unless specified by the hot work permit
 - Have fire extinguishing equipment capable of extinguishing a Hot Work-generated fire and shall be available within 10 seconds of unobstructed travel time from the Hot Work.
- Cylinders must be used upright and secure at all times. Cylinder sling/cradle is required for hoisting.
- Spare cylinders of oxygen and acetylene, when not used within a 24-hour period, shall be stored separately at least 20 feet apart or by a non-combustible barrier at least 5 feet high having a fire-resistance rating of at least 1/2 hour.

- All grating and floor openings must be covered to prevent hot slag from falling to the floors below.
- All stored cylinders shall be secured with caps on.
- Smoking is permitted only in designated areas.

7.2 Welding

- **Do not weld without a Hot Work Permit.**
- It is the Contractor's responsibility to prevent hot slag or sparks from contacting persons or equipment.
- Unless cylinder carts are equipped with a 5-foot high separating plate specifically engineered to meet a 1/2 hour fire-resistance rating and prevent the spread of fire, remove regulators and cap cylinders and return them to storage if torch sets are to remain idle for periods greater than 24 hours.
- **DO NOT** use torch sets unless combination reverse-flow check valves/flashback arrestors are installed on BOTH fuel gas and oxygen lines at the torch AND regulators.

8.0 Emergency Response

8.1 Communications

In the event of an emergency, medical or otherwise, the Contractor is to contact the Control Room using the plant phone or paging system. In general, Contractors should not call 911 using a personal cellular phone.

8.2 Emergency Evacuations

- The general emergency alarm will be sounded for all emergencies requiring evacuation. When this alarm sounds, leave the facility immediately.
- If an emergency alarm sounds, know your escape route. Do not use the elevator.
- Use stairwells and follow the exit signs.
- The primary assembly point for any evacuation is at the administrative building parking lot, unless otherwise instructed. Each facility has a secondary evacuation assembly point. When the primary assembly point cannot be used, the facility will instruct the Contractor where to meet.

9.0 Environmental

- Leaks or spills to the ground are not permitted. If you observe a leak or spill of any quantity, immediately notify the Control Room.
- All temporary fuel and chemical storage tanks shall have a means of secondary containment.
- Never release chemicals, oils, fuels, solvents, etc. into plant drains, sinks or sewers.
- No hazardous waste is to be generated unless specified in the Contractor's Service Agreement with Wheelabrator and detailed in Attachment A-Scope of Services.
- Do not dispose of waste generated on-site onto the Tipping Floor unless disposal has been previously approved by facility management.
- For waste materials generated by Contractors, use the drums or containers provided or approved by Wheelabrator. Do not store waste at a Wheelabrator facility without notifying plant management of its type, quantity and location. Do not remove waste materials from the Wheelabrator facility.
- When performing work that uses liquid chemicals or oil within 20 feet of drains, install temporary drain covers before beginning.
- Clean tools and equipment of ash inside the plant structure before leaving property.
- Notify plant management before undertaking any work on equipment that might release ash to the environment (e.g., conveyors, air pollution control equipment). This includes any outdoor work where ash could be released as fugitive dust or released to the ground (including release as a wastewater or wash water component). The Contractor's Scope of Services will specify the controls necessary to prevent ash releases to the environment. For outdoor work, temporary enclosure will be constructed to prevent potential releases.
- Immediately notify Wheelabrator management if in the course of your work outside the building structures, ash is released to the ground or causes visible dust emissions.
- Contractors must not dispose of ash or otherwise remove ash from the plant site.
- Used boiler tubes, used conveyor parts and other used equipment partially coated with ash must be stored indoors or if stored outdoors, must be placed on pallets and covered to prevent ash dispersion and stormwater contact.

- If outdoors, ash containers must be covered and be leak-tight (e.g., roll-off boxes, bins, wash tanks, etc.).
- Hazardous Materials including Hazardous Waste
 - Many waste materials generated during the course of work at Wheelabrator facilities has the potential for being classified, through testing and analysis, as a hazardous waste. Contractor Health and Safety Programs required in the Service Agreement address the handling of these hazardous waste materials.
 - For Companies providing spill response (containment) and clean-up of materials determined to be a hazardous waste must be handled by individuals who have received training in accordance with State and Federal Hazardous Waste Regulations (40 CFR 265.16 and OSHA Standard 1910.120 (q) or (p)(8)).
 - Trained contractors will handle hazardous waste as described in the Scope of Services, Attachment A, at Wheelabrator facilities by placing the material into Wheelabrator approved or provided containers and then moving them to an approved on-site storage location as specified by Plant Management. At no time shall any hazardous waste be placed into storage or removed from a Wheelabrator facility without authorization.
 - Contractors are required to inform Wheelabrator site Management during the EHS orientation if they anticipate that their work will generate hazardous waste onsite. Contractors are required to inform Wheelabrator site Management when they actually generate any hazardous waste (notify during same shift that waste is generated). For multi-day jobs where hazardous waste generation is expected over an extended period (e.g., entire bag house change out) then only an initial notification of hazardous waste generation is required.

ATTACHMENT C-1
CONTRACTOR'S CORPORATE DECLARATION

As the duly authorized and designated corporate representative of **Brand Energy Services, LLC** and ANY SUBCONTRACTOR] ("CONTRACTOR"), I hereby certify for myself and for and on behalf of Contractor that:

1. Contractor has reviewed, understands, and will follow the Environmental, Health, and Safety requirements specified in Attachment C.
2. Contractor understands and acknowledges that Company has:
 - site-specific contractor safety requirements and consequences for non-compliance
 - potential physical and chemical hazards that will be communicated to Contractor's on-site representative
 - a hazard communication program
 - site-specific emergency procedures
 - site lockout/tagout, confined spaces and hot work requirements
 - eye, foot, hand, head, hearing, and fall protection requirements
 - minimum personal protective equipment (PPE) requirements
 - inorganic arsenic, cadmium, lead, hexavalent chromium, and respiratory protection standard requirements
 - site-specific industrial hygiene monitoring data available for Contractor review to guide the respiratory protection, protective clothing, personal hygiene, and work practice selection*
3. Contractor has implemented its employer obligations under Federal OSHA or an equivalent state plan regulation listed below and has written policies, procedures, programs, and systems in place to fulfill all applicable obligations under these standards. Contractors must be able to provide their written policies, procedures, programs, and training records in support of the work they have been contracted to perform within 24 hours upon request.

AP

* Be advised that OSHA's policy is to prohibit the use of negative pressure and/or tight-fitting respirators where employee facial hair interferes with the face-to-facepiece seal. The Company endorses and complies with this policy.

- First Aid and Medical Attention (29CFR1910.151 & 29CFR192.23, 8CCR3400 and WAC 296-800-150 & WAC 296-155-120 through 130)
- Personal Protective Equipment (29CFR1910 Subpart I & 29CFR1926.28 & 95, 8CCR3380 and WAC 296-800-160 & WAC 296-155 Part C) including:
 - Occupational Foot Protection (29CFR1910.136 & 29CFR1926.96, 8CCR3385 and WAC 296-800-16060 & WAC 296-155-212)
 - Head Protection (29CFR1910.135 & 29CFR1926.100, 8CCR3381 and WAC 296-800-16055 & WAC 296-155-205)
 - Hearing Protection (29CFR1910.95 & 29 CFR1926.101, 8CCR5095 through 8CCR5100 and WAC 296-27-01113, WAC 296-155-145, WAC 296-155-210 & WAC 296-817)
 - Eye and Face Protection (29CFR1910.133 & 29CFR1926.102, 8CCR3382 and WAC 296-800-16050 & WAC 296-155-215)
 - Fall Protection (29CFR1926.104 & 500-503, 8CCR1669 through 8CCR1672 and WAC 296-155 Part C-1)
 - Scaffolding (29CFR1926.450-453, 8CCR1635.1 though 8CCR1667 and WAC 296-874 and 296-869)
 - Hazard Communication (29CFR1910.1200 & 29CFR1926.59, 8CCR5194 and WAC 296-800-170 & WAC 296-155-180)
 - Respiratory Protection (29CFR 1910.134 & 29CFR1926.103, 8CCR5144 & 8CCR1531 and WAC 296-841 and 296-842 & WAC 296-155-220)
 - Electrical Protective Equipment (WAC 296-24-980)
- Asbestos (29CFR 1910.1001, 29CFR 1926 1926.1101, 8CCR 5208, 8CCR1529 and WAC 296-65)
- Lead (29CFR1910.1025 & 29CFR1926.62, 8CCR5198 & 8CCR1523.1 and WAC 296-62-07521 & WAC 296-155-176)
- Cadmium (29CFR1910.1027 & 29CFR1926.1127, 8CCR5207 & 8CCR1523 and WAC 296-62-074 and WAC 296-155-174)
- Inorganic Arsenic (29CFR1910.1018 & 29CFR1926.1118, 8CCR5214 and WAC 296-848)

- Hexavalent Chromium (29CFR1910.1026 & 29CFR1926.1126, 8CCR5206 & 8CCR1532.2 and WAC 296-62, Part I-2)
- Welding and Cutting (29CFR1019 Subpart Q & 29CFR1926.250-255, 8CCR4794 through 8CCR4848 & 8CCR4850 through 8CCR4853 and WAC 296-24-680 through 722 & WAC 296-155 Part H)
- Machinery Machine Guarding (29CFR 1910 Subpart O, 8CCR3999 through 8CCR4051 and WAC 296-806)
- Hand and Power Tools (29CFR1910 Subpart P 29CFR1926, Subpart I, 8CCR3557 & 8CCR1707 and WAC 296-807 & WAC 296-155 Part G)
- Materials Handling, Storage, Use, and Disposal (29CFR1910 Subpart N & 29CFR1926 Subpart H and WAC 296-24 Part D & WAC 296-155 Part F)
- Cranes, Derricks, Hoists, Elevators, and Conveyors (29CFR1910 Subparts F & N, 29CFR1926 Subpart N, 8CCR1581 through 8CCR1589 and WAC 296-24 Part D & WAC 296-155 Part L)
- Electrical (29CFR1910 Subpart S & 29CFR1926 Subpart K, 8CCR-Subchapter 5 – 2299 through 2974 and WAC 296-800-280, WAC 296-155 Part I, and WAC 296-24-980)
- Excavations (29CFR1926 Subpart P, 8CCR1539 through 8CCR1547 and WAC 296-155 Part N)
- Permit-Required Confined Spaces (29CFR1910.146, 8CCR5156 through 8CCR5159 and WAC 296-809)
- The Control of Hazardous Energy (Lockout/Tagout) (29CFR1910.147, 8CCR3314 and WAC 296-803)
- Bloodborne pathogens (29CFR 1910.1030, 8CCR5193 and WAC 296-823)
- Ionizing Radiation (29CFR1910.1096, 1926.53 and WAC 296-62-09004 & WAC 296-155-150)
- Non-ionizing Radiation (29CFR 1910.1097, 1926.54, 8CCR5085 & 8CCR1801 and WAC 296-62-09005 & WAC 296-155-155)
- Blasting and the use of Explosives (29CFR 1910.109, 29CFR 1926 Subpart U, 8CCR5236 through 8CCR5374 and WAC 296-52)

- Process Safety Management (29CFR 1910.119, Subpart H, 8CCR7850 through 8CCR7870 and WAC 296-67)
 - Fuel Oil and Chemicals (40CFR 112 and State-Specific Requirements)
 - EPA-Hazardous Waste Generator Personnel training 40 CFR 265.16
 - OSHA - Hazardous waste operations and emergency response 29 CFR 1910.120 (q) or (p)(8)
4. Contractor will complete Attachment C-2.
5. All representatives and employees of Contractor completing Services on site at Company's location shall participate in the on-site Environmental Health and Safety orientation, RCRA Awareness Training if deemed by Company to be necessary based on the Services to be performed hereunder, site-specific Environmental Health and Safety Briefing, and any other on-site trainings deemed necessary by Company for the safe completion of Services hereunder, and shall verify attendance by signing an attendance sheet attached to the On-site Declaration (OSD).
6. Equipment Usage: If the Scope of Services indicates that Contractor is authorized to use Company equipment, complete the following:

The work to be performed by Contractor includes the use of the following Company equipment (list all equipment authorized for Contractor) (the "Equipment").

N/A

Contractor acknowledges and agrees (i) that only Contractor employees who have been trained by Contractor to properly operate the Equipment and who are familiar with all related operating and safety procedures are authorized to use the Equipment; and (ii) Contractor's employees are not authorized to use any Company equipment not identified above. If Contractor's employees are authorized to use Wheelabrator equipment, they must sign the Contractor Waiver and Release Agreement for Equipment form.

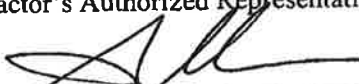
7. Please identify by name and phone number who at the Contractor's office can provide additional safety and health information, if needed.

Contractor Contact:

Name: Aaron Durham
 Phone: 206-550-7944
 E-mail: AARON.DURHAM@BEIS.COM

Signed by Contractor's Authorized Representative:

Signature:



Printed Name:

Brand Energy Services, LLC

AARON DURHAM

Company Name:

Title:

P.m.

Date:

8-12-13

ATTACHMENT C-2
CONTRACTOR'S SAFETY INFORMATION

1. Have you enclosed a signed copy of your company's 3 most recent years' State or Federal OSHA Forms 300 and 300A? ☒ Yes ☐ No

If no, please explain:

2. Please provide your company's OSHA Recordable Incidence Rate¹ for the past 3 years.

Current year (2012) = .35

Past year (2011) = .61

2 Years ago (2010) = .60

3. Please provide your company's North American Industrial Classification System (NAICS) Code: 238990

4. Has your company experienced a fatality in the past three years? ☐ Yes ☒ No

If yes, please explain:

5. Please provide your company's current and last year's Worker's Compensation Insurance loss-ratio data (also known as an insurance modifier or EMR).

Current year: 2013 = .55 Previous year: 2012 = .55

6. Has your company received a State or Federal OSHA or Environmental citation within the last three years?

☒ Yes ☐ No

If yes, please answer the following questions: See Attached

- a. Number of citations: _____
- b. Please list the number of each:
1. Willful citation (s): _____
2. Serious citation (s): _____
3. Other than serious citation (s): _____
- c. Pending citations: _____

7. Company Name: **Brand Energy Services, LLC**

Date: 08/13/2013

¹The OSHA Incidence Rate is determined by dividing the number of OSHA Recordable Injuries and Illnesses by the total annual work hours. That number is then multiplied by 200,000 to yield an OSHA Recordable Incidence Rate

Log of Work-Related Injuries and Illnesses

You must record information about every work-related death and about every work-related injury or illness that involves loss of consciousness, restriction of work activity or job transfer, days away from work, or medical treatment beyond first aid. You must also record significant work-related injuries and illnesses that result in a permanent partial disability, a permanent total disability, a loss of consciousness, or a significant injury or illness that requires medical treatment beyond first aid. You must also record work-related injuries and illnesses that result in a permanent partial disability, a permanent total disability, a loss of consciousness, or a significant injury or illness that requires medical treatment beyond first aid. You must also record work-related injuries and illnesses that result in a permanent partial disability, a permanent total disability, a loss of consciousness, or a significant injury or illness that requires medical treatment beyond first aid.



4Q REV 2

Year 20 10

U.S. Department of Labor
Occupational Safety and Health Administration

Form OSHA 300-108 no. 1218 01/16

Establishment Name Brand Energy Services, LLC - US

City Kennesaw GA

State GA

Run Date 2/22/2012

Event Basis True

180 Day Rule True

As of Date 01/01/2010 To 12/31/2010

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Run Date 2/22/2012

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Run Date 2/22/2012

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Run Date 2/22/2012

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Run Date 2/22/2012

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Run Date 2/22/2012

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Run Date 2/22/2012

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Run Date 2/22/2012

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Run Date 2/22/2012

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Run Date 2/22/2012

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Run Date 2/22/2012

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Run Date 2/22/2012

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Run Date 2/22/2012

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Run Date 2/22/2012

Event Range 12/31/2010

180 Day Rule True

Event Basis True

Identify the person

Case No.

Employee's name

Job title (e.g. Welder)

Date of injury or onset of illness

Where the event occurred (e.g. Loading dock north end)

Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g. Falling 20 feet from scaffolding)

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Classify the case

Check the "injury" column or choose one type of illness.

Enter the number of days the injured or ill worker was:

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Days away from work

Job transfer or restriction

On the job medical treatment

Other recordable cases

Death

Page Totals

Be sure to transfer these totals to the Summary Page (Form 300A) before you post it

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Summary of Work-Related Injuries and Illnesses

4Q REV 2
 As of Date: (Run Date)
 Event Range: 01/01/2010 To
 12/31/2010
 180 Day Rule True
 Event Based: True
 Run Date: 2/22/2012



U.S. Department of Labor
 Occupational Safety and Health Administration

Form approved OMB no. 1218-0178

All establishments covered by Part 1904 must complete this summary page, even if no work-related injuries or illnesses occurred during the year. Remember to number the Log to verify that the entries are complete and accurate before compiling this summary.

Using the Log, enter the individual entries you made for each category. Then write the totals below, making sure you've added the entries from every page of the Log. If you had no cases, write "0".

Employers, former employees, and their representatives have the right to review the OSHA Form 300 in its entirety. They also have limited access to the OSHA Form 301 or its equivalent. See 29 CFR Part 1904.38, in OSHA's recordkeeping rule, for further details on the access provisions for these forms.

Number of Cases

Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
0	4	5	11
(G)	(H)	(I)	(J)

Number of Days

Total number of days away from work	Total number of days of job transfer or restriction
297	218
(K)	(L)

Injury and Illness Types

Total number of...	(1) Injuries	(2) Skin disorders	(3) Respiratory conditions	(4) Poisonings	(5) Hearing loss	(6) All other
(M)	19	0	1	0	0	0

Post this Summary page from February 1 to April 30 of the year following the year covered by the form.

Public reporting burden for this collection of information is estimated to average 16 minutes per response, including time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Washington, DC 20503. Do not send the completed form to this office.

Establishment information

Your establishment name: Brand Energy Services, LLC - US
Brand Energy Services, LLC - US BESSE
 Street 1325 Cobb International Dr. NW Ste
 City Kennesaw State GA ZIP 30152

Industry description (eg, Manufacture of motor truck trailers)

Special Trade Contractors

Standard Industrial Classification (SIC) 4800 NAICS 4812

OR 1799

North American Industrial Classification (NAICS) 4812

Employment information (If you don't have these figures, use the most recent data available.)

Annual average number of employees 3,319

Total hours worked by all employees last year 6,637,507

Sign here

Knowingly falsifying this document may result in a fine.

I certify that I have examined the document and that to the best of my knowledge the entries are true, accurate, and complete.

VP Human Resources & Safety

Company address
678 285 1462

Date
Jan 24, 2011

OSHA's Form 300 (Rev. 01/2004)

Log of Work-Related Injuries and Illnesses

Attention: This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes



Year 20 11

U.S. Department of Labor
Occupational Safety and Health Administration

Form approved OSHA no. 1218-0176

As of Date 12/31/2011

Event Range 01/01/2011 To 12/31/2011

180 Day Rule True

Run Date 2/14/2012

You must record information about every work-related death and about every work-related injury or illness that involves loss of consciousness, restricted work activity or job transfer, or that results in medical treatment beyond first aid. You must also record significant work-related injuries and illnesses that are diagnosed by a physician or licensed health care professional. You must also record work-related injuries and illnesses that meet any of the specific recording criteria listed in 29 CFR Part 1901.5 through 1904.12. Feel free to use this form for a single case if you need to. You must complete an injury and illness incident report (OSHA Form 301) or equivalent form for each injury or illness recorded on this form. If you're not sure whether a case is recordable, call your local OSHA office for help.

Establishment Name Brand Energy Services LLC-US BE

City Kennesaw

State GA

Identify the person

Case No

Employee's name

Job title (e.g. Welder)

Date of injury or onset of illness

Where the event occurred (e.g. Loading dock north end)

Describe the case

(F) Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g. Second degree burns on right forearm from acetylene torch)

Classify the case

Check the "injury" column or choose one type of illness:

Enter the number of days the injured or ill worker was:

On job transfer or restriction (L)

Away from work (K)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Describe the case

(E) Where the event occurred (e.g. Loading dock north end)

(F) Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g. Second degree burns on right forearm from acetylene torch)

Classify the case

Check the "injury" column or choose one type of illness:

Enter the number of days the injured or ill worker was:

On job transfer or restriction (L)

Away from work (K)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Classify the case

Check the "injury" column or choose one type of illness:

Enter the number of days the injured or ill worker was:

On job transfer or restriction (L)

Away from work (K)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Days away from work (J)

Job transfer or restriction (L)

Other recordable cases (A)

Death (G)

Be sure to transfer these totals to the Summary Page (Form 300A) before you post it

Page Totals

0 2 3 8 199 129

Injury

13 0 0 0 0 0

Respiratory Condition

0 0 0 0 0 0

Poisoning

0 0 0 0 0 0

Other

0 0 0 0 0 0

All Other

0 0 0 0 0 0

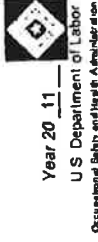
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Please specify burden for this collection of information is estimated to average 14 minutes per response, including time to review the instructions, search existing data sources, gather the data needed, and complete and review the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. If you have any comment about this estimate or any other aspect of this data collection, including its burden, OMB, Washington, DC 20503, or to the collection of information, please write to the Office of Management and Budget, Paperwork Project Director (0418-0186), Washington, DC 20503.

OSHA's Form 300A (Rev. 01/2004)

Summary of Work-Related Injuries and Illnesses

As of Date: 12/31/2011
 Event Range: 01/01/2011 To 12/31/2011
 180 Day Rule: True
 Event Based: True
 Run Date: 2/14/2012



Year 20 11
 US Department of Labor
 Occupational Safety and Health Administration

Form approved OSHA no. 1218-0718

All establishments covered by Part 1904 must complete this summary page, even if no work-related injuries or illnesses occurred during the year. Remember to review the Log to verify that the entries are complete and accurate before completing this summary.

Using the Log, count the individual entries you made for each category. Then write the totals below, making sure you've added the entries from every page of the Log. If you had no cases, write "0".

Employers, former employees, and their representatives have the right to review the OSHA Form 300 in its entirety. They also have limited access to the OSHA Form 301 or its equivalent. See 29 CFR Part 1904.35 in OSHA's recordkeeping rule, for further details on the access provisions for these forms.

Number of Cases			
Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
(G) 0	(H) 4	(I) 5	(J) 10

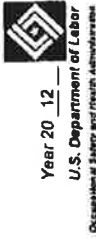
Number of Days	
Total number of days away from work	Total number of days of job transfer or restriction
(K) 304	(L) 272

Injury and Illness Types					
Total number of...	(1) Injuries (M)	19	(4) Poisonings	0	
(2) Skin disorders	0		(5) Hearing loss	0	
(3) Respiratory conditions	0		(6) All other	0	

Post this Summary page from February 1 to April 30 of the year following the year covered by the form.

Public reporting burden for this collection of information is estimated to average 50 minutes per response, including time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Washington, DC 20503. Do not send this collection of information to the Office of Management and Budget, Paperwork Project (0434-0188).

Establishment information	
Your establishment name	Grand Energy Services, LLC - US
Street	1325 Cobb International Dr NW Ste
City	Kennesaw GA 30152
Industry description (eg, Manufacturer of motor truck trailers)	Special Trade Contractors
Standard Industrial Classification (SIC), if known	1799
OR	
North American Industry Classification (NAICS), if	336212
Employment information	if you don't have these figures, use the Worksheet on the back of this page to estimate:
Annual average number of employees	3,130
Total hours worked by all employees last year	6,260,774
Sign here	
Knowing/falsifying this document may result in a fine.	
I certify that I have examined this document and that to the best of my knowledge the entries are true, accurate, and complete.	
Company name	VP-Environmental, Health & Safety
Company number	905.660.8047
Date	Jan. 12th, 2012



As of Date: 12/31/2012
Event Range: 01/01/2012 To
12/31/2012
180 Day Rule: True
Event Based: True
Run Date: 1/8/2013

OSHA's Form 300A (Rev. 01/2004) Summary of Work-Related Injuries and Illnesses

All establishments covered by Part 1904 must complete this summary page, even if no work-related injuries or illnesses occurred during the year. Remember to review the Log to verify that the entries are complete and accurate before completing this summary.

Using the Log, count the individual entries you made for each category. Then enter the totals below, making sure you've added the entries from every page of the Log. If you had no cases, enter "0".

Employees, former employees, and their representatives have the right to review the OSHA Form 300 in its entirety. They also have limited access to the OSHA Form 301 or its equivalent. See 29 CFR Part 1904.35 in OSHA's recordkeeping rule for further details on the access provisions for these forms.

Number of Cases

Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
0	2	2	8
(G)	(H)	(I)	(J)

Number of Days

Total number of days away from work	Total number of days of job transfer or restriction
242	57
(K)	(L)

Injury and Illness Types

Total number of...	(1) Injuries	(2) Skin disorders	(3) Respiratory conditions	(4) Poisonings	(5) Hearing loss	(6) All other
(M)	12	0	0	0	0	0

Post this Summary page from February 1 to April 30 of the year following the year covered by the form.

Public reporting burden for this collection of information is estimated to average 50 minutes per response, including time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Washington, DC 20543. Do not send the information to the office of management and organization.

Form approved OSHA no. 174-0116

Establishment information

Your establishment name: Brand Energy Services, LLC - US BESer-U

Street: 1325 Cobb International Dr. NW Ste

City: Kennesaw State: GA ZIP: 30152

Industry description (eg, Manufacture of motor truck trailers)

Specialty Trade Contractors

Standard Industrial Classification (SIC) if known: 1799

OR

North American Industrial Classification (NAICS), if

28222

Employment information

(If you don't have these figures, see the

Worksheet on the back of this page to estimate.)

Are all average number of employees: 3,403

Total hours worked by all employees last year: 6,806,428

Sign here

Knowingly falsifying this document may result in a fine.

I certify that I have examined this document and that to the best of my knowledge the entries are true, accurate, and complete.

VP-Environment, Health & Safety

Company includes

905.660.8047

Jan 8th, 2013

Print Date



McGRIFF, SEIBELS & WILLIAMS OF GEORGIA, INC.

INSURANCE BROKERS

October 1, 2012

RE: Brand Energy & Infrastructure Services - Experience Modification History

To Whom It May Concern:

Brand Energy & Infrastructure Services has maintained an excellent reputation for safety. Below are loss metrics for the most recent three years, showing a significantly better than average loss history:

Effective Date	Expiration	Experience Mod
09/30/12	09/30/13	.55
09/30/11	09/30/12	.55
09/30/10	09/30/11	.55
09/30/09	09/30/10	.54

Brand's experience modifications reflect their exemplary countrywide safety and accident prevention programs that promote and emphasize occupational safety.

If you have any questions or require additional information, please call on us.

Sincerely,

Kathryn Robinson
Vice President

One Premier Plaza / Suite 500
5805 Glenridge Drive / Atlanta, GA 30342
TEL (404) 497-7500 Fax (404) 497-7501
www.mcgriff.com

DES 2010-2012 OSHA CITATIONS

[illegible]

ATTACHMENT D

Supplier Code of Conduct



TO OUR VALUED CONSULTANTS, CONTRACTORS AND SUPPLIERS:

We have established a set of guidelines to assist our consultants, contractors and suppliers in adhering to ethical business standards. As you are an integral part of our success, Waste Management ("Waste Management" or the "Company") expects you to comply with all required laws and regulations, and avoid any activities that might lead to the appearance of conflicts or improper conduct. Please review and use this Code as guidance in conducting all of your business and interactions with, on behalf of, or otherwise related to Waste Management. Should you require further guidance or have a question, please utilize the Waste Management Integrity Helpline listed below.

BUILDING MUTUAL TRUST AND RESPECT

In working together, we emphasize teamwork, dignity, and mutual respect. Verbal or physical conduct that unreasonably disrupts others at work is harassment. Waste Management expects everyone working on behalf of the Company to treat others with dignity, respect, and fairness.

Waste Management is an equal opportunity employer and is committed to an environment free from discrimination. Consultants, contractors and suppliers are expected to comply with all applicable laws concerning discrimination in hiring and employment practices.

CONFLICT OF INTEREST

You must take care that your personal business relationships never influence the decisions you make for Waste Management. You must report any relationships that could cast doubt on your ability to act with total objectivity with regard to the Company's interests to the Ethics and Compliance Department and any relationship, which might be viewed as a conflict of interest, must be disclosed to the Ethics and Compliance Department.

PROTECTION OF COMPANY ASSETS AND CONFIDENTIAL INFORMATION

The assets of Waste Management are intended to be used in ways that benefit the Company. The use of Company time, equipment, computer network, supplies, and facilities for personal reasons, or taking Company-owned equipment off Company premises for personal use, is not allowed.

You are prohibited from taking, or directing another company to take, a business opportunity discovered through the use of Waste Management's property, information, or your position at the Company. You are also prohibited from using Waste Management's property, information, or your position for personal gain and from competing with Waste Management. You must protect Waste Management's confidential and proprietary information that you may have access to and ensure that it is not shared with or disclosed to any unauthorized parties.

GIFTS AND ENTERTAINMENT

You must never offer, give or accept gifts that would appear to undermine or influence good business judgment. You must never solicit any favors while representing Waste Management.



On occasion, you may accept or provide novelties, promotional items of a nominal value, or modest gifts if:

- The gift complies with Waste Management's Gift and Entertainment policy.
- This happens only occasionally.
- The gift was not solicited.
- Open disclosure of the gift would not embarrass Waste Management or the people involved.
- The gift is not given to a governmental official or employee.
- The value of the gift is under \$100 (U.S.)

You may offer or accept in connection with your work for Waste Management an occasional invitation to a sporting activity, entertainment, or meal if:

- The gift complies with Waste Management's Gift and Entertainment Policy.
- The activity is infrequent and of reasonable and not excessive value.
- The disclosure of the activity would not embarrass Waste Management or the people involved.
- The entertainment is approved by the recipient's supervisor at Waste Management.

Travel and accommodations for entertainment are generally not reimbursable unless previously approved in writing by Waste Management.

Approval Process

The following types of "high profile" events must be approved by a member of Waste Management's Senior Leader Team AND the Chief Compliance Officer prior to acceptance:

- Highly popular concert or sporting event, such as:
 - Super Bowl
 - Major Golf Tournament
 - NCAA Final Four Basketball Tournament
 - Other popular and high cost sporting event
 - Popular concert or cultural event
- Elaborate entertainment, such as:
 - Expensive hunting trip
 - Use of vacation home
- Out of town professional conference
- Any other high cost event

Offering or accepting bribes, kickbacks, payoffs or other unusual or improper payments to obtain or keep business is unethical, illegal and strictly forbidden.

ACCURACY OF BOOKS AND RECORDS

Accurate record keeping is critical. Any bills, reimbursement request or cost submitted or billed to Waste Management must have sufficient and accurate supporting documentation. Falsifying information, invoices or records while working on behalf of or for Waste Management is prohibited. All transactions must be properly authorized and completely and accurately recorded, and all reasonable supporting documentation must be provided where required or requested.



COPYRIGHTS, PATENTS AND TRADEMARKS

Our intellectual property is a valuable asset. This includes copyrights, patents, trade secrets and trademarks. We respect and protect intellectual property, whether it belongs to us or to others. You are prohibited from making unauthorized copies of copyrighted written documents or computer software. Waste Management owns all inventions, discoveries, ideas, and trade secrets created by employees, contractors or consultants on the job or produced using Company resources. All confidential and proprietary Waste Management information must be returned to Waste Management upon termination or completion of any work you are performing on behalf of Waste Management.

CONFIDENTIAL INFORMATION

Waste Management is committed to complying with applicable laws concerning proprietary, confidential and personal information. Consultants, contractors and suppliers are expected to comply with all applicable laws and regulations governing the protection, use and disclosure of Waste Management's proprietary, confidential and personal information. Unauthorized disclosures are prohibited.

REGULATORY COMPLIANCE

Waste Management operates in a highly regulated environment. In the U.S., the agencies that regulate our business include the Environmental Protection Agency, Department of Transportation, Internal Revenue Service, Occupational Health and Safety Administration, Department of Labor, and the Securities and Exchange Commission, plus many other federal, state, and local agencies. In Canada, we are similarly regulated. Waste Management expects all its consultants, contractors and suppliers to comply with all applicable laws and regulations in conducting business on behalf of Waste Management.

No consultant, contractor or supplier may make a political contribution on behalf of Waste Management. Any political contribution by a consultant, contractor or supplier that gives the appearance of being directly or indirectly associated with Waste Management business is prohibited. A "political contribution" is any direct or indirect payment, distribution, subscription, loan, advance, deposit, or gift of money, services, or anything of value to a government official or employee, or a person running for an elected office, or in connection with an election, or to an organization or group formed to support or defeat a referendum or ballot issue.

COMMUNITIES AND ENVIRONMENT

Waste Management strives to be a trusted and valued community partner by improving the quality of life in the areas in which we live and work. We expect our contractors, consultants and suppliers to be good corporate citizens and safeguard our environment and natural resources.

SAFETY

Safety is our primary goal at Waste Management. All contractors, consultants and suppliers are responsible for ensuring that their operations are conducted safely. You are expected to



observe all safety rules and practices, and to follow instructions concerning safe and efficient work practices.

INTEGRITY HELPLINE

You have an obligation to report any known or perceived violation of laws, regulations, our policies or our Code of Conduct. You can report issues confidentially and/or anonymously via the Company's toll-free Integrity Helpline at 800-265-9381. For international locations, the toll-free number is 00-800-2659-3810.

QUESTIONS

Contact Waste Management Ethics and Compliance department at 1-800-633-7871 X6554 or via e-mail at ethics@wm.com.

Note: This Code of Conduct contains information pertaining to certain Waste Management policies and practices. We expect the recipients to read this Code carefully as it is a valuable reference for understanding your work responsibilities. Nothing contained in this Code shall be construed as constituting a contract or as creating any contractual obligations on the part of the Company; nor does anything in this Code expand or increase your legal rights or the Company's legal obligations.

ATTACHMENT E

INSURANCE

During the term of this Agreement, Contractor shall keep in force the following minimum insurance coverages on an occurrence basis with insurance companies rated "B+" or better by A.M. Best rating service:

<u>Coverages</u>	<u>Limits of Liability</u>	
Comprehensive General Liability Insurance, including contractual and products/completed operations	Per Occurrence	\$2,000,000
	General Aggregate	\$2,000,000
Comprehensive Automobile Liability Insurance, including non-owned and hired vehicle coverage	For bodily injury and property damage	
	Per Occurrence	\$1,000,000
Comprehensive Excess Umbrella	Per Occurrence	\$4,000,000
Workers' Compensation Insurance	Statutory	
Employers' Liability Insurance	Per Occurrence	\$1,000,000

The comprehensive general liability insurance shall be specifically endorsed to provide coverage for the contractual liability accepted by Contractor in this Agreement.

Prior to commencing performance of the Services, Contractor shall furnish Company certificates of insurance or other evidence satisfactory to Company to the effect that such insurance has been procured and is in force. At least thirty (30) days prior to the expiration of any of the insurance policies required herein, Contractor shall furnish Company certificates of insurance, in accordance with the terms hereof, evidencing the renewal of such insurance for a period equal to at least the earlier of (a) the expiration of the term of this Agreement and (b) one year from the date of expiration of the then current insurance policies.

The insurance policies required herein shall be endorsed with, and the certificates of insurance shall contain, the following language:

"Wheelabrator Environmental Systems Inc. and its affiliates are named as an additional insured with respect to the comprehensive general, excess umbrella, and automobile liability policies set forth herein. A waiver of the underwriter's rights of subrogation applies in favor of Wheelabrator Environmental Systems Inc. and its affiliates as their interest may appear with respect to all policies described herein."

The certificates shall also contain the following express obligation:

"In the event of cancellation or material change in a policy affecting the certificate holder, thirty (30) days' prior written notice will be given the certificate holder."



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/27/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
MCGRIFF, SEBELS & WILLIAMS OF GEORGIA, INC.
5605 Glenridge Drive - Suite 300
Atlanta, GA 30342

CONTACT
NAME:
PHONE (A/C, No, Ext): 404 497-7500 FAX (A/C, No):
E-MAIL:
ADDRESS:

INSURED
Brand Energy Services, LLC
7811 Portland Avenue East
Tacoma, WA 98404

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A :ACE American Insurance Company		22667
INSURER B :ACE American Insurance Company		22667
INSURER C :Indemnity Insurance Company of North America		43575
INSURER D :National Union Fire Insurance Company of Pittsburgh, PA		19445
INSURER E :		
INSURER F :		

COVERAGES

CERTIFICATE NUMBER: Y9DGMU7Z

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L INSR	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> No exclusion for XCU GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC			HDO627013995 Includes Contractual Liability for Insured Contracts	09/30/2012	09/30/2013	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMPOPP AGG \$ 4,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			ISAH08711409	09/30/2012	09/30/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			BE15803590	09/30/2012	09/30/2013	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
A A C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/EMPLOYEE EXCLUDED? (Mandatory in WA) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	WLR C47125248 (CA/MA) SCF C4712525A (WI) WLR C47125261 (AOS)	09/30/2012	09/30/2013	<input checked="" type="checkbox"/> INC STATU- TORY LIMITS <input type="checkbox"/> OTH- ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Wheelerlaborator Spokane, Inc. and its affiliates are included as Additional Insured as respects insured's ongoing & completed operations for General Liability, Automobile Liability and Umbrella/Excess Liability, as required by written contract.
Excess Liability follows form.
Waiver of Subrogation is in favor of the Additional Insured for the General Liability, Auto, Umbrella/Excess Liability and Workers' Compensation policies referenced herein as required by written contract.

CERTIFICATE HOLDER

Wheelerlaborator Spokane Inc.
2900 S Geiger Blvd
Spokane, WA 99224

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

**Washington State Department of
Labor and Industries**



**Employer Liability
Certificate**

Department of Labor and Industries

Employer Liability Certificate

Date: 08/15/2013

UBI #: 601 759 168

Legal Business Name: BRAND ENERGY SERVICES LLC

Account #: 926,007-04

'Doing Business As' Name: BRAND ENERGY SERVICES LLC

Estimated Workers Reported: Quarter 1 of Year 2013 "76 to 100 Workers"
(See Description Below)

Workers' Comp Premium Status: Account is current. Firm has voluntarily reported and paid their premiums.

Licensed Contractor? Yes

License: BRANDES925CM

Expire Date: 3/29/2015

Account Representative: T3 / DEBRA MODER (360)902-5598 - Email:
MORE235@lni.wa.gov

What does "Estimated Workers Reported" mean?

Estimated workers reported represents the number of full time position requiring at least 480 hours of work per calendar quarter. A single 480 hour position may be filled by one person, or several part time workers.

Industrial Insurance Information

Employers report and pay premiums each quarter based on hours of employee work already performed, and are liable for premiums found later to be due. Industrial insurance accounts have no policy periods, cancellation dates, limitations of coverage or waiver of subrogation (See RCW 51.12.050 and 51.16.190).

**Agenda Sheet for City Council Meeting of:**

11/23/2015

Date Rec'd

11/6/2015

Clerk's File #

OPR 2015-0970

Renews #**Cross Ref #****Submitting Dept**

COMMUNITY, HOUSING & HUMAN SERVICES

Contact Name/Phone

SHEILA MORLEY 625-6052

Project #**Contact E-Mail**

SMORLEY@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Contract Item

Requisition #**Agenda Item Name**

1540 HOMELESS HOUSING OPERATIONS AND SERVICES RFP FUNDING RECOMMENDATION

Agenda Wording

The CHHS Board Evaluation and Review Committee recommends allocations to multiple projects under the Homeless Housing Operations and Services RFP. Funded projects will support an integrated system of homeless housing assistance.

Summary (Background)

The HHOS RFP combines federal, state and local homeless and human services resources into a single grant opportunity. Funding sources include HUD Emergency Solutions Grant, Washington State Department of Commerce Consolidated Homeless Grant, City of Spokane Homeless Housing Assistance Act funds, and City of Spokane Human Services Funding. The CHHS Board asks that City Council approve its recommendation to multiple agencies and allow CHHS to contract with funded agencies for 1/1/16-6/30/17.

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

STAPLETON, JENNIFER

Study Session

11/16/15- PCED

Division Director

MALLAHAN, JONATHAN

Other

11/4/15- CHHS Board

Finance

KECK, KATHLEEN

Distribution List**Legal**

PICCOLO, MIKE

For the Mayor

SANDERS, THERESA

Additional Approvals**Purchasing**

BRIEFING PAPER

Homeless Housing Operations and Services RFP Funding Recommendation November 16, 2015

Subject

The CHHS Board Evaluation and Review Committee recommends allocations to multiple projects (see attached) under the Homeless Housing Operations and Services (HHOS) RFP. Funded projects will support an integrated system of housing assistance that supports Spokane's Strategic Plan to End Homelessness through innovative practices that minimize barriers to program entry and focus on permanent housing options for clients.

Background

The HHOS RFP combines federal, state and local homeless and human services resources into a single grant opportunity. Funding sources include HUD Emergency Solutions Grant, Washington State Department of Commerce Consolidated Homeless Grant, City of Spokane Homeless Housing Assistance Act funds, and City of Spokane Human Services Funding. The HHOS RFP was developed so applications would be reviewed and ranked by housing components: The HHOS Funding Notice included a description of each of the eight housing interventions, the qualities of high performing projects within that component, required performance measures and links to best practice models.

Panels for each housing component were created to review and rank applications by project type. This allowed for expertise in the review panel by grouping the applications by housing component and comparing similar project types to one another. Panels consisted of members of the CHHS RFP Review Committee, CoC Advisory Committee members with no conflicts of interest, and community members with expertise in the subject area. In addition to panel review CHHS and GMFA staff performed a risk assessment and review of each application, which was part of the ranking process.

Reductions in anticipated funding from Washington State Department of Commerce Consolidated Homeless Grant resulted in funding below the recommended allocations.

The CHHS Board approved the funding recommendations on 11/4/15.

Impact

This project will fund 25 new and existing projects serving the homeless population, providing essential services to vulnerable households. The projects support strategies in Spokane's Plan to End Homelessness and meet our community goals of ending homelessness.

Action

The CHHS Board asks that City Council approve its recommendation as detailed in the attachment to multiple agencies and allow CHHS to contract with funded agencies for the contract period 1/1/16-6/30/17.

2016 Homeless Housing Operations and Services RFP



Funding Recommendations

Contract Period 1/1/16-6/30/17

Project Type: Emergency Shelter Operations and Staffing				
Funding Available:		\$ 405,000.00		\$ 380,625.00
Agency	Project Name	Requested Funding	Recommended Allocation	Reduced Allocations
Catholic Charities	St Margaret's Shelter	\$ 54,358.00	\$ 54,350.00	\$ 53,900.00
YWCA	DV Shelter	\$ 196,679.00	\$ 116,000.00	\$ 110,000.00
Transitions	Women's Hearth	\$ 90,000.00	\$ 63,000.00	\$ 58,000.00
Volunteers of America	Hope House	\$ 67,447.58	\$ 54,000.00	\$ 51,600.00
Volunteers of America	Crosswalk	\$ 30,679.37	\$ 24,555.00	\$ 22,525.00
The Salvation Army	Shelter	\$ 50,000.00	\$ 40,000.00	\$ 36,200.00
Catholic Charities Spokane	House of Charity	\$ 67,447.58	\$ 53,095.00	\$ 48,400.00
		\$ 556,611.53	\$ 405,000.00	\$ 380,625.00
NOTES: In an effort to maintain capacity in the entire homeless emergency shelter system allocations all applications were funded.				

Project Type: Transitional Housing Operations and Staffing				
Funding Available:		\$ 367,000.00		\$ 334,470.00
Agency	Project Name	Requested Funding	Recommended Allocation	Reduced Allocations
SNAP	New Youth TH with VOA	\$ 27,500.00	\$ 27,500.00	\$ 27,500.00
Catholic Charities Spokane	St. Margaret's Shelter	\$ 74,014.00	\$ 74,000.00	\$ 74,000.00
VOA	New Youth TH with SNAP	\$ 52,635.88	\$ 52,600.00	\$ 52,600.00
Transitions	Miryam's House	\$ 37,400.00	\$ 33,000.00	\$ 37,400.00
Transitions	TLC	\$ 103,000.00	\$ 77,250.00	\$ 80,000.00
VOA	Alexandria's House	\$ 73,000.00	\$ 51,000.00	\$ 62,970.00
NHCC	New Horizon's	\$ 95,830.00	\$ 51,000.00	\$ -
The Salvation Army	Stepping Stones	\$ 73,000.00	\$ -	\$ -
		\$ 536,379.88	\$ 366,350.00	\$ 334,470.00
NOTES: Reductions in available funding resulted in the inability to fund all projects recommended for funding at a feasible level. Funds remaining for this project type were used to supplement other projects recommended for funding.				

Project Type: Rental Assistance for Households with Children (RRH)				
Funding Available:		\$ 523,710.00		\$ 322,611.00
Agency	Project Name	Requested Funding	Recommended Allocation	Reduced Allocations
Catholic Charities Spokane	Rapid Re-housing for households with children	\$ 523,710.00	\$ 531,710.00	\$ 322,611.00
		\$ 523,710.00	\$ 531,710.00	\$ 322,611.00

2016 Homeless Housing Operations and Services RFP



Funding Recommendations

Contract Period 1/1/16-6/30/17

Project Type: Rental Assistance for Households without Children (RRH)				
Funding Available:		\$	345,000.00	\$ 215,074.00
Agency	Project Name	Requested Funding	Recommended Allocation	Reduced Allocations
SNAP	Rapid Re-housing for households without children	\$ 345,000.00	\$ 345,000.00	\$ 215,074.00
		\$ 345,000.00	\$ 345,000.00	\$ 215,074.00

Project Type: Support Services for Permanent Housing				
Funding Available:		\$	1,246,000.00	\$ 1,180,740.00
Agency	Project Name	Requested Funding	Recommended Allocation	Reduced Allocations
Better Health Together	Hot Spotters	\$ 89,460.00	\$ 75,000.00	\$ 70,000.00
Catholic Charities Spokane	St. Margaret's PSH	\$ 183,540.00	\$ 122,000.00	\$ 110,000.00
Volunteers of America	PSH	\$ 958,271.72	\$ 743,000.00	\$ 700,000.00
YWCA	Support Services for Permanent Housing	\$ 142,893.00	\$ -	\$ -
Transitions	Support Services for Single Women in Permanent Housing	\$ 36,240.13	\$ 24,000.00	\$ 24,000.00
Transitions	Home and Family Assistance Program	\$ 94,995.93	\$ 62,000.00	\$ 59,000.00
Transitions	Miryam's House Alumni Program	\$ 35,001.09	\$ -	\$ -
Catholic Charities Spokane	Hanson House	\$ 421,246.00	\$ 220,000.00	\$ 217,740.00
Spokane Housing Ventures	Wilton	\$ 50,148.00	\$ -	\$ -
		\$ 2,011,795.87	\$ 1,246,000.00	\$ 1,180,740.00

Project Type: Homeless Outreach Services				
Funding Available:		\$	220,000.00	\$ 220,000.00
Agency	Project Name	Requested Funding	Recommended Allocation	Reduced Allocations
Frontier Behavioral Health	Outreach	\$ 181,536.00	\$ -	\$ -
Catholic Charities Spokane	Outreach	\$ 81,499.00	\$ -	\$ -
VOA	Outreach	\$ 52,947.00	\$ -	\$ -
		\$ 315,982.00	\$ -	\$ -

NOTES: Applications submitted in this category were not recommended for funding. CHHS staff will provide technical assistance with interested agencies and offer a second RFP for an Outreach Project.

2016 Homeless Housing Operations and Services RFP



Funding Recommendations

Contract Period 1/1/16-6/30/17

Project Type: Homeless Families Coordinated Assessment (HFCA)				
Funding Available:		\$ 270,000.00		\$ 250,350.00
Agency	Project Name	Requested Funding	Recommended Allocation	Reduced Allocations
The Salvation Army	HFCA	\$ 270,000.00	\$ -	\$ -
Catholic Charities Spokane	HFCA	\$ 270,000.00	\$ 270,000.00	\$ 250,350.00
		\$ 540,000.00	\$ 270,000.00	\$ 250,350.00

Project Type: Singles Homeless Coordinated Assessment (SHCA)				
Funding Available:		\$ 90,000.00		\$ 83,450.00
Agency	Project Name	Requested Funding	Recommended Allocation	Reduced Allocations
SNAP	SHCA	\$ 90,000.00	\$ 90,000.00	\$ 83,450.00
		\$ 90,000.00	\$ 90,000.00	\$ 83,450.00

Project Type: Diversion Assistance				
Funding Available:		\$ 200,000.00		\$ 160,000.00
Agency	Project Name	Requested Funding	Recommended Allocation	Reduced Allocations
Catholic Charities Spokane	SMS Diversion	\$ 200,000.00	\$ 200,000.00	\$ 160,000.00
Transitions	Diversion	\$ 37,216.28	\$ -	\$ -
		\$ 200,000.00	\$ 200,000.00	\$ 160,000.00

Project Type: Housing and Essential Needs				
Funding Available:		\$ 2,657,171.00		\$ 2,657,171.00
Agency	Project Name	Requested Funding	Recommended Allocation	Reduced Allocations
Goodwill	Housing and Essential Needs	\$ 2,657,171.00	\$ 2,657,171.00	\$ 2,657,171.00
The Salvation Army	Housing and Essential Needs		\$ -	\$ -
		\$ 2,657,171.00	\$ 2,657,171.00	\$ 2,657,171.00

Total 2016 Homeless Housing Operating Services Funding Recommendations: **\$ 5,584,491.00**



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/9/2015
Clerk's File #	OPR 2015-0971
Renews #	
Cross Ref #	
Project #	2015172
Bid #	RFQ 4179-15
Requisition #	MASTER

Submitting Dept	ENGINEERING SERVICES
Contact Name/Phone	DAN BULLER 625-6391
Contact E-Mail	DBULLER@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	0370 - CULTURAL RESOURCE CONSULTANT - HISTORICAL RESEARCH ASSOCIATES

Agenda Wording

Consultant Agreement with Historical Research Associates (Missoula, MT) for Cultural Resource Consultant Services for Spokane Federal Aid Projects for an amount not to exceed \$200,000.00 (Various Neighborhood Councils)

Summary (Background)

This Consultant Agreement for Cultural Resource Consultant Services for Spokane Federal Aid Projects is for a period of two years. Task assignments shall be prepared under this contract and scoped for individual project needs. Funding shall be from the individual projects with much of the contributing monies being from matching State and Federal sources.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 200,000.00	#	Various
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	TWOHIG, KYLE	<u>Study Session</u>	
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	Public Works 11/9/15
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	lhattenburg@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	mhughes@spokanecity.org	
<u>Additional Approvals</u>		kkeck@spokanecity.org	
<u>Purchasing</u>	WAHL, CONNIE	htrautman@spokanecity.org	
		cwahl@spokanecity.org	
		wgreiser@hrassoc.com	

BRIEFING PAPER
Public Works Committee
Engineering Services
Nov. 9, 2015

Subject

Consultant master agreements

Background

Engineering Services has master agreements with various consulting firms for specialized engineering services (structural, geotech, etc.), landscape architecture and real estate acquisition. Some of those agreements are expiring at the end of this year. Also, DOT is requiring separate agreements with consultants for FHWA funded projects. Therefore, Engineering Services is in the process of advertising various requests for qualifications (RFQs) to solicit statements of qualifications from interested consultants. The following RFQs are being advertised:

- Geotechnical Engineering – Federal Aid Projects
- Geotechnical Engineering – Non-Federal Aid Projects
- Landscape Architect – Federal Aid Projects
- Landscape Architect – Non-Federal Aid Projects
- Cultural Resource Consultant – Federal Aid Projects
- Right of Way Consultant – Federal Aid Projects
- Surveying – Federal Aid Projects

Consultants will be selected on the basis of qualifications as defined in the RFQ. One consultant will be selected for each of the above listed RFQs and a master agreement prepared. Each master agreement will be brought to council for approval. Each master agreement will be for 2 years with an optional 1 year extension and each will be for \$200,000 to \$400,000. Costs incurred under each of these contracts will be covered by individual public works projects (e.g., street/sidewalk projects, water/sewer pump stations, etc.).

The \$200,000 to \$400,000 contract amount is an estimate of the amount of work which would be required over the two to three year life of each contract. Consultants will be assigned to work on specific projects (street/sidewalk, pump stations, etc.) ranging from approx.. \$5,000 to \$50,000, the total of which will be limited to the amount of the master contract.

Action

This information is being provided for background information.

Funding

Costs incurred under each of these contracts will be covered by individual public works projects.

Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number:

Firm/Organization Legal Name (do not use dba's): Historical Research Associates, Inc.		
Address PO Box 7086, Missoula, MT 59807-7086	Federal Aid Number Various	
UBI Number 601 180 083 000	Federal TIN or SSN Number 81-0373761	
Execution Date	Completion Date Dec 31, 2017	
1099 Form Required <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Federal Participation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Project Title Cultural Resource Consultant for Spokane Federal Aid Projects 2016-2017		
Description of Work <p>The scope of services will include one or more of the following on the projects listed in Exhibit A:</p> <ul style="list-style-type: none"> •Preparation of cultural and historic resources studies including field exploration as required •Coordination with area Indian tribes and DAHP •Consultation with City of Spokane design engineers to recommend ways to eliminate project effects on cultural/historic resources. •Construction phase monitoring where required 		
<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No DBE Participation <input checked="" type="checkbox"/> No MBE Participation <input checked="" type="checkbox"/> No WBE Participation <input checked="" type="checkbox"/> No SBE Participation	Maximum Amount Payable: \$200,000

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Agreement Number:

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Spokane hereinafter called the "AGENCY," and the "Firm / Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. General Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Agreement Number:

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

The CONSULTANT, on a monthly basis, is required to submit DBE Participation of the amounts paid to all DBE firms invoiced for this AGREEMENT.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Dan Buller
Agency: City of Spokane
Address: 808 W. Spokane Falls Blvd.
City: Spokane State: WA Zip: 99201
Email: dbuller@spokanecity.org
Phone: 509-625-6391
Facsimile: 509-625-6349

If to CONSULTANT:

Name: Weber Greiser
Agency: Historical Research Associates, Inc.
Address: PO Box 7086
City: Missoula State: MT Zip: 59807
Email: wgreiser@hrassoc.com
Phone: 406-721-1958
Facsimile: 406-721-1964

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

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V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. **Hourly Rates:** Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgement, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E", will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rates under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgement.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

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- B. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- C. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.
- The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.
- F. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

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VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub-consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964
(42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973
(23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973
(29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975
(42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987
(Public Law 100-259)
- American with Disabilities Act of 1990
(42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

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to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers' and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

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Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Dan Buller
Agency: City of Spokane
Address: 808 W. Spokane Falls Blvd.
City: Spokane State: WA Zip: 99201
Email: dbuller@spokanecity.org
Phone: 509-625-6391
Facsimile: 509-625-6349

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

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XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the Agency

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

Agreement Number:

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

Agreement Number:

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

Agreement Number:

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

Signature

Date


Signature


Date

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

Agreement Number:

Exhibit A

Scope of Work

Project No.

The scope of work for the various federal aid projects covered in this agreement will vary by project but is generally described in the "Description of Work" on the first page of this agreement. The projects covered include:

- Post St Bridge Deck Replacement – bridge reconstruction
- 37th Ave from Regal to East City Limits – pavement reconstruction, sidewalks, swales, etc.
- Mission Ave, Division to Hamilton – pavement rehabilitation, curb ramps, etc.
- Monroe/Lincoln Couplet - pavement reconstruction, curb ramps, etc.
- Riverside Drive – Phase II & III – road construction, sidewalks, swales, etc.
- Sprague Ave Rebuild – Sprague Corridor Investment Strategy - pavement reconstruction, curb bumpouts, stormwater separation etc.
- Sunset Blvd from Lindeke St to Royal St - pavement reconstruction, curb ramps, lane reconfiguration, stormwater upgrades etc.
- Hamilton St Corridor Enhancement Project – signal replacements and ADA compliance updates at signalized intersections
- Centennial Trail, Mission Ave Gap Phase 1 – intersection improvements at Mission at Perry including improved crosswalk with pedestrian refuge island, sidewalk reconstruction, and parking lot improvements at Mission Park
- Division St, 3rd Ave to Spokane Falls Blvd – curb bumpouts, landscaping, lighting, etc.
- Barnes Road from Phoebe to Strong Road – road construction, sidewalks, stormwater detention, etc.
- Crestline Street Lane Reduction – road restriping and ADA compliance
- Maxwell-Mission Avenue Lane Reduction - road restriping and ADA compliance
- Monroe Street Lane Reduction and Hardscape – road restriping, sidewalk widening, curb bumpouts, pedestrian refuge islands, lighting improvements, and bus stop improvements.

The exact scope and budget will be negotiated before a notice to proceed is given for each of the above listed projects. Not every project necessarily requires cultural resource services.

Agreement Number:

Exhibit B
DBE Participation

Agreement Number:

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

n/a

B. Roadway Design Files

n/a

C. Computer Aided Drafting Files

n/a

Agreement Number:

D. Specify the Agency's Right to Review Product with the Consultant

Phone or in-person consultation as necessary

E. Specify the Electronic Deliverables to Be Provided to the Agency

PDF format unless project manager requests MS-Word format

F. Specify What Agency Furnished Services and Information Is to Be Provided

Varies by project

Agreement Number:

II. Any Other Electronic Files to Be Provided

Varies by project

III. Methods to Electronically Exchange Data

Email or city provided FTP site

A. Agency Software Suite

Microsoft Office

B. Electronic Messaging System

Standard email

C. File Transfers Format

Standard Microsoft Office or PDF format

Exhibit D

Prime Consultant Cost Computations

Will be negotiated project by project subject to attached fee/rate schedule (Exhibit K) before notice to proceed for that project is given

Agreement Number:

Exhibit E

Sub-consultant Cost Computations

There isn't any sub-consultant participation at this time. The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI "Sub-Contracting" of this AGREEMENT.

Agreement Number:

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number:

Exhibit G

Certification Documents

- Exhibit G-1(a) **Certification of Consultant**
- Exhibit G-1(b) **Certification of _____**
- Exhibit G-2 **Certification Regarding Debarment, Suspension and Other Responsibility Matters -
Primary Covered Transactions**
- Exhibit G-3 **Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying**
- Exhibit G-4 **Certificate of Current Cost or Pricing Data**

Agreement Number:

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Historical Research Associates, Inc.

whose address is

PO Box 7086, Missoula, Montana 59807-7086

and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

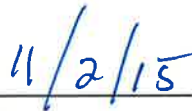
I acknowledge that this certificate is to be furnished to the City of Spokane
and the Federal Highway Administration, U.S. Department of Transportation in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

Historical Research Associates, Inc.

Consultant (Firm Name)



Signature (Authorized Official of Consultant)



Date

T. Weber Greiser

Agreement Number:

Exhibit G-1(b) Certification of City of Spokane

I hereby certify that I am the:

☒ Mayor

☐ Other

of the City of Spokane, and Historical Research Associates, Inc.
or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; or
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the WS-DOT and Historical Research Associates, Inc. and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Signature

Date

Agreement Number:

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Historical Research Associates, Inc.

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

11/2/15

Date

Agreement Number:

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

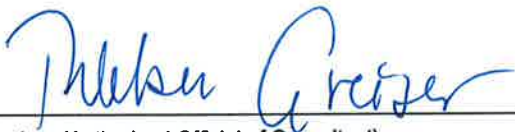
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

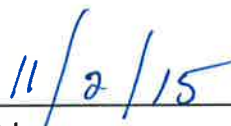
The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

Historical Research Associates, Inc.

Consultant (Firm Name)



Signature (Authorized Official of Consultant)



Date

Agreement Number:

Exhibit G-4 Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 2.101 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of this agreement ^{*} are accurate, complete, and current as of ^{**}.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: Historical Research Associates, Inc.



Signature

Principal Senior Archaeologist

Title

11/2/15
Date of Execution***:

*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

**Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

***Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Agreement Number:

Exhibit H

Liability Insurance Increase

To Be Used Only If Insurance Requirements Are Increased

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XIII, Legal Relations and Insurance of this Agreement is amended to \$ 1,500,000 .

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ 1,500,000 .

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance.
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$ 0 .

- Include all costs, fee increase, premiums.
- This cost shall not be billed against an FHWA funded project.
- For final contracts, include this exhibit.

Agreement Number:

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number:

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Agreement Number:

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number:

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Agreement Number: _____

2015 ACTUALS NOT TO EXCEED TABLE (ANTE)

Historical Research Associates, Inc. PO Box 7086 Missoula MT 59807-7086				
Job Classifications	Direct Labor Rate NTE	Overhead 143.33% NTE	Fixed Fee 30% NTE	All Inclusive Hourly Billing Rate NTE
Senior Archaeologist	\$43.28	\$62.03	\$12.98	\$118.30
Senior Historian	\$36.64	\$52.52	\$10.99	\$100.15
Architectural Historian	\$25.75	\$36.91	\$7.73	\$70.38
Project Archaeologist	\$29.00	\$41.57	\$8.70	\$79.27
Project Historian	\$30.98	\$44.40	\$9.29	\$84.68
Research Archaeologist	\$23.45	\$33.61	\$7.04	\$64.10
Research Historian	\$23.74	\$34.03	\$7.12	\$64.89
Production Specialist	\$27.21	\$39.00	\$8.16	\$74.37
Editor/Production Assistant	\$21.40	\$30.67	\$6.42	\$58.49
Project Administrator	\$23.54	\$33.74	\$7.06	\$64.34
Computer Systems Specialist	\$31.71	\$45.45	\$9.51	\$86.67



**Washington State
Department of Transportation**

Lynn Peterson
Secretary of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

June 24, 2015

Historical Research Associates, Inc.
PO Box 7086
Missoula, MT 59804

Subject: Acceptance FYE 2014 ICR – Cognizant Review

Dear Ms. Reidun L. Johnston:

We have accepted your firms FYE 2014 Indirect Cost Rate (ICR) of 143.33% based on the "Cognizant Review" from the Montana Department of Transportation. Your ICR acceptance is in accordance with 23 CFR 172.7 and must be updated on an annual basis. This rate will be applicable for:

- ☒ WSDOT Agreements
- ☒ Local Agency Contracts in Washington State only

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7104 or via email consultantrates@wsdot.wa.gov.

Regards;



ERIK K. JONSON

Manager, Consultant Services Office

EKJ:kal



Memorandum

June 24, 2015

TO: Erik Jonson, WSDOT Contracts Administrator

FROM: Schatzie Harvey, Agreement Compliance Audit Manager *SH*

SUBJECT: Historical Research Associates, Inc. Indirect Cost Rate
for Fiscal Year End December 31, 2014

The Montana Department of Transportation (MDT) has concluded their cognizant review of the Historical Research Associates (HRA) for the above referenced fiscal year. MDT is the Cognizant State for HRA. As such, MDT has performed its cognizant review and accepted the audit performed by Doyle & Associates, P.C. HRA provided us a copy of the acceptance letter along with the CPA audit report.

Based on MDT's acceptance of the HRA Indirect Cost Rate, we are issuing this letter establishing the HRA rate for the fiscal year ending December 31, 2014 at 143.33% of direct labor.

Costs billed to agreements will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement.

If you have any questions, feel free to call me at (360) 705-7006, or via email at harveys@wsdot.wa.gov

Attachment

cc: Steve McKeney
File



Montana Department of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

Michael T. Tooley, Director
Steve Bullock, Governor

June 17, 2015

Historical Research Associates, Inc.
ATTN: Reidun Johnston
125 Bank Street, Suite 500
Missoula, MT 59802

Dear Ms. Johnston:

We have performed a cognizant review of the examination, and supporting workpapers, of the Indirect Cost Rate of Historical Research Associates, Inc. as presented in the Statement of Direct Labor, Fringe Benefits, and General Overhead for the year ended December 31, 2014 in accordance with our role as Cognizant Agency as defined in 23 U.S.C. 112(b)(2)(c) and 23 CFR 172.3 and 172.7. The independent CPA firm Doyle & Associates, P.C., performed the audit. The CPA represented that the audit was conducted in accordance with the *Government Auditing Standards*, as promulgated by the Comptroller General of the United States of America, and the audit was designed to determine that the indirect cost rate was established in accordance with Cost Principles contained in the Federal Acquisition Regulation, 48 CFR Part 31. Our cognizant review was performed in accordance with the *AASHTO Review Program for CPA Audits of Consulting Engineers' Indirect Cost Rates*.

In connection with our cognizant review, nothing came to our attention that caused us to believe that the examination, and supporting workpapers for the Indirect Cost Rate, and the related Accountant's Report, we reviewed did not conform in all material respects to the aforementioned regulations and auditing standards.

Accordingly, we recommend acceptance of the following rates:

1. Combined Fringe and General Overhead	143.33%
---	---------

Yours truly,

Brenda Kedish
Internal Audit Unit Manager

Copy: Ryan Dahlke, Consultant Design Bureau Chief
Tana Doyle, Doyle & Associates, P.C.

Certification of Final Indirect Costs

Firm Name: Historical Research Associates, Inc.

Indirect Cost Rate Proposal: 143.33%

Date of Proposal Preparation (mm/dd/yyyy): 06/24/2015

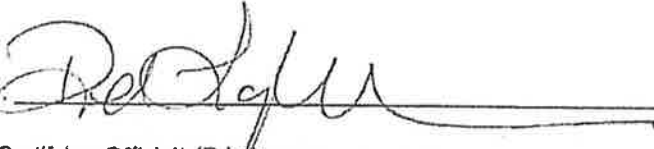
Fiscal Period Covered (mm/dd/yyyy to mm/dd/yyyy): 01/01/2014-12/31/2014

I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:

1.) All costs included in this proposal to establish final indirect cost rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of title 48, Code of Federal Regulations (CFR), part 31.

2.) This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.

Signature: 

Name of Certifying Official* (Print): Reldun L. Johnston

Title: Controller/CFO

Date of Certification (mm/dd/yyyy): 06/24/2015

*The "Certifying Official" must be an individual executive or financial officer of the firm at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has the authority to represent the financial information utilized to establish the indirect cost rate for use under Agency contracts.

Ref. FHWA Directive 4470.1A available on line at:
<http://www.fhwa.dot.gov/legsregs/directives/orders/44701a.htm>

Historical Research Associates, Inc.
Schedule of Direct Labor, Fringe and Overhead Rates
for Federal and State Clients
For the Year Ended December 31, 2014

Description	Total Reported	Disallowed Cost	FAR Reference	Net Allowable	% Direct Labor
Direct Labor	\$ 2,425,597			\$ 2,425,597	100.00%
Fringe Benefits					
Payroll Taxes	\$ 369,300	(19,553)	(1) FAR 31.201-6(e)(2)	\$ 349,747	
Group Insurance	364,295			364,295	
Workers' Compensation Insurance	37,850			37,850	
Retirement	167,374	(5,228)	(2) FAR 31.201-6(e)(2)	162,146	
Vacation, Holiday and Sick Pay	296,905			296,905	
Other Employee Benefits	44,326	(44,326)	(3) FAR 31.201-4(c) & 31.205-14	-	
Bonuses	396,111			396,111	
Total Fringe Benefits	1,676,161	(69,107)		1,607,054	66.25%
General Overhead					
Indirect Labor	1,043,922	(174,269)	(4) FAR 31.201-6(e)(2)	869,653	
Legal & Accounting	17,750	(4,363)	(5) FAR 31.201-4	13,387	
Supplies	63,207			63,207	
Computer - Training and Maintenance	90,266			90,266	
Repairs & Maintenance	14,459			14,459	
Reproduction	155			155	
Dues & Subscriptions	3,761			3,761	
Travel	42,101			42,101	
Shipping & Postage	14,202			14,202	
Rent	471,285			471,285	
Depreciation	46,110			46,110	
Temps/Consultants	24,555			24,555	
Insurance	49,622	(9,818)	(6) FAR 31.205-19(e)(2)(v)	39,804	
Professional Development/Training	40,216			40,216	
Telephone	45,134			45,134	
Internet	13,893			13,893	
Recruitment costs	1,533			1,533	
Proposal costs	9,070			9,070	
Board of Directors Meetings	12,000			12,000	
Charitable Contributions	500	(500)	(7) FAR 31.205-8 & 31.205-13(b)	-	
Marketing Costs	105,096	(105,096)	(8) FAR 31.205-1	-	
Interest	37,642	(37,642)	(9) FAR 31.205-20	-	
Bank Charges	590			590	
Settlement Expenses	76,628	(76,628)	(10) FAR 31.205-47	-	
Property & Revenue Taxes	54,272			54,272	
Total General Overhead	2,277,969	(408,316)		1,869,653	77.08%
Total Indirect Costs	\$ 3,954,130	\$ (477,423)		\$ 3,476,707	143.33%

The accompanying notes are an integral part of this schedule.

Historical Research Associates, Inc.

Criteria Description for FAR References

For the Year Ended December 31, 2014

- (1) 31.201-6(e)(2) Marketing labor and related payroll tax expenses are disallowed.
- (2) 31.201-6(e)(2) Marketing labor and related retirement benefits are disallowed.
- (3) 31.201-4(c) Cost of employee parking is not considered necessary to the overall operations of the business. A direct relationship to any particular cost objective cannot be shown.

31.205-14 Travel, meals, and entertainment as part of public relations, employee relations, or company celebrations are disallowed.
- (4) 31.201-6(e)(2) Marketing labor associated with unallowable activities is disallowed.
- (5) 31.201-4 Income tax preparation fees are considered personal expenses of the shareholders and are disallowed.
- (6) 31.205-19(e)(2)(v) Officer's life insurance is disallowed.
- (7) 31.205-8 & 31.205-13(b) Contributions and gifts are disallowed.
- (8) 31.205-1 Advertising and marketing costs to promote general services are disallowed.
- (9) 31.205-20 Costs of financing and interest on borrowings are disallowed.
- (10) 31.205-47 Certain legal costs are not allowed.

DAVID A. CONDON
MAYOR



CITY OF SPOKANE - PURCHASING
808 W. Spokane Falls Blvd.
Spokane, Washington 99201-3316
(509) 625-6400
FAX (509) 625-6413

REQUEST FOR QUALIFICATIONS

City of Spokane, Washington

RFQ NUMBER: #4179-15

**DESCRIPTION: CULTURAL RESOURCE CONSULTANT SERVICES FOR 2015-2017
FEDERAL AID PROJECTS**

**DUE DATE: MONDAY, OCTOBER 12, 2015
No later than 1:00 p.m.**

**City of Spokane - Purchasing
4TH Floor, City Hall
808 W. Spokane Falls Blvd.
Spokane WA 99201-3316**

Connie Wahl, C.P.M., CPPB
Purchasing

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Attachment “A” titled “Federal Grant Funded Guidelines”

1. INTRODUCTION

1.1 BACKGROUND AND PURPOSE

The City of Spokane, through its Department of Engineering Services (hereinafter “City”) is initiating this Request for Qualifications (RFQ) to solicit Proposals from firms with expertise in cultural resource evaluation.

1.2 FUNDING

Any contract awarded as a result of this procurement is contingent upon the availability of funding.

A portion of the funding for this project comes from federal sources. Included in this RFQ and incorporated herein by reference is Attachment A “Federal Grant Funded Guidelines”. While not an exhaustive list, the Attachment titled “Federal Grant Funded Guidelines” contains more of the commonly encountered special terms and/or conditions.

1.3 PERIOD OF PERFORMANCE

The period of performance of the contract resulting from this RFQ is tentatively scheduled to begin on or about October 19, 2015 and to end on September 30, 2017.

1.4 DEFINITIONS

Definitions for the purposes of this RFQ include:

City – The City of Spokane, a Washington State municipal corporation, that is issuing this RFQ.

Firm or Consultant – Individual or company whose Proposal has been accepted by the City and is awarded a fully executed, written contract.

Proposal – A formal offer or statement of qualifications submitted in response to this solicitation.

Proposer -- Individual or company submitting a Proposal in order to attain a contract with the City.

Request for Qualifications (RFQ) – Formal procurement document in which a service or need is identified but no specific method to achieve it has been chosen. The purpose of an RFQ is to permit the consultant community to provide qualifications for evaluation.

1.5 CONTRACTING WITH CURRENT OR FORMER CITY EMPLOYEES

Specific restrictions apply to contracting with current or former City officers and employees pursuant to the Code of Ethics in chapter 1.04 of the Spokane Municipal Code. Proposers should familiarize themselves with the requirements prior to submitting a Proposal that includes current or former City officers or employees.

2. SCOPE OF SERVICES

The scope of services will include, but is not limited to, the following:

- Preparation of cultural and historic resources studies including field exploration as required
- Coordination with area Indian tribes and DAHP
- Consultation with City of Spokane design engineers to recommend ways to eliminate project effects on cultural/historic resources.
- Construction phase monitoring where required

The following is a list of federal aid projects expected to require cultural resource evaluation and/or construction phase monitoring. These projects constitute the entirety of the work to be included in the agreement that will result from this RFQ:

- Post St Bridge Deck Replacement – bridge reconstruction
- 37th Ave from Regal to East City Limits – pavement reconstruction, sidewalks, swales, etc.
- Mission Ave, Division to Hamilton – pavement rehabilitation, curb ramps, etc.
- Monroe/Lincoln Couplet - pavement reconstruction, curb ramps, etc.
- Riverside Drive – Phase II & III – road construction, sidewalks, swales, etc.
- Sprague Ave Rebuild – Sprague Corridor Investment Strategy - pavement reconstruction, curb bumpouts, stormwater separation etc.
- Sunset Blvd from Lindeke St to Royal St - pavement reconstruction, curb ramps, lane reconfiguration, stormwater upgrades etc.
- Hamilton St Corridor Enhancement Project – signal replacements and ADA compliance updates at signalized intersections
- Centennial Trail, Mission Ave Gap Phase 1 – intersection improvements at Mission at Perry including improved crosswalk with pedestrian refuge island, sidewalk reconstruction, and parking lot improvements at Mission Park
- Division St, 3rd Ave to Spokane Falls Blvd – curb bumpouts, landscaping, lighting, etc.
- Barnes Road from Phoebe to Strong Road – road construction, sidewalks, stormwater detention, etc.
- Crestline Street Lane Reduction – road restriping and ADA compliance
- Maxwell-Mission Avenue Lane Reduction - road restriping and ADA compliance
- Monroe Street Lane Reduction and Hardscape – road restriping, sidewalk widening, curb bumpouts, pedestrian refuge islands, lighting improvements, and bus stop improvements.

Estimated individual project fees are expected to range from approximately \$3,000 to \$20,000 and shall be negotiated for each project. Total expenditures over the two year life of the agreement shall not exceed a total of \$100,000. Contract expenditure is an estimate only and is not guaranteed. The City does not guarantee that all work listed above will be awarded to the firm selected as a result of this RFQ.

3. GENERAL INFORMATION

3.1 RFQ COORDINATOR

The RFQ Coordinator is the sole point of contact in the City for this procurement. All communication between the Proposer and the City upon receipt of this RFQ shall be with the RFQ Coordinator, as follows:

Name	Dan Buller
Address	808 W. Spokane Falls Blvd.
City, State, Zip Code	Spokane, WA 99201
Phone Number	509-625-6391
E-Mail Address	dbuller@spokanecity.org

Any other communication will be considered unofficial and non-binding on the City. Firms are to rely on written statements issued by the RFQ Coordinator. Communication directed to parties other than the RFQ Coordinator may result in disqualification of the Firm.

3.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Issue Request for Qualifications	September 28, 2015
Last date for questions requiring an addendum	October 6, 2015
Proposals due	October 12, 2015
Evaluate Proposals	October 12 - 13, 2015
Conduct oral interviews with finalists, if required	October 14 - 15, 2015
Prepare master agreement	October 16 – 19, 2015
City Council approval of contract	Late October, 2015
Contract signatures	Late October, 2015

The City reserves the right to revise the above schedule.

3.3 SUBMISSION OF PROPOSALS

A. PREPARATION OF ENVELOPES

Place each copy of the Proposal in a separate sealed envelope. For file size considerations, the digital copy can be broken into a maximum of four (4) digital files. On the front of each envelope, clearly note if it contains the original or a copy and place the following information:

“RFQ #4179-15 CULTURAL RESOURCE CONSULTANT SERVICES FOR 2015-2017
FEDERAL AID PROJECTS”

“DUE: MONDAY, OCTOBER 12, 2015 – 1:00 PM.”

YOUR COMPANY NAME

B. SUBMISSION OF PROPOSALS

Submit one (1) paper original, three (3) paper copies and one (1) reproducible digital copy (thumb drive or CD) of the Proposal to:

City of Spokane – Purchasing
4th Floor – City Hall
808 West Spokane Falls Boulevard
Spokane, WA 99201-3316

NOTE: Proposals will not be accepted by fax or email

C. DUE DATE

It is the responsibility of the Proposer to be sure the Proposals are sent sufficiently ahead of time to be received no later than 1:00 PM local time on MONDAY, OCTOBER 12, 2015.

Proposers mailing Proposals should allow normal mail delivery time to ensure timely receipt of their Proposals. The City reserves the right to not consider Proposals received late. City Hall is now a secured building. If the Proposer is hand delivering a Proposal, note that additional time is required to sign in, receive a visitor's pass, and gain entrance to the building.

Sealed Proposals will be publicly acknowledged at 1:15 p.m., on the due date in the City of Spokane City Hall Council Chambers, 808 West Spokane Falls Boulevard, Spokane, Washington 99201.

3.4 PROPRIETARY INFORMATION / PUBLIC DISCLOSURE

Materials submitted in response to this competitive procurement shall become the property of the City.

All received Proposals shall remain confidential until the award of contract recommendation has been filed with the applicable Council Committee or the City Clerk for City Council action. Thereafter, the Proposals shall be deemed public records as defined in RCW 42.56, "Public Records."

Any information in the Proposal that the Proposer desires to claim as proprietary and exempt from disclosure under the provisions of state law shall be clearly designated. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on it. Marking the entire Proposal exempt from disclosure will not be honored.

The City will consider a Proposer's request for exemption from disclosure; however, the City will make a decision predicated upon state law and regulations. If any information is marked as proprietary in the Proposal, it will not be made available until the affected Proposer has been given an opportunity to seek a court injunction against the requested disclosure.

All requests for information should be directed to the RFQ Coordinator.

3.5 REVISIONS TO THE RFQ

In the event it becomes necessary to revise any part of this RFQ, addenda will be provided to all who receive the RFQ. For this purpose, questions received and the associated answers shall be provided as an addendum to the RFQ.

The City also reserves the right to cancel or to reissue the RFQ in whole or in part, prior to final award of a contract.

3.6 ACCEPTANCE PERIOD

Proposals shall remain in effect for forty-five (45) days for acceptance by the City from the due date for receipt of Proposals.

3.7 RESPONSIVENESS

The Proposer is specifically notified that failure to comply with any part of the RFQ may result in rejection of the Proposal as non-responsive.

The City also reserves the right, however, at its sole discretion to waive minor administrative irregularities.

3.8 COSTS TO PROPOSE

The City will not be liable for any costs incurred by the Proposer in preparation of a Proposal submitted in response to this RFQ, in conduct of a presentation, or any other activities related to responding to this RFQ

3.9 NO OBLIGATION TO CONTRACT

This RFQ does not obligate the City to contract for services specified herein.

3.10 REJECTION OF PROPOSALS

The City reserves the right at its sole discretion to reject any and all Proposals received without penalty and to not issue a contract as a result of this RFQ.

3.11 INTERLOCAL PURCHASE AGREEMENTS

The City of Spokane has entered into Interlocal Purchase Agreements with other public agencies pursuant to RCW 39.34. In submitting a response the Proposer agrees to sell additional items at the contracted price, terms and conditions to the City of Spokane and other public agencies contingent upon the Firm's review and approval at the time of a requested sale. Any price de-escalation/escalation provisions of this Proposal shall apply in the case of a sale of additional items. Firm's right to refuse to sell additional items at the time of request shall be absolute.

4. PROPOSAL CONTENTS

4.1 PREPARATION OF PROPOSAL

Proposals shall be submitted on eight and one-half by eleven inch (8" 1/2 x 11") paper with tabs separating the major sections of the Proposal. Use recycled paper and both sides of paper

sheets whenever practicable. The major sections of the Proposal are to be submitted in the order noted below:

1. Letter of Submittal.
2. Qualifications Statement.

Proposals shall provide information in the same order as presented in this document with the same headings. This will not only be helpful to the evaluators of the Proposal, but should assist the Proposer in preparing a thorough response.

4.2 LETTER OF SUBMITTAL

The Letter of Submittal shall be signed and dated by a person authorized to legally bind the Firm to a contractual relationship, e.g., the president or executive director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include the following information about the Firm and any proposed subcontractors:

1. Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be written.
2. Legal status of the Firm (sole proprietorship, partnership, corporation, etc.).
3. Location of the facility from which the Firm would operate.
4. Identify any current or former City employees employed by or on the Firm's governing board as of the date of the Proposal or during the previous twelve (12) months.
5. Acknowledgement that the Firm will comply with all terms and conditions set forth in the Request for Qualifications, unless otherwise agreed by the City.
6. Acknowledgement that the Firm certifies that it has not been debarred, suspended, ineligible for, or otherwise excluded from participation in Federal Assistance programs under Executive Order 12549, Title 31 U.S. Code 6101 Note, Executive Order 12549, Executive Order 12689, Title 48 Codified Federal Regulation 9.404, "Debarment and Suspension". Further Acknowledge that Firm will not contract with a subcontractor that is likewise debarred, suspended, ineligible for, or otherwise excluded, as referenced in the foregoing Executive Orders, U.S. Codes and Codified Federal Regulations; and the Firm agrees to comply with City requirements to follow cost principles outlined in 2 CFR 200, Subpart E – Cost Principles for financial disbursements under its Grant Agreement. The Firm also agrees to comply with audit requirements outlined in 2 CFR 200 Subpart F – Audit Requirements”.

4.3 PROPOSAL (QUALIFICATION STATEMENT)

Proposers shall limit their Proposal response to six (6) pages excluding “letter of submittal”, résumés and reference letters. The Firm's Proposal response to the RFQ shall include at a minimum the following items:

1. A description of the Firm's qualifications/experience in the following area:
 - Cultural/historic resource study preparation
 - Cultural/historic resource construction phase monitoring
 - Indian tribe/DAHP relationships

2. A staffing plan listing:
 - a) personnel who will be responsible for carrying out the work.
 - b) a description of qualifications, skills (e.g., brief résumés) and responsibilities for each project participant.
3. References of at least three former clients (not including City staff) for whom the Firm performed similar services on similar projects to those described herein. Identify contact persons and e-mail address and phone numbers. The Firm grants permission to the City to contact the references. City staff references, if provided, shall be above and beyond the three references noted above. The City may evaluate references at the City's discretion.
4. Include a list of contracts the Firm has had during the last two (2) years that relate to the Firm's ability to perform the services needed under this RFQ. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and fax numbers/e-mail addresses. The Firm grants permission to the City to contact the references.
5. If the Firm has had a contract terminated for default in the last five (5) years, describe such incident. Termination for default is defined as notice to stop performance due to the Firm's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the Proposer was in default. Submit full details of the terms for default including the other party's name, address, and phone number. Present the Firm's position on the matter. The City will evaluate the facts and may, at its sole discretion, reject the Proposal on the grounds of the past experience. If no such termination for default has been experienced by the Firm in the past five (5) years, so indicate.

5. EVALUATION

5.1 EVALUATION PROCEDURE

Responsive Proposals will be evaluated in accordance with the requirements stated in this solicitation and any addenda issued. Evaluation of Proposals shall be accomplished by an evaluation team, to be designated by the City, which will determine the ranking of the Proposals.

The City, at its sole discretion, may elect to select the top-scoring Firms as finalists for an oral presentation.

The RFQ Coordinator may contact the Firm for clarification of any portion of the Firm's Proposal.

5.2 EVALUATION WEIGHTING AND SCORING

The following weighting will be assigned to the Proposal for evaluation purposes:

Qualifications/experience of Firm & staff related to cultural/historic resource studies	40%
Qualifications/experience of Firm & staff related to cultural/historic construction phase monitoring including demonstration of ability to provide on-site personnel for monitoring	20%
Familiarity with area Indian tribe/DAHP processes and personnel	20%
Past performance on similar projects	20%

5.3 AWARD OF CONTRACT

This RFQ does not obligate the City to award a contract.

Award of contract, when made, will be to the proposer whose Proposal is the most favorable to the City, taking into consideration the evaluation factors. The Proposer should be prepared to accept this RFQ for incorporation into a contract resulting from this RFQ. Contract negotiations may incorporate some or all of the Proposal. The City Council shall make the award of contract or purchase.

5.4 DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Upon request, a debriefing conference will be scheduled with an unsuccessful Proposer. Discussion will be limited to a critique of the requesting Firm's Proposal. Comparisons between Proposals or evaluations of the other Proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone.

5.5 PROTEST PROCEDURE

Following evaluation, a recommendation for award shall be submitted to the city council. Award of contract, if made, shall be by the city council in open meeting. Proposers wishing to protest the award of the contract must make their protests before the city council at the award hearing.

6. CONTRACT TERMS

6.1 BUSINESS REGISTRATION REQUIREMENT

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid business registration. The Firm shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Firm does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

6.2 ANTI-KICKBACK

No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this contract shall have or acquire any interest in the contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the contract.

6.3 DISPUTES

This contract shall be performed under the laws of Washington State. Any litigation to enforce this contract or any of its provisions shall be brought in Spokane County, Washington.

6.4 NONDISCRIMINATION

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Firm agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Firm.

6.5 LIABILITY

The Firm 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 Firm's negligence or breach or its obligations under the contract. The Firm's duty to indemnify shall not apply to liability caused by the sole negligence of the City, its officers and employees. The Firm's duty to indemnify for liability arising from the concurrent negligence of the City, its officers and employees and the Firm, its officers and employees shall apply only to the extent of the negligence of the Firm, its officers and employees. The Firm's duty to indemnify shall survive termination or expiration of the contract. The Firm waives, with respect to the City only, its immunity under RCW Title 51, Industrial Insurance.

6.6 INSURANCE COVERAGE

During the term of the contract, the Firm shall maintain in force at its own expense, each insurance coverage noted below:

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;
- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,500,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this contract. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Firm's services to be provided under this contract; and
- C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.
- D. Professional Liability Insurance with a combined single limit of not less than \$1,000,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this contract. The coverage must remain in effect for at least three (3) years after the contract is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without forty-five (45) days written notice from the Firm or its insurer(s) to the City.

As evidence of the insurance coverages required by this contract, the Firm shall furnish acceptable insurance certificates to the City at the time it returns the signed contract. The certificate shall specify all of the parties who are additional insured, and include applicable policy endorsements,

and the deductible or retention level, as well as policy limits. Insuring companies or entities are subject to City acceptance and must have a rating of A- or higher by Best. Copies of all applicable endorsements shall be provided. The Firm shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

7. GRANT REQUIREMENTS

7.1 FEDERAL FUNDING

This project may be funded by federal grant monies. Firms are warned to take into consideration applicable federal requirements in making their Proposal and performing the work. Part 7 "GRANT REQUIREMENTS" and Attachment "A" titled "Federal Grant Funded Guidelines" may be required if federal grant funding is used.

7.2 CONFORMANCE WITH FEDERAL, STATE AND LOCAL LAWS

Federal, State and Local Laws: Services of a project as a result of the use of a Firm's services including the letting of subcontracts in connection with any project work related to this RFQ may be required to conform to the applicable requirements of Federal, State and local laws and ordinances. The City stipulates that Federal funds may be involved. Note requirements listed in Attachment "A" titled "Federal Grant Funded Guidelines" incorporated herein by reference. ???

7.3 DEBARRED OR SUSPENDED PARTY

The City will not make any award or permit any award or contract at any tier to any party which is debarred, suspended or in any way is excluded from procurement actions by any Federal, State or Local governmental agency. If information becomes available, such evidence may be grounds for non-award or nullification of the Contract.

7.4 MAINTENANCE OF RECORDS

The Firm will maintain, for at least three (3) years after completion of this contract, all relevant records pertaining to the contract. The Firm shall make available to the City, Washington State Auditor, Federal Grantor Agency, Comptroller General of the United States or any of their duly authorized representatives, at any time during their normal operating hours, all records, books or pertinent information which the Firm shall have kept in conjunction with this Agreement and which the City 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.

7.5 SINGLE AUDIT REQUIREMENTS

Any contract awarded as a result of this RFQ may include the agreement to annually audit any contracts with the City. Audits shall be performed in accordance with 2 CFR 200 Subpart F – Audit Requirements as appropriate and shall be received by the City within the 12 month period following the close of each fiscal year. Agencies not covered by federal single audit requirements may be responsible for an independent agency audit, which meets general accepted auditing standards.

7.6 AMERICANS WITH DISABILITIES ACT INFORMATION

This material can be made available in an alternate format by emailing Dan Buller at dbuller@spokanecity.org or by calling 625-6700.

7.7 NONDISCRIMINATION

The City of Spokane in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

8. RFQ ATTACHMENTS

Attached to this RFQ and incorporated herein by reference are the following background documents:

1. Attachment "A" titled "Federal Grant Funded Guidelines"

ATTACHMENT A

FEDERAL GRANT FUNDED GUIDELINES

It is the Contractor's responsibility to comply with all state and federal laws in performing all tasks undertaken with this contract. All contracts awarded for this project shall contain the following provisions as applicable by Federal and State Law. Federal regulations are contained in the Code of Federal Regulations. The following sections are included for informational purposes, and are not professed to include all relevant laws. It is the contractor's responsibility to comply with all laws.

Contract Work Hours and Safety Standards Act (40 U.S.C 327-333) – Where applicable, all contracts awarded by recipients in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended – Contractors and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.) Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying in non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

Public Law 88 - 352, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (24 CFR Part 1). The Applicant must comply with the provisions of "Public Law 88 - 352," which refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). The law provides that no person in the United States shall, on the grounds of race, color or national origin, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section 504 of the Rehabilitation Act, 1973, as Amended (29 U.S.C. 794). The Applicant must comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits or be subjected to discrimination under any program or activity receiving federal assistance funds.

Americans with Disabilities Act (42 U.S.C. 12101, et seq.). The Applicant shall comply with the provisions of the Americans with Disabilities Act, 42 U.S.C. 12101, et. seq. That Act provides a

comprehensive national mandate to eliminate discrimination against individuals with disabilities. The Act may impose requirements on the Applicant in four principle ways: 1) with respect to employment; 2) with respect to the provision of public services; 3) with respect to transportation; 4) with respect to existing facilities and new construction.

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C Section 4321 et seq., and 24 CFR Part 58). The Applicant shall comply with the provisions of the National Environmental Policy Act of 1969. The purpose of this Act is to attain the widest use of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences. Environmental review procedures, including determining and publishing a Finding of Significance or of No Significance for a proposal, are a necessary part of this process. Pursuant to these provisions, the Applicant must also submit environmental certifications to the Department when requesting that funds be released for the project. The Applicant must certify that the proposed project will not significantly impact the environment and that the Applicant has complied with environmental regulations and fulfilled its obligations to give public notice of the funding request, environmental findings and compliance performance.

Noise Control, Chapter 70.107 RCW. The Applicant shall assure compliance with the state Noise Control Act. Objectives of the Act are to assist local governments in implementing local noise ordinances and to control and reduce excessive noise in Washington.

Law Against Discrimination, Chapter 49.60 RCW. The Applicant shall comply with the provisions of Chapter 49.60 RCW in all activities relating to this Grant Agreement.

Resource Conservation and Recovery Act. Agencies shall implement the Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. 6962). Any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with Section 6002 of RCRA. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA). Current guidelines are contained in 40 CFR Parts 247-253. State and local recipients of grants, loans, cooperative agreements or other instruments funded by appropriated Federal funds shall give preference in procurement programs to the purchase of recycled products pursuant to the EPA guidelines.

Debarment and Suspension (E.O.s 12549 and 12689) – No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

Conference Rooms: All space used for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds under this contract must comply with the protection and controlling guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended)

Use of Recycled Paper: All reports prepared by the Contractor for delivery to the City or other government agencies will be prepared on recycled paper in accordance with EPA Order 1000.25 and Executive Order 13101.

Workplace Listing: The Contractor will provide a list of all workplaces under this contract. The Contractor will make a good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 40 CFR 36.200 - 36.230.

Salary Rate: Salary rate (excluding overhead) paid to individual consultants retained by the City or by the Contractor's subcontractors shall be limited to the maximum daily rate for a GS-18 as outlined in Title 40 CFR 31.36 (j). This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; the City will pay these in accordance with their normal travel reimbursement practices.



Agenda Sheet for City Council Meeting of:
11/23/2015

<u>Date Rec'd</u>	11/9/2015
<u>Clerk's File #</u>	OPR 2015-0972
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	2015173
<u>Bid #</u>	RFQ 4180-15
<u>Requisition #</u>	MASTER

<u>Submitting Dept</u>	ENGINEERING SERVICES
<u>Contact Name/Phone</u>	DAN BULLER 625-6391
<u>Contact E-Mail</u>	DBULLER@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Contract Item
<u>Agenda Item Name</u>	0370 - GEOTECHNICAL ENGINEERING FOR SPOKANE FEDERAL AID PROJECTS

Agenda Wording

Consultant Agreement with Budinger & Associates (Spokane, WA) for Geotechnical Engineering for Spokane Federal Aid Projects for an amount not to exceed \$200,000.00. (Various Neighborhood Councils)

Summary (Background)

This Consultant Agreement for Geotechnical Engineering is for a period of two years. Task Assignments shall be prepared under this Agreement and scoped for individual project needs. Funding shall be from the individual project with much of the contributing monies being from matching State and Federal sources.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 200,000.00	#	Various
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	TWOHIG, KYLE	<u>Study Session</u>	
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	Public Works 11/9/15
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	lhattenburg@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	mhughes@spokanecity.org	
<u>Additional Approvals</u>		kkeck@spokanecity.org	
<u>Purchasing</u>	WAHL, CONNIE	htrautman@spokanecity.org	
		jfinnegan@budingerinc.com	
		cwahl@spokanecity.org	

BRIEFING PAPER
Public Works Committee
Engineering Services
Nov. 9, 2015

Subject

Consultant master agreements

Background

Engineering Services has master agreements with various consulting firms for specialized engineering services (structural, geotech, etc.), landscape architecture and real estate acquisition. Some of those agreements are expiring at the end of this year. Also, DOT is requiring separate agreements with consultants for FHWA funded projects. Therefore, Engineering Services is in the process of advertising various requests for qualifications (RFQs) to solicit statements of qualifications from interested consultants. The following RFQs are being advertised:

- Geotechnical Engineering – Federal Aid Projects
- Geotechnical Engineering – Non-Federal Aid Projects
- Landscape Architect – Federal Aid Projects
- Landscape Architect – Non-Federal Aid Projects
- Cultural Resource Consultant – Federal Aid Projects
- Right of Way Consultant – Federal Aid Projects
- Surveying – Federal Aid Projects

Consultants will be selected on the basis of qualifications as defined in the RFQ. One consultant will be selected for each of the above listed RFQs and a master agreement prepared. Each master agreement will be brought to council for approval. Each master agreement will be for 2 years with an optional 1 year extension and each will be for \$200,000 to \$400,000. Costs incurred under each of these contracts will be covered by individual public works projects (e.g., street/sidewalk projects, water/sewer pump stations, etc.).

The \$200,000 to \$400,000 contract amount is an estimate of the amount of work which would be required over the two to three year life of each contract. Consultants will be assigned to work on specific projects (street/sidewalk, pump stations, etc.) ranging from approx.. \$5,000 to \$50,000, the total of which will be limited to the amount of the master contract.

Action

This information is being provided for background information.

Funding

Costs incurred under each of these contracts will be covered by individual public works projects.

Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number:

Firm/Organization Legal Name (do not use dba's): Budinger & Associates, Inc.		
Address 1101 N. Fancher Rd., Spokane, WA 99212	Federal Aid Number Various	
UBI Number 601 638 902	Federal TIN or SSN Number 91-1684799	
Execution Date	Completion Date Dec 31, 2017	
1099 Form Required <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Federal Participation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Project Title Geotechnical Engineering for Spokane Federal Aid Projects 2016-2017		
Description of Work The scope of services will include one or more of the following geotechnical work on the projects listed in Exhibit A: <ul style="list-style-type: none"> •Classification of soils by appropriate methods •Determination of soil properties by appropriate means •Determination of foundation and wall design parameters •Pavement subgrade characterization and pavement design •Evaluation of Water mounding in relationship to stormwater injections •Conducting geophysical studies, test borings, test excavations, infiltration testing, aquifer testing •Identification of restrictive infiltration layers below the ground surface 		
<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No DBE Participation <input checked="" type="checkbox"/> No MBE Participation <input checked="" type="checkbox"/> No WBE Participation <input checked="" type="checkbox"/> No SBE Participation	Maximum Amount Payable: \$200,000

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Agreement Number:

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Spokane hereinafter called the "AGENCY," and the "Firm / Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. General Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Agreement Number:

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

The CONSULTANT, on a monthly basis, is required to submit DBE Participation of the amounts paid to all DBE firms invoiced for this AGREEMENT.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Dan Buller
Agency: City of Spokane
Address: 808 W. Spokane Falls Blvd.
City: Spokane State: WA Zip: 99201
Email: dbuller@spokanecity.org
Phone: 509-625-6391
Facsimile: 509-625-6349

If to CONSULTANT:

Name: John Finnegan
Agency: Budinger & Associates, Inc.
Address: 1101 N. Fancher Rd.,
City: Spokane State: WA Zip: 99212
Email: jfinnegan@budingerinc.com
Phone: 509-535-8841
Facsimile: 509-535-9589

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

Agreement Number:

V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgement, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E", will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rates under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgement.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

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- B. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- C. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

- F. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

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VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub-consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964
(42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973
(23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973
(29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975
(42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987
(Public Law 100-259)
- American with Disabilities Act of 1990
(42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

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to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers' and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

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Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Dan Buller
Agency: City of Spokane
Address: 808 W. Spokane Falls Blvd.
City: Spokane State: WA Zip: 99201
Email: dbuller@spokanecity.org
Phone: 509-625-6391
Facsimile: 509-625-6349

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

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XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the Agency

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

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XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

Agreement Number:

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.


Agreement Number:

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.



Signature

10/23/2015

Date

Signature

Date

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

Agreement Number:

Exhibit A

Scope of Work

Project No.

The scope of work for the various federal aid projects covered in this agreement will vary by project but is generally described in the "Description of Work" on the first page of this agreement. The projects covered include:

- Post St Bridge Deck Replacement – bridge reconstruction
- 37th Ave from Regal to East City Limits – pavement reconstruction, sidewalks, swales, etc.
- Mission Ave, Division to Hamilton – pavement rehabilitation, curb ramps, etc.
- Monroe/Lincoln Couplet - pavement reconstruction, curb ramps, etc.
- Riverside Drive – Phase II & III – road construction, sidewalks, swales, etc.
- Sprague Ave Rebuild – Sprague Corridor Investment Strategy - pavement reconstruction, curb bumpouts, stormwater separation etc.
- Sunset Blvd from Lindeke St to Royal St - pavement reconstruction, curb ramps, lane reconfiguration, stormwater upgrades etc.
- Hamilton St Corridor Enhancement Project – signal replacements and ADA compliance updates at signalized intersections
- Centennial Trail, Mission Ave Gap Phase 1 – intersection improvements at Mission at Perry including improved crosswalk with pedestrian refuge island, sidewalk reconstruction, and parking lot improvements at Mission Park
- Division St, 3rd Ave to Spokane Falls Blvd – curb bumpouts, landscaping, lighting, etc.
- Barnes Road from Phoebe to Strong Road – road construction, sidewalks, stormwater detention, etc.
- Crestline Street Lane Reduction – road restriping and ADA compliance
- Maxwell-Mission Avenue Lane Reduction - road restriping and ADA compliance
- Monroe Street Lane Reduction and Hardscape – road restriping, sidewalk widening, curb bumpouts, pedestrian refuge islands, lighting improvements, and bus stop improvements.

The exact scope and budget will be negotiated before a notice to proceed is given for each of the above listed projects. Not every project necessarily requires geotechnical engineering services.

Agreement Number:

Exhibit B
DBE Participation

Agreement Number:

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

n/a

B. Roadway Design Files

n/a

C. Computer Aided Drafting Files

n/a

Agreement Number:

D. Specify the Agency's Right to Review Product with the Consultant

Phone or in-person consultation as necessary

E. Specify the Electronic Deliverables to Be Provided to the Agency

PDF format unless project manager requests MS-Word format

F. Specify What Agency Furnished Services and Information Is to Be Provided

Varies by project

Agreement Number:

II. Any Other Electronic Files to Be Provided

Varies by project

III. Methods to Electronically Exchange Data

Email or city provided FTP site

A. Agency Software Suite

Microsoft Office

B. Electronic Messaging System

Standard email

C. File Transfers Format

Standard Microsoft Office or PDF format

Exhibit D

Prime Consultant Cost Computations

Will be negotiated project by project subject to attached fee/rate schedule (Exhibit K) before notice to proceed for that project is given

Agreement Number:

Exhibit E

Sub-consultant Cost Computations

There isn't any sub-consultant participation at this time. The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI "Sub-Contracting" of this AGREEMENT.

Agreement Number:

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number:

Exhibit G

Certification Documents

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of _____
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters -
Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number:

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of

Budinger & Associates, Inc.

whose address is

1101 N. Fancher Rd., Spokane, WA 99212

and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Spokane and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Budinger & Associates, Inc.

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

10/23/15

Date

Agreement Number:

Exhibit G-1(b) Certification of City of Spokane

I hereby certify that I am the:

☒ Mayor

☐ Other

of the City of Spokane, and Budinger and Associates, Inc.
or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; or
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the WS-DOT and Budinger and Associates, Inc. and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Signature

Date

Agreement Number:

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Budinger & Associates, Inc.

Consultant (Firm Name)


Signature (Authorized Official of Consultant)

10/23/2015
Date

Agreement Number:

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

Budinger & Associates, Inc.

Consultant (Firm Name)


Signature (Authorized Official of Consultant)

10/23/2015

Date

Agreement Number:

Exhibit G-4 Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 2.101 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of this agreement as of ** are accurate, complete, and current

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: Budinger & Associates, Inc.


Signature

Principal

Title

Date of Execution***:

*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

**Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

***Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Agreement Number:

Exhibit H

Liability Insurance Increase

To Be Used Only If Insurance Requirements Are Increased

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XIII, Legal Relations and Insurance of this Agreement is amended to \$ 1,500,000

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ 1,500,000

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance.
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$ 0

- Include all costs, fee increase, premiums.
- This cost shall not be billed against an FHWA funded project.
- For final contracts, include this exhibit.

Agreement Number:

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number:

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Agreement Number:

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number:

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Agreement Number:

Exhibit K
Subconsultant Fee Determination - Summary Sheet
(Specific Rates of Pay)
Fee Schedule

Budinger & Associates, Inc.

Discipline or Job Title	Hourly Rate	Overhead 1.3798%	Profit 30.00%	Rate Per Hour
Principal Engineer and Geologist	56.25	77.61	16.88	150.74
Principal Environmental Engineer	46.15	63.68	13.85	123.67
Professional Geologist	50.00	68.99	15.00	133.99
Senior Engineer	50.00	68.99	15.00	133.99
Professional Engineer	36.54	50.42	10.96	97.92
Staff Geologist	21.00	28.98	6.30	56.28
Staff Engineer	16.00	22.08	4.80	42.88
Managing Quality Professional	26.75	36.91	8.03	71.68
Quality Professional	24.50	33.81	7.35	65.66
Senior Quality Technician	24.00	33.12	7.20	64.32
Exploration Professional	23.50	32.43	7.05	62.98
Quality/Exploration Technician	20.00	27.60	6.00	53.60
Quality Technician	20.00	27.60	6.00	53.60
Engineering Technician	20.00	27.60	6.00	53.60
Administrative Professional	25.00	34.50	7.50	67.00
Administrator	19.85	27.39	5.96	53.19



**Washington State
Department of Transportation**

Lynn Peterson
Secretary of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

May 7, 2015

Budinger & Associates, Inc.
1101 N Fancher Road
Spokane Valley, WA 99212

Subject: Acceptance FYE December 31, 2014 ICR – Risk Assessment Review
Corrected Acceptance Letter

Dear Ms. Marcy Burchett:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE December 31, 2014 ICR of **126.23%** for Laboratory Allocation, **137.98%** for Engineering Allocation, and **136.58%** for Company Wide Rate. This ICR acceptance is in accordance with 23 CFR 172.7 and must be updated on an annual basis. This rate may be subject to additional review if considered necessary by WSDOT and will be applicable for:

- ☐ WSDOT Agreements
☒ Local Agency Contracts in Washington State only

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7104 or via email consultantrates@wsdot.wa.gov.

Regards;



ERIK K. JONSON

Manager, Consultant Services Office

EKJ:rck

Budinger & Associates, Inc.
Indirect Cost Rate
Fiscal Year Ended

Prepared Mar 31, 2015
Dec 31, 2014

	Financial Statement Amount	Budinger Adj.	Agency Adj.	Ref.	Company Wide	%	ALLOCATIONS		
							Engineering Allocation	Laboratory Allocation	Percent to to Lab
Direct Project costs:									
Labor	816,153	46,566		C, F	862,719	100.00%	759,818	102,901	P
Subcontractors	187,767	-187,767		A	0		0	0	
Mat'l's & other Project Costs	488,427	-488,427		A	0		0	0	
	1,492,347								
Fringe Benefits:									
Vacation & Holiday	55,659				55,659	6.45%	46,003	9,656	P
Payroll taxes	144,860				144,860	16.79%	126,654	18,206	P
Health Insurance	130,099				130,099	15.08%	119,212	10,887	P
Workman's Compensation	29,217				29,217	3.39%	27,564	1,653	Q
Retirement Plan	53,821				53,821	6.24%	47,693	6,128	
Bonuses	121,606	-37,462		E	84,144	9.75%	77,225	6,920	P
Overtime Premium	46,133				46,133	5.35%	40,881	5,252	
Fringe Benefit Adjustment		-3,700		B	-3,700	-0.43%	-3,279	-421	
Total Fringe Benefits	581,395	-41,162	0		540,233	62.62%	481,952	58,281	
General Overhead:									
Indirect Lbr, not B&P	190,302	14,303		C,D,F	204,605	23.72%	183,177	21,427	R
Indirect Lbr, B&P	24,678				24,678	2.86%	24,678	0	P
Payroll Variance		-19,431		C	-19,431	-2.25%	-19,431	0	
Safety and Morale	13,188				13,188	1.53%	12,470	718	P
Maintenance	121,095	-76,390		G	44,705	5.18%	39,616	5,090	
Utilities	19,337				19,337	2.24%	17,135	2,202	
Small Tools	28,528				28,528	3.31%	26,111	2,417	P
Travel, Indirect	2,396				2,396	0.28%	2,123	273	P
Vehicles	159,509	-159,509		H	0	0.00%	0	0	
Advertising	23,358	-18,754		U	4,604	0.53%	4,080	524	
Bad Debts	11,786	-11,786		I	0	0.00%	0	0	
Bank Service Fees	5,017				5,017	0.58%	4,446	571	
Business Taxes	52,661				52,661	6.10%	46,665	5,996	
Communications	19,841				19,841	2.30%	17,872	1,969	P
Depreciation	201,429	-189,305		J, K	12,124	1.41%	10,744	1,380	
Donations, Lobbying, Fines	2,571	-2,571		I	0	0.00%	0	0	
Insurance	87,933	-15,314		L, M, S	72,619	8.42%	64,351	8,268	
Interest	16,459	-16,459		I	0	0.00%	0	0	
Meals and Entertainment	3,705	-3,705		I	0	0.00%	0	0	
Office Supplies	17,752				17,752	2.06%	15,731	2,021	
Professional Fees	18,555	-8,978		N	9,577	1.11%	8,487	1,090	
Education and Certification	13,170				13,170	1.53%	9,744	3,426	P
Licenses	4,682				4,682	0.54%	4,149	533	
Memberships and Publications	19,499	-585		T	18,914	2.19%	15,347	3,567	P
Rent	87,600	-11,668		O	75,932	8.80%	67,287	8,645	
Total General Overhead	1,145,051	-520,151	0		624,900	72.43%	554,782	70,118	
Total Fringe & Gen Overhead	1,726,446	-561,313	0		1,165,133	135.05%	1,036,734	128,399	
Facilities Cost of Capital		13,133			13,133	1.52%	11,637	1,495	
							1,048,371	129,894	
Overhead Rate (Includes FCC)					136.58%		137.98%	126.23%	

References

Budinger Adjustments:

A Direct project costs

B Fringe Benefits allocable to Promotional Marketing:

Total Indirect Labor:	214,980	Divided by Total Labor:	1,031,133	Equals Indrct labor ratio	20.85%
Total Fringe:	581,395	Multiplied by Indirect Labor Ratio equals:		Indirect portion Fringe:	121,215
Promotional Labor:	6,563	Divided by Indirect Labor equals:		Promo Fringe Ratio:	3.05%
Portion of Indirect Labor Fringe allocable to Promotional Labor:			3,700		

C Uncompensated overtime Direct Labor: 15,846 Uncompensated overtime Indirect Labor: 3,585

D Promotional marketing labor: 6,563

E Discretionary bonuses not made under an established plan 37,462

F	48,000 Partners draws are compensation; using Direct Ratio from LDR:	64%	Direct:	30,720	Indirect	17,280
G	Maintenance and repairs on billable equipment:	76,390				
H	Budinger was not able to establish an indirect vehicle mileage log system in 2014; therefore vehicle costs are adjusted:					159,509
I	Unallowable account					
J	Budinger removed	100.00% of vehicle account. This ratio is applied to vehicle depreciation \$amount:			39,936 :	39,936
K	Depreciation on Billable Equipment other than Vehicles:	149,389				
L	Key man life insurance:	4,375				
M	Budinger removed	100.00% of vehicle account. This ratio is applied to vehicle insurance \$amount:			10,939 :	10,939
N	Professional fees for collections and personal tax return preparation:	8,978				
O	Common control rent adjustment:	11,668				
P	Laboratory costs specifically identified, plus column N portion of amount posted to administration.					
Q	Total Laboratory hours worked multiplied by Worker's Comp rate for lab testing.	6,291 X		0.2628	1,653	
R	Indirect Labor posted to Laboratory Department:					10,749
	Plus Indirect Labor posted to Admin:	89,525 , multiplied by lab percent of direct labor:			11.93%	10,678
						21,427
S	Amount of Insurance paid for Building/SJS Land Co:	0 (adjusted prior to CPA review statement)				
T	Chamber of commerce dues	585 (Greater Spokane Incorporated)				
U	Amount of advertising for promotion:	18,754				

Budinger Notes

Column "N" Percent to Lab is calculated as $\frac{\text{Total Lab labor cost (L9 + N87): } 124,328}{\text{divided by Total Labor Cost: } 1,092,002} = 11.39\%$
as per AASHTO 2012 Chapter 5.6 Part C.2 "Field Office Indirect Costs", Table 5-4 *Computation of Field Office Labor Rate*.



BUDI&AS-01

MGRAY

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/27/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hub International Northwest LLC 12100 NE 195th St. Suite 200 Bothell, WA 98011	CONTACT NAME:	PHONE (A/C, No, Ext): (425) 489-4500	FAX (A/C, No): (425) 485-8489
	E-MAIL ADDRESS: now.info@hubinternational.com		
INSURED Budinger & Associates Inc 1101 N Fancher Rd Spokane, WA 99212	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Mutual of Enumclaw Insurance Company		14761
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> WA STOP GAP GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	X	CPP001178503	08/06/2015	08/06/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	X	X	CPP001178503	08/06/2015	08/06/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			UMC000233003	08/06/2015	08/06/2016	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	CPP001178503	08/06/2015	08/06/2016	PER STATUTE <input checked="" type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Additional Insured as required by written contract: The State of Washington & The City of Spokane. Coverage is primary and non-contributory where required by written contract per attached endorsements. Waiver of subrogation applies where required by written contract per attached endorsements.

CERTIFICATE HOLDER

CANCELLATION

City of Spokane
808 W Spokane Falls Blvd.
Spokane, WA 99201

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – AUTOMATIC STATUS WHEN
REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

2. "Bodily injury" or "property damage" occurring after:

- a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement you have entered into with the additional insured; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
AS REQUIRED BY WRITTEN CONTRACT 1101 N FANCHER RD SPOKANE WA 99212	AS REQUIRED BY WRITTEN CONTRACT

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:

AS REQUIRED BY WRITTEN
CONTRACT
1101 N FANCHER RD
SPOKANE WA 99212

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of Section IV – Conditions:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Construction Project(s):
AS REQUIRED BY WRITTEN
CONTRACT

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage A, and for all medical expenses caused by accidents under Section I – Coverage C, which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
 2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage C regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
 3. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
- B.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage A, and for all medical expenses caused by accidents under Section I – Coverage C, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-completed Operations Aggregate Limit, whichever is applicable; and
 4. The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.

- 2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D. If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E. The provisions of Section III – Limits Of Insurance not otherwise modified by this endorsement shall continue to apply as stipulated.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY AND NONCONTRIBUTORY –
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

DAVID A. CONDON
MAYOR



CITY OF SPOKANE - PURCHASING
808 W. Spokane Falls Blvd.
Spokane, Washington 99201-3316
(509) 625-6400
FAX (509) 625-6413

REQUEST FOR QUALIFICATIONS

City of Spokane, Washington

RFQ NUMBER: #4180-15

DESCRIPTION: GEOTECHNICAL ENGINEERING FOR 2015-2017 FEDERAL AID PROJECTS

DUE DATE: MONDAY, OCTOBER 12, 2015
No later than 1:00 p.m.

**City of Spokane - Purchasing
4TH Floor, City Hall
808 W. Spokane Falls Blvd.
Spokane WA 99201-3316**

Connie Wahl, C.P.M., CPPB
Purchasing

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Attachment “A” titled “Federal Grant Funded Guidelines”

1. INTRODUCTION

1.1 BACKGROUND AND PURPOSE

The City of Spokane, through its Department of Engineering Services (hereinafter “City”) is initiating this Request for Qualifications (RFQ) to solicit Proposals from firms with expertise in geotechnical engineering.

1.2 FUNDING

Any contract awarded as a result of this procurement is contingent upon the availability of funding.

A portion of the funding for this project comes from federal sources. Included in this RFQ and incorporated herein by reference is Attachment A “Federal Grant Funded Guidelines”. While not an exhaustive list, the Attachment titled “Federal Grant Funded Guidelines” contains more of the commonly encountered special terms and/or conditions.

1.3 PERIOD OF PERFORMANCE

The period of performance of the contract resulting from this RFQ is tentatively scheduled to begin on or about November 1, 2015 and to end on October 31, 2017.

1.4 DEFINITIONS

Definitions for the purposes of this RFQ include:

City – The City of Spokane, a Washington State municipal corporation, that is issuing this RFQ.

Firm or Consultant – Individual or company whose Proposal has been accepted by the City and is awarded a fully executed, written contract.

Proposal – A formal offer or statement of qualifications submitted in response to this solicitation.

Proposer -- Individual or company submitting a Proposal in order to attain a contract with the City.

Request for Qualifications (RFQ) – Formal procurement document in which a service or need is identified but no specific method to achieve it has been chosen. The purpose of an RFQ is to permit the consultant community to provide qualifications for evaluation.

1.5 CONTRACTING WITH CURRENT OR FORMER CITY EMPLOYEES

Specific restrictions apply to contracting with current or former City officers and employees pursuant to the Code of Ethics in chapter 1.04 of the Spokane Municipal Code. Proposers should familiarize themselves with the requirements prior to submitting a Proposal that includes current or former City officers or employees.

2. SCOPE OF SERVICES

The scope of services will include, but is not limited to, the following:

- Classification of soils by appropriate methods
- Determination of soil properties by appropriate means
- Determination of foundation and wall design parameters
- Pavement subgrade characterization and pavement design
- Evaluation of Water mounding in relationship to stormwater injections
- Conducting geophysical studies, test borings, test excavations, infiltration testing, aquifer testing
- Identification of restrictive infiltration layers below the ground surface
- Slope stability and groundwater seepage analysis
- Geotechnical report preparations
- Phase 1 and Phase 2 environmental site assessments
- Conducting special inspections or other geotechnical related construction phase inspections

The following is a list of federal aid projects expected to require geotechnical analysis during design or construction phase. These projects constitute the entirety of the work to be included in the agreement that will result from this RFQ:

- Post St Bridge Deck Replacement – bridge reconstruction
- 37th Ave from Regal to East City Limits – pavement reconstruction, sidewalks, swales, etc.
- Mission Ave, Division to Hamilton – pavement rehabilitation, curb ramps, etc.
- Monroe/Lincoln Couplet - pavement reconstruction, curb ramps, etc.
- Riverside Drive – Phase II & III – road construction, sidewalks, swales, etc.
- Sprague Ave Rebuild – Sprague Corridor Investment Strategy - pavement reconstruction, curb bumpouts, stormwater separation etc.
- Sunset Blvd from Lindeke St to Royal St - pavement reconstruction, curb ramps, lane reconfiguration, stormwater upgrades etc.
- Hamilton St Corridor Enhancement Project – signal replacements and ADA compliance updates at signalized intersections
- Centennial Trail, Mission Ave Gap Phase 1 – intersection improvements at Mission at Perry including improved crosswalk with pedestrian refuge island, sidewalk reconstruction, and parking lot improvements at Mission Park
- Division St, 3rd Ave to Spokane Falls Blvd – curb bumpouts, landscaping, lighting, etc.
- Barnes Road from Phoebe to Strong Road – road construction, sidewalks, stormwater detention, etc.
- Crestline Street Lane Reduction – road restriping and ADA compliance
- Maxwell-Mission Avenue Lane Reduction - road restriping and ADA compliance
- Monroe Street Lane Reduction and Hardscape – road restriping, sidewalk widening, curb bumpouts, pedestrian refuge islands, lighting improvements, and bus stop improvements.

Estimated individual project fees are expected to range from approximately \$5,000 to \$40,000 and shall be negotiated for each project. Total expenditures over the two year life of the agreement shall not exceed a total of \$300,000. Contract expenditure is an estimate only and is not guaranteed. The City does not guarantee that all work listed above will be awarded to the firm selected as a result of this RFQ.

3. GENERAL INFORMATION

3.1 RFQ COORDINATOR

The RFQ Coordinator is the sole point of contact in the City for this procurement. All communication between the Proposer and the City upon receipt of this RFQ shall be with the RFQ Coordinator, as follows:

Name	Dan Buller
Address	808 W. Spokane Falls Blvd.
City, State, Zip Code	Spokane, WA 99201
Phone Number	509-625-6391
E-Mail Address	dbuller@spokanecity.org

Any other communication will be considered unofficial and non-binding on the City. Firms are to rely on written statements issued by the RFQ Coordinator. Communication directed to parties other than the RFQ Coordinator may result in disqualification of the Firm.

3.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Issue Request for Qualifications	September 28, 2015
Last date for questions requiring an addendum	October 6, 2015
Proposals due	October 12, 2015
Evaluate Proposals	October 12 - 13, 2015
Conduct oral interviews with finalists, if required	October 14 - 15, 2015
Prepare master agreement	October 16 - 19, 2015
City Council approval of contract	Late October, 2015
Contract signatures	Late October, 2015

The City reserves the right to revise the above schedule.

3.3 SUBMISSION OF PROPOSALS

A. PREPARATION OF ENVELOPES

Place each copy of the Proposal in a separate sealed envelope. For file size considerations, the digital copy can be broken into a maximum of four (4) digital files. On the front of each envelope, clearly note if it contains the original or a copy and place the following information:

“RFQ #4180-15 GEOTECHNICAL ENGINEERING FOR 2015-2017 FEDERAL AID PROJECTS”

“DUE: MONDAY, OCTOBER 12, 2015 – 1:00 PM.”

YOUR COMPANY NAME

B. SUBMISSION OF PROPOSALS

Submit one (1) paper original, three (3) paper copies and one (1) reproducible digital copy (thumb drive or CD) of the Proposal to:

City of Spokane – Purchasing
4th Floor – City Hall
808 West Spokane Falls Boulevard
Spokane, WA 99201-3316

NOTE: Proposals will not be accepted by fax or email

C. DUE DATE

It is the responsibility of the Proposer to be sure the Proposals are sent sufficiently ahead of time to be received no later than 1:00 PM local time on MONDAY, OCTOBER 12, 2015.

Proposers mailing Proposals should allow normal mail delivery time to ensure timely receipt of their Proposals. The City reserves the right to not consider Proposals received late. City Hall is now a secured building. If the Proposer is hand delivering a Proposal, note that additional time is required to sign in, receive a visitor's pass, and gain entrance to the building.

Sealed Proposals will be publicly acknowledged at 1:15 p.m., on the due date in the City of Spokane City Hall Council Chambers, 808 West Spokane Falls Boulevard, Spokane, Washington 99201.

3.4 PROPRIETARY INFORMATION / PUBLIC DISCLOSURE

Materials submitted in response to this competitive procurement shall become the property of the City.

All received Proposals shall remain confidential until the award of contract recommendation has been filed with the applicable Council Committee or the City Clerk for City Council action. Thereafter, the Proposals shall be deemed public records as defined in RCW 42.56, "Public Records."

Any information in the Proposal that the Proposer desires to claim as proprietary and exempt from disclosure under the provisions of state law shall be clearly designated. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on it. Marking the entire Proposal exempt from disclosure will not be honored.

The City will consider a Proposer's request for exemption from disclosure; however, the City will make a decision predicated upon state law and regulations. If any information is marked as proprietary in the Proposal, it will not be made available until the affected Proposer has been given an opportunity to seek a court injunction against the requested disclosure.

All requests for information should be directed to the RFQ Coordinator.

3.5 REVISIONS TO THE RFQ

In the event it becomes necessary to revise any part of this RFQ, addenda will be provided to all who receive the RFQ. For this purpose, questions received and the associated answers shall be provided as an addendum to the RFQ.

The City also reserves the right to cancel or to reissue the RFQ in whole or in part, prior to final award of a contract.

3.6 ACCEPTANCE PERIOD

Proposals shall remain in effect for forty-five (45) days for acceptance by the City from the due date for receipt of Proposals.

3.7 RESPONSIVENESS

The Proposer is specifically notified that failure to comply with any part of the RFQ may result in rejection of the Proposal as non-responsive.

The City also reserves the right, however, at its sole discretion to waive minor administrative irregularities.

3.8 COSTS TO PROPOSE

The City will not be liable for any costs incurred by the Proposer in preparation of a Proposal submitted in response to this RFQ, in conduct of a presentation, or any other activities related to responding to this RFQ

3.9 NO OBLIGATION TO CONTRACT

This RFQ does not obligate the City to contract for services specified herein.

3.10 REJECTION OF PROPOSALS

The City reserves the right at its sole discretion to reject any and all Proposals received without penalty and to not issue a contract as a result of this RFQ.

3.11 INTERLOCAL PURCHASE AGREEMENTS

The City of Spokane has entered into Interlocal Purchase Agreements with other public agencies pursuant to RCW 39.34. In submitting a response the Proposer agrees to sell additional items at the contracted price, terms and conditions to the City of Spokane and other public agencies contingent upon the Firm's review and approval at the time of a requested sale. Any price de-escalation/escalation provisions of this Proposal shall apply in the case of a sale of additional items. Firm's right to refuse to sell additional items at the time of request shall be absolute.

4. PROPOSAL CONTENTS

4.1 PREPARATION OF PROPOSAL

Proposals shall be submitted on eight and one-half by eleven inch (8" 1/2 x 11") paper with tabs separating the major sections of the Proposal. Use recycled paper and both sides of paper sheets whenever practicable. The major sections of the Proposal are to be submitted in the order noted below:

1. Letter of Submittal.
2. Qualifications Statement.

Proposals shall provide information in the same order as presented in this document with the same headings. This will not only be helpful to the evaluators of the Proposal, but should assist the Proposer in preparing a thorough response.

4.2 LETTER OF SUBMITTAL

The Letter of Submittal shall be signed and dated by a person authorized to legally bind the Firm to a contractual relationship, e.g., the president or executive director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include the following information about the Firm and any proposed subcontractors:

1. Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be written.
2. Legal status of the Firm (sole proprietorship, partnership, corporation, etc.).
3. Location of the facility from which the Firm would operate.
4. Identify any current or former City employees employed by or on the Firm's governing board as of the date of the Proposal or during the previous twelve (12) months.
5. Acknowledgement that the Firm will comply with all terms and conditions set forth in the Request for Qualifications, unless otherwise agreed by the City.
6. Acknowledgement that the Firm certifies that it has not been debarred, suspended, ineligible for, or otherwise excluded from participation in Federal Assistance programs under Executive Order 12549, Title 31 U.S. Code 6101 Note, Executive Order 12549, Executive Order 12689, Title 48 Codified Federal Regulation 9.404, "Debarment and Suspension". Further Acknowledge that Firm will not contract with a subcontractor that is likewise debarred, suspended, ineligible for, or otherwise excluded, as referenced in the foregoing Executive Orders, U.S. Codes and Codified Federal Regulations; and the Firm agrees to comply with City requirements to follow cost principles outlined in 2 CFR 200, Subpart E – Cost Principles for financial disbursements under its Grant Agreement. The Firm also agrees to comply with audit requirements outlined in 2 CFR 200 Subpart F – Audit Requirements".

4.3 PROPOSAL (QUALIFICATION STATEMENT)

Proposers shall limit their Proposal response to six (6) pages excluding “letter of submittal”, résumés and reference letters. The Firm’s Proposal response to the RFQ shall include at a minimum the following items:

1. A description of the Firm’s qualifications/experience in the following area:
 - Classification of soils by appropriate methods
 - Determination of soil properties by appropriate means
 - Determination of foundation and wall design parameters
 - Pavement subgrade characterization and pavement design
 - Evaluation of Water mounding in relationship to stormwater injections
 - Conducting geophysical studies, test borings, test excavations, infiltration testing, aquifer testing
 - Identification of restrictive infiltration layers below the ground surface
 - Slope stability and groundwater seepage analysis
 - Geotechnical report preparations
 - Phase 1 and Phase 2 environmental site assessments
 - Conducting special inspections or other geotechnical related construction phase inspections
2. A staffing plan listing:
 - a) personnel who will be responsible for carrying out the work.
 - b) a description of qualifications, skills (e.g., brief résumés) and responsibilities for each project participant.
3. References of at least three former clients (not including City staff) for whom the Firm performed similar services on similar projects to those described herein. Identify contact persons and e-mail address and phone numbers. The Firm grants permission to the City to contact the references. City staff references, if provided, shall be above and beyond the three references noted above. The City may evaluate references at the City’s discretion.
4. Include a list of contracts the Firm has had during the last two (2) years that relate to the Firm’s ability to perform the services needed under this RFQ. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and fax numbers/e-mail addresses. The Firm grants permission to the City to contact the references.
5. If the Firm has had a contract terminated for default in the last five (5) years, describe such incident. Termination for default is defined as notice to stop performance due to the Firm’s non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the Proposer was in default. Submit full details of the terms for default including the other party’s name, address, and phone number. Present the Firm’s position on the matter. The City will evaluate the facts and may, at its sole discretion, reject the Proposal on the grounds of the past experience. If no such termination for default has been experienced by the Firm in the past five (5) years, so indicate.

5. EVALUATION

5.1 EVALUATION PROCEDURE

Responsive Proposals will be evaluated in accordance with the requirements stated in this solicitation and any addenda issued. Evaluation of Proposals shall be accomplished by an evaluation team, to be designated by the City, which will determine the ranking of the Proposals.

The City, at its sole discretion, may elect to select the top-scoring Firms as finalists for an oral presentation.

The RFQ Coordinator may contact the Firm for clarification of any portion of the Firm's Proposal.

5.2 EVALUATION WEIGHTING AND SCORING

The following weighting will be assigned to the Proposal for evaluation purposes:

Qualifications of key personnel	30%
Ability and commitment to respond to work request in a timely manner	20%
Past performance on similar projects	50%

5.3 AWARD OF CONTRACT

This RFQ does not obligate the City to award a contract.

Award of contract, when made, will be to the proposer whose Proposal is the most favorable to the City, taking into consideration the evaluation factors. The Proposer should be prepared to accept this RFQ for incorporation into a contract resulting from this RFQ. Contract negotiations may incorporate some or all or the Proposal. The City Council shall make the award of contract or purchase.

5.4 DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Upon request, a debriefing conference will be scheduled with an unsuccessful Proposer. Discussion will be limited to a critique of the requesting Firm's Proposal. Comparisons between Proposals or evaluations of the other Proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone.

5.5 PROTEST PROCEDURE

Following evaluation, a recommendation for award shall be submitted to the city council. Award of contract, if made, shall be by the city council in open meeting. Proposers wishing to protest the award of the contract must make their protests before the city council at the award hearing.

6. CONTRACT TERMS

6.1 BUSINESS REGISTRATION REQUIREMENT

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid business registration. The Firm shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Firm does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

6.2 ANTI-KICKBACK

No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this contract shall have or acquire any interest in the contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the contract.

6.3 DISPUTES

This contract shall be performed under the laws of Washington State. Any litigation to enforce this contract or any of its provisions shall be brought in Spokane County, Washington.

6.4 NONDISCRIMINATION

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Firm agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Firm.

6.5 LIABILITY

The Firm 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 Firm's negligence or breach or its obligations under the contract. The Firm's duty to indemnify shall not apply to liability caused by the sole negligence of the City, its officers and employees. The Firm's duty to indemnify for liability arising from the concurrent negligence of the City, its officers and employees and the Firm, its officers and employees shall apply only to the extent of the negligence of the Firm, its officers and employees. The Firm's duty to indemnify shall survive termination or expiration of the contract. The Firm waives, with respect to the City only, its immunity under RCW Title 51, Industrial Insurance.

6.6 INSURANCE COVERAGE

During the term of the contract, the Firm shall maintain in force at its own expense, each insurance coverage noted below:

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;
- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,500,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this contract. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Firm's services to be provided under this contract; and
- C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.
- D. Professional Liability Insurance with a combined single limit of not less than \$1,000,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this contract. The coverage must remain in effect for at least three (3) years after the contract is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without forty-five (45) days written notice from the Firm or its insurer(s) to the City.

As evidence of the insurance coverages required by this contract, the Firm shall furnish acceptable insurance certificates to the City at the time it returns the signed contract. The certificate shall specify all of the parties who are additional insured, and include applicable policy endorsements, and the deductible or retention level, as well as policy limits. Insuring companies or entities are subject to City acceptance and must have a rating of A- or higher by Best. Copies of all applicable endorsements shall be provided. The Firm shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

7. GRANT REQUIREMENTS

7.1 FEDERAL FUNDING

This project may be funded by federal grant monies. Firms are warned to take into consideration applicable federal requirements in making their Proposal and performing the work. Part 7 "GRANT REQUIREMENTS" and Attachment "A" titled "Federal Grant Funded Guidelines" may be required if federal grant funding is used.

7.2 CONFORMANCE WITH FEDERAL, STATE AND LOCAL LAWS

Federal, State and Local Laws: Services of a project as a result of the use of a Firm's services including the letting of subcontracts in connection with any project work related to this RFQ may be required to conform to the applicable requirements of Federal, State and local laws and ordinances. The City stipulates that Federal funds may be involved. Note requirements listed in Attachment "A" titled "Federal Grant Funded Guidelines" incorporated herein by reference. ???

7.3 DEBARRED OR SUSPENDED PARTY

The City will not make any award or permit any award or contract at any tier to any party which is debarred, suspended or in any way is excluded from procurement actions by any Federal, State or Local governmental agency. If information becomes available, such evidence may be grounds for non-award or nullification of the Contract.

7.4 MAINTENANCE OF RECORDS

The Firm will maintain, for at least three (3) years after completion of this contract, all relevant records pertaining to the contract. The Firm shall make available to the City, Washington State Auditor, Federal Grantor Agency, Comptroller General of the United States or any of their duly authorized representatives, at any time during their normal operating hours, all records, books or pertinent information which the Firm shall have kept in conjunction with this Agreement and which the City 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.

7.5 SINGLE AUDIT REQUIREMENTS

Any contract awarded as a result of this RFQ may include the agreement to annually audit any contracts with the City. Audits shall be performed in accordance with 2 CFR 200 Subpart F – Audit Requirements as appropriate and shall be received by the City within the 12 month period following the close of each fiscal year. Agencies not covered by federal single audit requirements may be responsible for an independent agency audit, which meets general accepted auditing standards.

7.6 AMERICANS WITH DISABILITIES ACT INFORMATION

This material can be made available in an alternate format by emailing Dan Buller at dbuller@spokanecity.org or by calling 625-6700.

7.7 NONDISCRIMINATION

The City of Spokane in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

8. RFQ ATTACHMENTS

Attached to this RFQ and incorporated herein by reference are the following background documents:

1. Attachment “A” titled “Federal Grant Funded Guidelines”

ATTACHMENT A FEDERAL GRANT FUNDED GUIDELINES

It is the Contractor's responsibility to comply with all state and federal laws in performing all tasks undertaken with this contract. All contracts awarded for this project shall contain the following provisions as applicable by Federal and State Law. Federal regulations are contained in the Code of Federal Regulations. The following sections are included for informational purposes, and are not professed to include all relevant laws. It is the contractor's responsibility to comply with all laws.

Contract Work Hours and Safety Standards Act (40 U.S.C 327-333) – Where applicable, all contracts awarded by recipients in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended – Contractors and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.) Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying in non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

Public Law 88 - 352, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (24 CFR Part 1). The Applicant must comply with the provisions of "Public Law 88 - 352," which refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). The law provides that no person in the United States shall, on the grounds of race, color or national origin, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section 504 of the Rehabilitation Act, 1973, as Amended (29 U.S.C. 794). The Applicant must comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from

participation (including employment), denied program benefits or be subjected to discrimination under any program or activity receiving federal assistance funds.

Americans with Disabilities Act (42 U.S.C. 12101, et seq.). The Applicant shall comply with the provisions of the Americans with Disabilities Act, 42 U.S.C. 12101, et. seq. That Act provides a comprehensive national mandate to eliminate discrimination against individuals with disabilities. The Act may impose requirements on the Applicant in four principle ways: 1) with respect to employment; 2) with respect to the provision of public services; 3) with respect to transportation; 4) with respect to existing facilities and new construction.

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C Section 4321 et seq., and 24 CFR Part 58). The Applicant shall comply with the provisions of the National Environmental Policy Act of 1969. The purpose of this Act is to attain the widest use of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences. Environmental review procedures, including determining and publishing a Finding of Significance or of No Significance for a proposal, are a necessary part of this process. Pursuant to these provisions, the Applicant must also submit environmental certifications to the Department when requesting that funds be released for the project. The Applicant must certify that the proposed project will not significantly impact the environment and that the Applicant has complied with environmental regulations and fulfilled its obligations to give public notice of the funding request, environmental findings and compliance performance.

Noise Control, Chapter 70.107 RCW. The Applicant shall assure compliance with the state Noise Control Act. Objectives of the Act are to assist local governments in implementing local noise ordinances and to control and reduce excessive noise in Washington.

Law Against Discrimination, Chapter 49.60 RCW. The Applicant shall comply with the provisions of Chapter 49.60 RCW in all activities relating to this Grant Agreement.

Resource Conservation and Recovery Act. Agencies shall implement the Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. 6962). Any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with Section 6002 of RCRA. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA). Current guidelines are contained in 40 CFR Parts 247-253. State and local recipients of grants, loans, cooperative agreements or other instruments funded by appropriated Federal funds shall give preference in procurement programs to the purchase of recycled products pursuant to the EPA guidelines.

Debarment and Suspension (E.O.s 12549 and 12689) – No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

Conference Rooms: All space used for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds under this contract must comply with the protection and controlling guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended)

Use of Recycled Paper: All reports prepared by the Contractor for delivery to the City or other government agencies will be prepared on recycled paper in accordance with EPA Order 1000.25 and Executive Order 13101.

Workplace Listing: The Contractor will provide a list of all workplaces under this contract. The Contractor will make a good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 40 CFR 36.200 - 36.230.

Salary Rate: Salary rate (excluding overhead) paid to individual consultants retained by the City or by the Contractor's subcontractors shall be limited to the maximum daily rate for a GS-18 as outlined in Title 40 CFR 31.36 (j). This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; the City will pay these in accordance with their normal travel reimbursement practices.



Agenda Sheet for City Council Meeting of: 11/23/2015

Date Rec'd	11/9/2015
Clerk's File #	OPR 2015-0973
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	CLAIMS

Submitting Dept	CITY ATTORNEY
Contact Name/Phone	NATE ODLE X 6288
Contact E-Mail	NODLE@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	0500 SPECIAL COUNSEL: KEATING BUCKLIN & MCCORMACK RE ESTATE OF L HAYES

Agenda Wording

A contract with the firm of Keating, Bucklin & McCormack, Inc., P.S. to provide Special Counsel regarding the matter of the Estate of Lorenzo Hayes.

Summary (Background)

Keating, Bucklin & McCormack, Inc., P.S. shall provide legal services and advice to the City regarding the matter of the Estate of Lorenzo Hayes.

<u>Fiscal Impact</u>		<u>Budget Account</u>
Expense	\$ 250,000.00	# 0000 00000 00000 00000
Select	\$	#
Select	\$	#
Select	\$	#
<u>Approvals</u>		<u>Council Notifications</u>
<u>Dept Head</u>	DALTON, PAT	<u>Study Session</u>
<u>Division Director</u>		<u>Other</u>
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>
<u>Legal</u>	DALTON, PAT	tdunivant@spokanecity.org
<u>For the Mayor</u>	SANDERS, THERESA	James.Scott@ascrisk.com
<u>Additional Approvals</u>		sdhansen@spokanecity.org
<u>Purchasing</u>		rimus@spokanecity.org
		sestes@kbmlawyers.com

CONTRACT

THIS CONTRACT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and KEATING, BUCKLIN & MCCORMACK, INC., P.S., whose address is 800 Fifth Avenue, Suite 4141, Seattle, Washington 98104-3175, as "Firm".

The parties agree as follows:

1. PERFORMANCE. The Firm shall act as SPECIAL COUNSEL providing legal services and advice to the City and individual officers and employees regarding the matter of the Estate of Lorenzo Hayes, consistent with applicable laws and this Contract. The Firm shall comply with the attached "General Terms and Conditions for Outside Counsel".
2. CONTRACT TERM. The Contract shall begin upon signature by both parties and run until terminated or completion of services, whichever is earlier. The City reserves the right to terminate this Contract, with or without cause, as determined in the sole discretion of the City Attorney.
3. COMPENSATION. The City shall pay the hourly fees and other charges as stated in the attached exhibit, up to a maximum amount of TWO HUNDRED FIFTY THOUSAND AND NO/1000 DOLLARS (\$250,000.00), as full compensation for everything furnished and done under this contract.
4. COMPLIANCE WITH LAWS. Each party shall comply with all applicable federal, state, and local laws and regulations.
5. ANTI-KICKBACK. No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in the contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in this Contract.
6. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Firm agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Firm.
7. INSURANCE. During the term of the Contract, the Firm shall maintain in force at its own expense, the following insurance coverages:

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers; and
- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,500,000 each occurrence and \$2,000,000 in the aggregate, for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that the City, its officers and employees are additional insureds, but only with respect to the Firm's services to be provided under this Contract; and
- C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles; and
- D. Professional Liability (E&O) Insurance with a combined single limit of not less than \$5,000,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this Contract. If coverage is to be provided on a claims-made basis, the Firm shall warrant that any policy retroactive date precedes the effective date of the Contract. The coverage must remain in effect for at least two (2) years after the Contract is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without forty five (45) days written notice from the Firm or its insurer(s) to the City. As evidence of the insurance coverages required by the Contract, the Firm shall furnish acceptable insurance certificates to the City at the time it returns the signed Contract. The certificate shall specify all of the parties who are additional insured, and include applicable policy endorsements and the deductible or retention level, as well as policy limits. Insuring companies or entities are subject to City acceptance and shall have a rating of A- or higher by Best. The Firm shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance. Any self-insured retentions must be declared to, and approved by the City. If not approved, the City may require that the insurer reduce or eliminate the self-insured retentions with respect to the City, its officers, agents, employees and volunteers. Any modification or variation from these insurance requirements shall be made by the Office of the City Attorney and/or the City's Risk Manager in the City's sole discretion.

8. INDEMNIFICATION. The Firm shall indemnify the City, its officers and employees, from and against all direct damages, liability, cost and expense proximately caused by the negligent performance of the Firm's professional obligations under this Contract, subject to such defenses as the Firm may have under applicable law to a claim for negligence in the performance of its obligations. The Firm shall have no liability hereunder for punitive, consequential, special or other indirect damages. This indemnification is solely for the benefit of the City and no third party beneficiary or other rights shall be created under this section.

9. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Firm shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Firm does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

10. MISCELLANEOUS PROVISIONS.

- A. 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 Contract shall continue to be in full force and effect.
- B. DISPUTES. This Contract shall be performed under the laws of the State of Washington. Any litigation to enforce this Contract or any of its provisions shall be brought in Spokane County, Washington.
- C. SEVERABILITY. In the event any provision of this Contract should become invalid, the rest of the Contract shall remain in full force and effect.
- D. AMENDMENTS. This Contract may be amended at any time by mutual written agreement.

Dated: _____

CITY OF SPOKANE

By: _____

Title: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Dated: _____

KEATING, BUCKLIN &
MCCORMACK, INC., P.S.

E-Mail address, if available:

By: _____

Title: _____

15-272

General Terms and Conditions for Outside Counsel

I. SCOPE OF REPRESENTATION

A. The Firm will be engaged on a case-by-case basis to represent the City, and if applicable, its employees and elected officials in lawsuits which are filed in Superior Court or Federal District Court. Specific assignments may include investigation of claims, all aspects of litigation, appeals, and additional legal representation or consultation tasks as assigned by the City Attorney. If a conflict of interest arises between the City and any department employee, it will be resolved in accordance with the Rules of Professional Conduct.

B. Interaction with the City.

Unless prohibited by the Rules of Professional Conduct, the Firm's interaction with the City will comply with the following guidelines:

1. The City Attorney must be given advance notice of any significant decisions in order to participate fully in the decision making process.

2. The City Attorney must be provided with advance drafts of all significant documents (policy statements, pleadings, memoranda) in sufficient time to participate fully in decisions regarding such documents.

3. The City Attorney must routinely receive copies of all other documents, including correspondence and internal legal memoranda.

4. The City Attorney must fully participate in all deliberations and decisions regarding possible settlement of a case.

5. The City Attorney must participate in the selection of all consultants or experts. No subcontracting is permitted under this Contract without the specific authorization of the City Attorney.

6. Any extensive legal research proposed by the Firm must be discussed in advance with the City Attorney.

7. The City Attorney must be advised as soon as reasonably possible of any potential conflicts in representation.

C. The City reserves the right to designate a specific attorney(s) in the Firm to work on specific matters as lead counsel or associate lead counsel for the services rendered pursuant to any referral contract. The City further reserves the right to approve any attorney offered to provide services.

D. Conflicts of Interest.

The Firm or attorney who is selected to represent the City must disclose any actual or potential conflicts of interest, and will be prohibited from engaging in or carrying on, any legal work on behalf of any client that is directly adverse to the City or its interests, without the specific written consent and waiver of the Office of the City Attorney. Waivers will be evaluated on a case-by-case basis. The Firm or attorney engaged to represent the City shall have a continuing duty to disclose such information. The Office of the City Attorney will NOT sign “blanket” waivers.

E. Confidential Information.

All confidential communications between the City, its officers, employees or agents, and the Firm, whether oral or written, and all documentation whether prepared by the Firm or the City shall be considered privileged and shall not be disclosed, except by the written consent of the City Attorney.

F. Subcontracting.

No portion of the work will be subcontracted without prior written approval of the Office of the City Attorney.

G. Advertising.

The name of the City shall not be included in any promotional or advertising materials by the Firm without the prior written approval of the City Attorney’s Office.

II. BILLING PROCEDURES

A. Billing Procedures.

1. Billings by the Firm shall be submitted on a monthly basis.
2. Unless otherwise agreed upon in advance in writing, the City will be charged for services rendered on an hourly basis and billings will be reflected in increments of one-tenth of an hour.
3. Each billing statement shall be set forth for each date services were performed:
 - A brief summary of the services provided; and
 - The number of hours, or fractions of hours spent by each provider; and
 - The hourly rates of each provider.
4. Expenses and disbursements shall be shown in detail:
 - Air travel shall be approved by the City in advance and is reimbursable at coach rates; and

- The City must NOT be charged for courier service or other expedited mail delivery, unless the urgency was caused by the City or the City requests the service; and
 - Billings for experts or consultants retained by the Firm shall be provided in a substantially similar format as outlined above.
5. Any changes in outside counsel's fee schedule shall be discussed with the City Attorney prior to implementation.
 6. The Firm has been retained because of its expertise. The City shall not be billed for basic general legal or technical research necessary to educate staff or less experienced attorneys in the Firm without advanced City approval.
 7. The City shall not be billed for any time spent in preparing or reviewing the Firm's billings to the City or for internal quality control procedures.
 8. Unless approved in advance, the City will NOT reimburse for time spent by more than one (1) attorney attending meetings, witness interviews, depositions, hearings and the like.

B. Payment.

The Firm shall send its applications for payment to the City Attorney's Office, Fifth Floor, City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201. Payment will be made within thirty (30) days after receipt of the Firm's invoice, except as provided by state law.

C. Audit.

The Firm shall keep adequate and accurate records supporting all amounts invoiced to the City, and must maintain the records for at least six (6) years following completion of any work. The Firm shall allow authorized City representatives to review and audit all records related to services provided under any contract with the City.

FEE SCHEDULE

HOURLY RATES

Senior Principals	[]
Junior Principals	[]
Senior Associates	[]
Junior Associates	[]
Paralegals	[]
Law Clerks	[]

CITY SHALL PAY FOR:

- Reimbursing Costs
- Litigation Expenses
- Disbursements and Out-Of-Pocket Expenses
 - Computerized Legal Research
 - Court Reporter Appearance Fees
 - Deposition (Transcription and/or Video) Fees
 - Fees for Retrieval of Records
 - Mediation or Arbitration Fees
 - Court Costs and Filing Fees
 - Payments to Outside Investigators
 - Expert Witnesses and/o r Expert Consultants
 - Court Transcripts
 - Demonstrative Aids
 - Witness Fees
 - Mileage (See General Conditions)
 - All Other Items for which the Firm may advance or incur costs
for the City's benefit



Agenda Sheet for City Council Meeting of:
11/23/2015

<u>Date Rec'd</u>	11/5/2015
<u>Clerk's File #</u>	CPR 2011-0003
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	

<u>Submitting Dept</u>	CITY COUNCIL
<u>Contact Name/Phone</u>	BEN STUCKART 6256269
<u>Contact E-Mail</u>	AMCDANIEL@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Boards and Commissions Appointments
<u>Agenda Item Name</u>	0320 APPOINTMENT OF JOHN DIETZMAN TO CTAB

Agenda Wording

Appointment of John Dietzman to the PCTS position on the Citizens Transportation Advisory Board.

Summary (Background)

Appointment of John Dietzman to the PCTS position on the Citizens Transportation Advisory Board.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MCDANIEL, ADAM	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>		<u>Distribution List</u>	
<u>Legal</u>		Anna Everano	
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			



Agenda Sheet for City Council Meeting of:
11/23/2015

<u>Date Rec'd</u>	11/9/2015
<u>Clerk's File #</u>	CPR 1981-0122
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	

<u>Submitting Dept</u>	MAYOR
<u>Contact Name/Phone</u>	KATIE ROSS 625.6250
<u>Contact E-Mail</u>	KROSS@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Boards and Commissions Appointments
<u>Agenda Item Name</u>	0520 REAPPOINTMENT OF LYNN MANDYKE TO THE HISTORIC LANDMARKS COMMISSION

Agenda Wording

Reappointment of Lynn Mandyke to the Historian position on the Historic Landmarks Commission for a term of January 1, 2016 to December 31, 2018.

Summary (Background)

Reappointment of Lynn Mandyke to the Historian position on the Historic Landmarks Commission for a term of January 1, 2016 to December 31, 2018.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$		#
Select	\$		#
Select	\$		#
Select	\$		#
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	HOLLWEDEL, REBEKAH	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>		<u>Distribution List</u>	
<u>Legal</u>		mduvall@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	rhollwedel@spokanecity.org	
<u>Additional Approvals</u>			
<u>Purchasing</u>			



Agenda Sheet for City Council Meeting of:
11/23/2015

<u>Date Rec'd</u>	11/9/2015
<u>Clerk's File #</u>	CPR 1981-0122
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	

<u>Submitting Dept</u>	MAYOR
<u>Contact Name/Phone</u>	KATIE ROSS 625.6716
<u>Contact E-Mail</u>	KROSS@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Boards and Commissions Appointments
<u>Agenda Item Name</u>	0520 REAPPOINTMENT OF WENDY BUDGE TO THE HISTORIC LANDMARKS COMMISSION

Agenda Wording

Reappointment of Wendy Budge to a City at Large position on the Historic Landmarks Commission for a term of January 1, 2016 to December 31, 2018.

Summary (Background)

Reappointment of Wendy Budge to a City at Large position on the Historic Landmarks Commission for a term of January 1, 2016 to December 31, 2018.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$		#
Select	\$		#
Select	\$		#
Select	\$		#
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	HOLLWEDEL, REBEKAH	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>		<u>Distribution List</u>	
<u>Legal</u>		mduvall@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	rhollwedel@spokanecity.org	
<u>Additional Approvals</u>			
<u>Purchasing</u>			



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/9/2015
Clerk's File #	CPR 1981-0122
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	MAYOR
Contact Name/Phone	KATIE ROSS 625.6716
Contact E-Mail	KROSS@SPOKANECITY.ORG
Agenda Item Type	Boards and Commissions Appointments
Agenda Item Name	0520 REAPPOINTMENT OF ANN SHARLEY TO THE HISTORIC LANDMARKS COMMISSION

Agenda Wording

Reappointment of Ann Sharley to the Archaeologist and Architectural Historian position on the Historic Landmarks Commission for a term of January 1, 2016 to December 31, 2018.

Summary (Background)

Reappointment of Ann Sharley to the Archaeologist and Architectural Historian position on the Historic Landmarks Commission for a term of January 1, 2016 to December 31, 2018.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$		#
Select	\$		#
Select	\$		#
Select	\$		#
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	HOLLWEDEL, REBEKAH	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>		<u>Distribution List</u>	
<u>Legal</u>		mduvall@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	rhollwedel@spokanecity.org	
<u>Additional Approvals</u>			
<u>Purchasing</u>			



Agenda Sheet for City Council Meeting of:
11/23/2015

<u>Date Rec'd</u>	11/9/2015
<u>Clerk's File #</u>	CPR 1981-0122
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	

<u>Submitting Dept</u>	MAYOR
<u>Contact Name/Phone</u>	KATIE ROSS 625.6716
<u>Contact E-Mail</u>	KROSS@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Boards and Commissions Appointments
<u>Agenda Item Name</u>	0520 REAPPOINTMENT OF RANDALL WILSON TO THE HISTORIC LANDMARKS COMMISSION

Agenda Wording

Reappointment of Randall Wilson to the Architect position on the Historic Landmarks Commission for a term of January 1, 2016 to December 31, 2018.

Summary (Background)

Reappointment of Randall Wilson to the Architect position on the Historic Landmarks Commission for a term of January 1, 2016 to December 31, 2018.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$		#
Select	\$		#
Select	\$		#
Select	\$		#
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	HOLLWEDEL, REBEKAH	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>		<u>Distribution List</u>	
<u>Legal</u>		mduvall@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	rhollwedel@spokanecity.org	
<u>Additional Approvals</u>			
<u>Purchasing</u>			



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/9/2015
Clerk's File #	ORD C35323
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	PARKS - PARK FINANCE
Contact Name/Phone	SARI LUCIANO 625-6544
Contact E-Mail	SLUCIANO@SPOKANECITY.ORG
Agenda Item Type	Emergency Budget Ordinance
Agenda Item Name	1400 EBO RE: GOLF DEBT SERVICE FUND

Agenda Wording

Recommend approval of EBO amending Ordinance No. C-35185 as part of the 2005A LTGO Refinancing and Debt Restructure.

Summary (Background)

EBO to provide necessary changes in the appropriations of the Golf Debt Service Fund as follows: \$40,000 from Unappropriated Reserves to Golf Fund.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 40,000	#	4640-99999-99999
Revenue	\$ 40,000	#	4640-83400-97115-80101
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	LUCIANO, SARI	<u>Study Session</u>	
<u>Division Director</u>	EADIE, LEROY	<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE		
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			

ORDINANCE NO C35323

An ordinance amending Ordinance No. C-35185, passed the City Council November 24, 2014, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2015, making appropriations to the various funds, departments, and programs of the City of Spokane government for the fiscal year ending December 31, 2015, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2015 budget Ordinance No. C-35185, as above entitled, and which passed the City Council November 24, 2014, it is necessary to make changes in the appropriations of the Golf Debt Service Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

WHEREAS, this ordinance has been on file in the City Clerk's Office for five days; - Now, Therefore,

The City of Spokane does ordain:

Section 1. That in the budget of the Golf Debt Service Fund, and the budget annexed thereto with reference to the Golf Debt Service Fund, the following changes be made:

FROM:	4640-99999	Golf Debt Service Fund	
	99999-	Unappropriated Reserves	<u>\$ 40,000</u>
TO:	4640-83400	Golf Debt Service Fund	
	97115-80101	Transfer to Golf Fund	<u>\$ 40,000</u>

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to transfer excess funds in the Golf Debt Service Fund back to the Golf Operations Fund, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage..

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to form: _____
Assistant City Attorney

Mayor

Date

Effective Date



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/10/2015
Clerk's File #	RES 2015-0121
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY COUNCIL
Contact Name/Phone	JON SNYDER 6254
Contact E-Mail	JSNYDER@SPOKANECITY.ORG
Agenda Item Type	Resolutions
Agenda Item Name	0320 2016 CITY OF SPOKANE LEGISLATIVE AGENDA

Agenda Wording

A resolution regarding the adoption of the City of Spokane's 2016 Washington State Legislative Agenda.

Summary (Background)

Each year the City Council prepares and adopts a legislative agenda that contains issues the City desires to advocate for during the subsequent state legislative session. This resolution adopts the City of Spokane's 2016 Washington State Legislative Agenda.

<u>Fiscal Impact</u>	<u>Budget Account</u>
Select \$	#
Select \$	#
Select \$	#
Select \$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	STUCKART, BEN	<u>Study Session</u>	11-5-15
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE	dcondon@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	tsanders@spokanecity.org	
<u>Additional Approvals</u>		gochoabruck@spokanecity.org	
<u>Purchasing</u>		CityCouncilMembers@spokanecity.org	
		bmclatchey@spokanecity.org	

RESOLUTION NO. 2015-0121

A resolution regarding the adoption of the City of Spokane's 2016 Washington State Legislative Agenda.

WHEREAS, efforts of representation on behalf of the City of Spokane to influence, effect or guide the passage of legislation in the Washington State legislature are enhanced by a comprehensive package of proposals that have been officially adopted by the City Council after consultation with the Mayor pursuant to this resolution; -- Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPOKANE that the City Council adopts the attached City of Spokane 2016 Washington State Legislative Agenda as the position of the City of Spokane on the items stated therein.

ADOPTED by the City Council this _____ day of November 2015.

City Clerk

Approved as to form:

Assistant City Attorney

City of Spokane 2016 Washington State Legislative Agenda

Abbreviations denote similar or same item support from either 2015 or 2016 legislative agendas from other cities or organizations. See list at end of document.

Top Priorities for the City of Spokane:

- Ensure stable funding for the Elson S. Floyd College of Medicine at WSU, specifically accreditation funds (WSU).
- Increase funding for film and television production with legislation such as the Motion Picture Competitiveness Program (SB 6027), which expands funds available to the program to \$10 million. (WFPAC)
- Support of waiver of the two party consent rules pertaining to police video cameras (HB 1917), and other reforms that improve cities' ability to implement police-worn body cameras. (SEA)
- Changes to Regional Service Network funding to improve mental health/substance abuse services, including increasing the rate of payment for Medicaid clients and a two-year moratorium on penalties for the use of beds at Eastern State Hospital. (Spokane City)

Other priorities of statewide interest the City of Spokane supports:

- Creation of transportation network company regulations governing companies such as Uber and Lyft. (SB 5550).
- Use of marijuana and vapor product proceeds for public safety and education as proposed (HB 2211). (SRHD)
- Climate change policy action such as extending or creating additional solar power incentives, including a charger incentive proposed in SB 5892. (SEA)
- The creation of a State bank (SB 5553), to consolidate state lending programs and improve educational lending to state residents.
- Reform of Legal Financial Obligations, such as the Debtor's Prison Bill (HB 1390). (SEA, HRC)
- Airport economic development incentives such as sales/use tax exemption for building construction to be used by maintenance repair operators for commercial airplane repair and maintenance (SB 6047).
- Clear regulations for unmanned aircraft/drones that cover air safety in addition to privacy-related issues. (SEA).
- Passage of the Washington State Voting Rights Act, to reduce litigation and offer a clear path to improved political representation. (HRC)
- A death penalty moratorium. (SEA, WACADP, HRC)

- Increased capacity to fund emergency medical services by raising the maximum levy rate from 50 cents to 75 cents per \$1,000 of the assessed value of property in the taxing district, to reflect the increased cost of providing service, similar to HB 1251.
- Changes to foreclosure process that enable municipalities to more effectively deal with abandoned properties.
- A change in law to allow cities to create regional fire authorities. (VAN)
- Strengthening distracted driving laws in line with federal standards in order to make Washington State eligible for federal funding. (SB 5656) (WTSC, SEA).
- Campaign finance reform that offers greater transparency as proposed in SB 5153. (SEA, TAC, BEL, OLY)
- Support for increased resources for the John Wayne Pioneer trail. (CHE, TEK)

Priorities Specific to the City of Spokane:

- Increased storm water funding for Spokane's Integrated Clean Water Plan: Cochran basin project. (BEL, TAC)
- Support for a solution to charter school funding for charter schools authorized by a local school district.
- Safety improvements for US 195 corridor inside the Spokane City limits.

Statewide Priorities from AWC with Strong Support from the City of Spokane:

- Halt the diversion from critical infrastructure programs to help cities grow and prosper.
- Ensure sufficient and flexible revenue for essential city services.
- Help cities prepare for and address impacts of natural disasters and other emergencies.
- Enhance the provision of much needed human service programs to address issues that drive increased homelessness and public safety costs.
- Strengthen the Public Records Act in response to changing technology and burdensome requests.

Capital Priorities for the City of Spokane:

- Top Priority: Funds for Riverfront Park Bridges (\$6 million)
- Transitions cottage housing energy efficiency funds (\$500k)
- Fish Lake Trail Bridges (\$4 million),
- Spokane County Sportsplex Funding

Abbreviations: AWC: Associations of WA Cities, WTSC: Washington Traffic Safety Commission, BEL: Bellevue, CHE: Cheney, SEA: Seattle, TAC: Tacoma, TEK: Tekoa, VAN: Vancouver, YK: Yakima, OLY: Olympia, SRHD: Spokane Regional Health District, HRC: Human Rights Commission, WACADP: Washington Coalition to Abolish the Death Penalty, WFPAC: Washington Film Political Action Committee, Spok Cty: Spokane County.

**Agenda Sheet for City Council Meeting of:**

11/16/2015

Date Rec'd

10/28/2015

Clerk's File #

ORD C35320

Renews #**Submitting Dept**

ACCOUNTING

Cross Ref #**Contact Name/Phone**

KIM BUSTOS X6034

Project #**Contact E-Mail**

KBUSTOS@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

5600-ORDINANCE RELATING TO CONSOLIDATED LOCAL IMPROVEMENT

Agenda Wording

An Ordinance relating to local improvement districts; establishing a consolidated local improvement district bond redemption fund, and fixing the amount, form, date, and interest calculation, and maturity of the CLID 224A installment note.

Summary (Background)

This Ordinance authorizes the City to combine and consolidate 2 local improvement districts into Consolidated Local Improvement District No. 224A and issue an aggregate principal amount not to exceed \$ 306,901.53 of Consolidated Local Improvement District 224A Installment Note for the purpose of funding the unpaid balance of special assessments.

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

BUSTOS, KIM

Study Session**Division Director**

COOLEY, GAVIN

Other

Finance Comm 10/05/15

Finance

DAVIS, LEONARD

Distribution List**Legal**

DALTON, PAT

kbustos@spokanecity.org

For the Mayor

SANDERS, THERESA

mqureshi@spokanecity.org

Additional Approvals

mhughes@spokanecity.org

Purchasing

sstopher@spokanecity.org

jahensley@spokanecity.org

ORDINANCE NO. C35320

AN ORDINANCE of the City of Spokane, Washington, relating to local improvement districts; establishing Consolidated Local Improvement District No. 224A and a consolidated local improvement district bond redemption fund; fixing the amount, form, date, interest rate and maturity of the Consolidated Local Improvement District No. 224A Installment Note; providing for the purchase of that Note by the City from funds on deposit in the Spokane Investment Pool; and defining the interest rate on local improvement district assessment installments.

THE CITY OF SPOKANE DOES ORDAIN:

Section 1. Recitals.

1.1 The City Council of the City of Spokane, Washington (the "City"), heretofore has created Local Improvement Districts Nos. 2012066 and 2013080 (the "LIDs") for various purposes.

1.2 RCW 35.45.160 authorizes the establishment of consolidated local improvement districts for the purpose of issuing bonds only and provides that if the governing body of any municipality orders the creation of such consolidated local improvement district, the money received from the installment payment of the principal of and interest on assessments levied within the original local improvement districts shall be deposited in a consolidated local improvement district bond redemption fund to be used to redeem outstanding consolidated local improvement district bonds.

1.3 RCW 35.45.150 provides that in addition to issuing bonds in payment of the cost and expenses of any local improvement, a city may issue installment notes payable out of the relevant local improvement fund, and such notes are legal investments for any available surplus fund of the issuing city.

1.4 The City desires to provide a market-rate return on a portion of the funds it regularly invests while making those funds available on an interfund loan basis to finance the repayment of the installment note authorized herein; and

1.5 Pursuant to RCW 35.45.150, the City has determined to issue its Consolidated Local Improvement District No. 224A Installment Note in the aggregate principal amount not to exceed \$306,901.53 and finds it is in the best interest of the City that such note be purchased by the City from funds on deposit in the City Treasury's pooled cash portfolio and available for investment.

Section 2. Consolidation of Local Improvement Districts.

For the purpose of issuing bonds only (including issuance of an installment note under RCW 35.45.150), those local improvement districts of the City established by the

following ordinances, respectively, the 30-day period for making cash payment of assessments without interest in each local improvement district having expired in the case of the assessments for each local improvement district, are consolidated into a consolidated local improvement district to be known and designated as Consolidated Local Improvement District No. 224A:

Local Improvement District ("LID") No.	Created by Ordinance No.	Assessment Balance After 30-day Prepayment Period
2012066	C35270	\$240,404.17
2013080	C35271	\$66,497.36
Total		\$306,901.53

Section 3. Note Fund.

There is created and established in the office of the Chief Finance Officer of the City (the "Finance Officer") for Consolidated Local Improvement District No. 224A a consolidated local improvement district bond redemption fund, which shall consist of a special account within the City's previously established Special Assessment Debt Fund, and shall be known and designated as the Local Improvement Fund, CLID No. 224A Note Redemption Account (the "Note Fund"). All money presently on hand representing collections pertaining to installments of assessments and interest thereon in each of the local improvement districts listed in Section 2 shall be transferred to and deposited in the Note Fund, and all collections pertaining to assessments on the assessment rolls of those local improvement districts when hereafter received shall be deposited in the Note Fund to repay any principal outstanding of the Consolidated Local Improvement District No. 224A Note (defined hereafter).

Section 4. Authorization and Description of the Note.

The Consolidated Local Improvement District No. 224A Installment Note (the "Note") shall be issued pursuant to RCW 35.45.150 in the total principal amount not to exceed \$306,901.53 being the total amount on the assessment rolls of the LIDs remaining uncollected after the expiration of the respective 30-day interest-free prepayment periods for assessments on those assessment rolls. The Note shall be dated its date of delivery; shall mature on December 1, 2025; shall be in fully registered form; and shall be numbered R-4. The Note shall bear interest at the rate of _____% per annum computed on the basis of a 360-day year of twelve 30-day months, payable annually beginning December 1, 2016. The interest rate will be calculated on November 16, 2015, the date the ordinance is expected to be approved by City Council.

Section 5. Appointment of Note Registrar; Registration and Transfer of Note.

5.1 The Finance Officer of the City is appointed Note Registrar for the Note. The Note shall be issued to the City of Spokane (the "Registered Owner") as payee for the benefit of the Spokane Investment Pool, only in registered form as to both principal

and interest and shall be recorded on books or records maintained by the Note Registrar (the "Note Register"). The Note Register shall contain the name and mailing address of the Registered Owner. The Note may not be assigned or transferred by the Registered Owner. When the Note has been paid in full, both principal and interest, it shall be surrendered by the Registered Owner to the Note Registrar, who shall cancel the Note.

5.2 The Note Registrar shall keep, or cause to be kept, at its office, sufficient books for the registration of the Note. The Note Registrar is authorized, on behalf of the City, to authenticate and deliver the Note in accordance with the provisions of the Note and this ordinance, to serve as the City's paying agent for the Note and to carry out all of the Note Registrar's powers and duties under this ordinance. For purposes of this Note, the provisions of this ordinance shall constitute a system of registration for the City's notes and obligations. The Note Registrar shall be responsible for the representations contained in the Note Registrar's Certificate of Authentication on the Note.

Section 6. Payment of the Note.

Both principal of and interest on the Note shall be payable solely out of the Note Fund, and from the Local Improvement Guaranty Fund of the City, consistent with RCW 35.45.150 and chapter 35.54 RCW, and shall be payable in lawful money of the United States of America. Interest on the Note, and any prepaid principal thereon, shall be paid by check, draft or electronic or interfund transfer on the interest payment date to the Registered Owner at the address appearing on the Note Register. The final installment of principal and interest on the Note at maturity or prior repayment is payable at the office of the Note Registrar in Spokane, Washington, upon presentation and surrender of the Note.

Section 7. Prepayment Provisions.

The City reserves the right to prepay principal of the Note prior to its stated maturity on any interest payment date, at par plus accrued interest to the date fixed for prepayment, whenever there shall be sufficient money in the Note Fund to prepay the principal of the Note over and above the amount required for the payment of the interest then due on the Note. No notice of prepayment to the Registered Owner is required. Interest on the principal of the Note so prepaid shall cease to accrue on the date of such prepayment.

Section 8. Failure to Redeem the Note.

If the Note is not redeemed when properly presented at its maturity or earlier prepayment date, the City shall be obligated to pay interest on the Note at the same rate provided therein from and after its maturity date until the Note, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Note Fund and the Note has been called for payment by giving notice of that call to the Registered Owner.

Section 9. Form and Execution of the Note.

9.1 The Note shall be printed, lithographed or typed on good Note paper in a form consistent with the provisions of this ordinance and state law (including RCW 35.45.150), shall be signed by the Mayor and attested by the City Clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon.

9.2 Only the Note bearing a Certificate of Authentication in the following form, manually signed by the Note Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance:

CERTIFICATE OF AUTHENTICATION

This Note is the fully registered City of Spokane, Washington, Consolidated Local Improvement District No. 224A Installment Note described in the Note Ordinance.

[SPECIMEN]

9.3 The authorized signing of the Certificate of Authentication shall be conclusive evidence that the Note so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

Section 10. Purchase and Sale of the Note.

The City shall purchase the Note from funds available for investment on deposit in the Spokane Investment Pool at a price of par. The proper City officials are authorized and directed to do everything necessary for the prompt delivery of the Note and for the proper application and use of the proceeds of the sale thereof.

Section 11. Fixing Interest Rate on Assessments.

The interest rate on the installments and delinquent payments of the LIDs are revised and fixed at the rate of the SIP Internal Lending Rate.

Section 12. Ratification.

All actions heretofore taken by the Council, the Mayor, and the City's officers and employees, with respect to the LIDs, are hereby ratified and approved.

Section 13. Validity.

If any provision of this ordinance shall be declared by any court of competent jurisdiction to be invalid, then such provision shall be null and void and shall be separable from the remaining provisions of this ordinance and shall in no way affect the validity of the other

provisions of this ordinance, of the Bonds or of the levy or collection of the taxes pledged to pay and retire the Bonds.

Passed the City Council on _____

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date



OFFICE OF THE CITY CLERK
808 W. SPOKANE FALLS BLVD.
SPOKANE, WASHINGTON 99201-3342
509.625.6350

September 16, 2015

City Clerk File No.:
ORD C35274


COUNCIL ACTION MEMORANDUM

RE: ORDINANCE C35274 RELATING TO THE PROCESS OF FILLING VACANCIES
IN THE POSITION OF POLICE OMBUDSMAN

During its 3:30 p.m. Administrative Session held Monday, August 10, 2015, upon review of the August 10, 2015, Current Agenda, the Spokane City Council took the following action:

Motion by Council Member Snyder, seconded by Council Member Stratton, **to defer** Final Reading Ordinance C35274—relating to the process of filling vacancies in the position of police ombudsman—for 90 days (or to November 9, 2015); **carried unanimously.**

(Clerical Note: Following the August 10, 2015, City Council Meeting, it was discovered that Ordinance C35274 was inadvertently placed on the August 10, 2015, Agenda as a Final Reading Ordinance rather than as a First Reading Ordinance. Ordinance C35274 was initially deferred as a first reading ordinance by City Council on June 22 and then staff inadvertently placed the ordinance as a Final Reading Ordinance on the August 10 Current Agenda, with Council action taken as reflected above. In light of this oversight, the ordinance will be placed under "First Reading Ordinances" on the November 9, 2015, agenda rather than under "Final Reading Ordinances.")


Terri L. Pfister, MMC
Spokane City Clerk



OFFICE OF THE CITY CLERK
808 W. SPOKANE FALLS BLVD.
SPOKANE, WASHINGTON 99201-3342
509.625.6350

June 29, 2015

City Clerk File No.:
ORD C35274

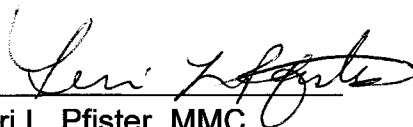
COUNCIL ACTION MEMORANDUM

RE: FIRST READING ORDINANCE C35274 RELATING TO THE PROCESS FOR FILLING VACANCIES IN THE POSITION OF POLICE OMBUDSMAN

During the Spokane City Council's 6:00 p.m. Legislative Session held Monday, June 22, 2015, Council President Stuckart suggested Ordinance C35274 be deferred for six weeks in order to send it to negotiations. Council Member Snyder presented a motion to defer the ordinance in order to give the Administration a chance to speak with the bargaining units about the impact of this ordinance. Subsequently, the following action was taken:

Motion by Council Member Snyder, seconded by Council Member Allen, **to defer** First Reading Ordinance C35274—Relating to the process for filling vacancies in the position of police ombudsman; amending SMC section 04.32.080 and SMC section 04.32.090—for six weeks to give some time for that dialogue (between Administration and the bargaining units) to occur; **carried unanimously.**

(Clerical Note: The deferral of Ordinance C35274 for six weeks falls on Monday, August 3, 2015. The City Council meeting for August 3 has been canceled. Therefore, the matter is instead deferred to Council's August 10, 2015, Agenda.)


Terri L. Pfister, MMC
Spokane City Clerk



Agenda Sheet for City Council Meeting of:
08/10/2015

Date Rec'd	6/10/2015
Clerk's File #	ORD C35274
Renews #	

Submitting Dept	CITY COUNCIL	Cross Ref #	
Contact Name/Phone	JON SNYDER 6254	Project #	
Contact E-Mail	JSNYDER@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	0320 ORD RE VACANCIES FOR POLICE OMBUDSMAN		

Agenda Wording

An ordinance relating to the process for filling vacancies in the position of police ombudsman; amending SMC section 04.32.080 and SMC section 04.32.090.

Summary (Background)

This ordinance amends SMC Section 04.32.080 and SMC Section 04.32.090 to require that the OPO Commission appoint an interim Police Ombudsman (for a term not to exceed six months) within forty-five days of notice regarding a vacancy in the position.

Fiscal Impact		Budget Account	
Select	\$		#
Select	\$		#
Select	\$		#
Select	\$		#
Approvals		Council Notifications	
Dept Head	STUCKART, BEN	Study Session	
Division Director		Other	
Finance	DAVIS, LEONARD	Distribution List	
Legal	DALTON, PAT		
For the Mayor	SANDERS, THERESA		
Additional Approvals			
Purchasing			

ORDINANCE NO. C35274.

An ordinance relating to the process for filling vacancies in the position of police ombudsman; amending SMC section 04.32.080 and SMC section 04.32.090.

The City of Spokane does ordain:

Section 1. That section 04.32.080 of the Spokane Municipal Code to read as follows:

Section 04.32.080 Appointment

- A. Whenever there is a vacancy in the police ombudsman position due to expiration of term, resignation, sickness, death, retirement, conflict of interest, or any other reason, the commission shall, at the next regular meeting following its receipt of notice of the vacancy, form a ((A)) selection committee which shall consist of five members, and which shall forward to the commission its ~~((committee)) will be formed that will recommend~~ recommended list of no more than five (5) ~~((three))~~ candidates for the police ombudsman ~~((OPO))~~ position, one of which shall be selected. ~~((to the commission, one of which must be selected.))~~ The committee shall be composed of:
1. one member appointed by the Spokane Police Officers Guild,
 2. one member appointed by the Lieutenants and Captains Association,
 3. one member appointed by the city council,
 4. one member appointed by the mayor, and
 5. the fifth member selected by the other four members.
- B. ~~((The commission must appoint one of the three individuals recommended by the committee to the OPO position.))~~The five member selection committee will select the committee's chair.
- C. The commission shall, within forty-five (45) days of its receipt of notice of a vacancy in the police ombudsman position, appoint an interim police ombudsman for a term not to exceed six (6) months. Should a permanent ombudsman not be selected and hired within the term of the interim police ombudsman, the commission may, with the prior approval of the city council, extend the interim police ombudsman's term for three (3) months. If the commission fails to appoint an interim ombudsman, the city council shall appoint an interim ombudsman, to serve until the permanent police ombudsman is hired.
- D. In order to remain prepared for future vacancies, the commission should maintain a list of applicants for the positions of interim and permanent police ombudsman from which future interview pools can be drawn.
- E. Any period of service as interim police ombudsman, by itself, shall not disqualify the person holding that office from being considered for the permanent police ombudsman position.
- F. The selection committee shall, according to its own process and organizing principles, forward a list of no more than five (5) qualified candidates for the position of permanent police ombudsman to the commission no later than one hundred twenty (120) days from the committee's formation. For purposes of this

section, the “committee’s formation” occurs when the final member of the committee is seated.

- G. No later than sixty (60) days after receiving the selection committee’s list of qualified candidates for the position of permanent police ombudsman, the commission shall select one of the individuals on the list for appointment as permanent police ombudsman.

Section 2. That section 04.32.090 of the Spokane Municipal Code is amended to read as follows:

Section 04.32.090 Term

- A. The appointment of the police ombudsman shall be for an initial three-year term.
- B. A current police ombudsman may be reappointed for additional terms not to exceed three years upon reappointment by the commission. If commission does not approve the reappointment prior to the expiration of the appointment term, the appointment term shall expire at the end of the term.
- C. ~~((Should a vacancy in the position occur, due to expiration of term, resignation, sickness, death, retirement, conflict of interest, or any other reason, the commission appoints an interim police ombudsman for a term not to exceed four months, in compliance with the appointment process stipulated in SMC 4.32.080. The selection committee referenced in SMC 4.32.080 must meet within thirty days of notification by the commission of the need to appoint an interim police ombudsman.))~~

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:
11/23/2015

Date Rec'd	11/5/2015
Clerk's File #	ORD C35321
Renews #	

Submitting Dept	CITY COUNCIL	Cross Ref #	
Contact Name/Phone	BENSTUCKART 625-6269	Project #	
Contact E-Mail	AMCDANIEL@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	0320 INCLEMENT WEATHER CENTER FOR HOMELESS INDIVIDUALS & FAMILIES		

Agenda Wording

An ordinance relating to inclement weather centers for homeless individuals and families in the City of Spokane; creating new section 10.08E of the Spokane Municipal Code.

Summary (Background)

This ordinance states that warming centers will be activated on each day during which the temperature is predicted by the National Weather Service to be 20 degrees Fahrenheit or lower. Cooling centers will be activated when the temperature is predicted by the National Weather Service to be 100 degrees Fahrenheit or higher for 3 consecutive days or more.

Fiscal Impact		Budget Account	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	MCDANIEL, ADAM	Study Session	
Division Director		Other	CHE
Finance	KECK, KATHLEEN	Distribution List	
Legal	DALTON, PAT	Jonathan Mallahan	
For the Mayor	SANDERS, THERESA	Ben Stuckart	
Additional Approvals		Adam McDaniel	
Purchasing		Brian McClatchey	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

Safe air centers will be activated for any day on which the Spokane Regional Clean Air Agency forecasts the current air quality index to reach 250 or higher. Emergency centers may also be activated by the Mayor or the Mayor's designee on any day in which a civil emergency or extreme storm or weather condition exists. The CHHS Department is responsible for establishing the rules and procedures for implementing the ordinance.

Fiscal Impact

Select \$

Budget Account

#

Select \$

#

Distribution List

ORDINANCE NO. C35321.

An ordinance relating to inclement weather centers for homeless individuals and families in the City of Spokane; creating new section 10.08E of the Spokane Municipal Code.

WHEREAS, homelessness is an ongoing issue of concern in the City of Spokane; and

WHEREAS, Spokane's homeless population is particularly susceptible to the effects of extreme weather and other emergency conditions; and

WHEREAS, The City Council finds that it is important for the protection of the general welfare of the citizens and residents of the City to codify provisions for inclement weather centers for homeless individuals and families in Spokane which had been provided for by resolution from time to time.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That a new chapter 10.08E within Title 10 of the Spokane Municipal Code is enacted to read as follows:

Chapter 10.08E Inclement Weather Centers

Section 10.08E.010 Legislative findings and purposes

- A. Centers for the protection of homeless individuals and families during inclement weather is vital, whether due to extreme cold, extreme heat, poor air quality conditions, severe storms, or other types of civil emergencies.
- B. The City Council has, from time to time in the past, passed resolutions stating the guidelines and triggering conditions for the activation of emergency warming centers in the City of Spokane, noting that extreme weather conditions can create an extreme danger for homeless people in Spokane and puts a great strain on service providers.
- C. This chapter is intended to codify and supersede those prior resolutions, including, most recently, Resolution No. 2014-0018 (Feb. 24, 2014).

Section 10.08E.020 Activation Criteria

- A. The activation criteria for inclement weather centers in the City of Spokane as follows:
 - 1. Warming centers will be activated on each day during which the temperature is predicted by the National Weather Service to be twenty (20) degrees Fahrenheit or lower and designated shelter space was at ninety percent (90%) capacity or greater during the previous night. The

City may, by contract with its center provider, raise the activation temperature for warming centers, but in no event will the activation temperature be higher than thirty-two (32) degrees Fahrenheit.

2. Cooling centers will be activated when the temperature is predicted by the National Weather Service to be 100 (one hundred) degrees Fahrenheit or higher for three (3) consecutive days or more.
3. Safe air centers will be activated for any day on which the Spokane Regional Clean Air Agency forecasts the current air quality index to reach 250 or higher.
4. Emergency centers may also be activated by the Mayor or the Mayor's designee on any day in which a civil emergency or extreme storm or weather condition exists or is predicted to occur and which, in the determination of the Mayor or the Mayor's designee, poses a severe threat to the health or safety of homeless individuals and families in the City of Spokane.

B. The Community Health and Human Services ("CHHS") Department shall implement the appropriate policies and procedures, including without limitation making funding requests; recommendations regarding center providers; the designation of specific locations to be used as warming, cooling, and safe air centers; and the arrangement of other appropriate measures to the City Council in order to carry out the specific provisions and intent of this section.

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:
11/23/2015

Date Rec'd	11/11/2015
Clerk's File #	ORD C35324
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY COUNCIL
Contact Name/Phone	BRIAN 6210 MCCLATCHEY
Contact E-Mail	BMCCLATCHEY@SPOKANECITY.ORG
Agenda Item Type	Final Reading Ordinance
Agenda Item Name	DEVELOPER INCENTIVES

Agenda Wording

This proposed ordinance reconfigures the boundaries of the existing Empowerment Zone, renames it the Central Incentive Area, and clarifies that general facilities charges are waived for water and sewer within the CIA.

Summary (Background)

In order to encourage greater infill development within the central area of the city, and to implement the policy stated in Resolution 2015-0084 (Aug. 12, 2015) to greater more focused, transparent, and measureable developer incentives, this proposed ordinance amends the current Empowerment Zone to make it more specifically focused on the central area of the City.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 150,000 annually	#	various accounts
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	STUCKART, BEN	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE	ssimmons@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	aworlock@spokancity.org	
<u>Additional Approvals</u>		tstripes@spokanecity.org	
<u>Purchasing</u>			

ORDINANCE NO. C35324.

An ordinance relating to the City of Spokane's Central Incentives Area; amending sections 13.04.2042 and 13.03.0732 of the Spokane Municipal Code.

WHEREAS, development incentives can and should be targeted to those areas where they will do the most good for a variety of measures; and

WHEREAS, Council members and staff have worked to develop an incentive framework which provides for focused, accountable, clear, and measurable outcomes; and

WHEREAS, the Council passed Resolution 2015-0084 to give staff direction on how best to proceed with the process, including a request that staff recommend specific ordinance and/or policy changes to put the incentives strategy into effect; and

WHEREAS, an amendment to the City's existing Empowerment Zone is needed to conform the specified areas with the incentives measures under consideration.

NOW, THEREFORE, the City of Spokane does ordain:

Section 1. That section 13.04.2042 of the Spokane Municipal Code is amended to read as follows:

Section 13.04.2042 Water General Facilities Charge – Schedule of Charges

A. Findings – General Facilities Charge (GFC).

The ~~((city council))~~ City Council finds:

1. under the previous system providing for collection of latecomer connection charges under chapter 35.91 RCW or special connection charges under RCW 35.92.025, customers happening to connect in certain areas must pay extra costs, although the primary benefit of access to the public water system is the same to a new customer, whether the customer is within or outside an area subject to such special connection charges. Additionally, upgraded customers moving from a smaller to a larger connection capacity gain additional system benefits, but may otherwise escape paying a special connection or latecomer charge, once having connected and paid an initial connection charge based on a smaller size connection.
2. undue administrative burdens and costs are created in administering various connection and latecomer charges, each of which may have differing trigger dates and which may also have differing limits in terms of allowable interest accruing on such payments as well as the period or periods such charges may be collected.
3. there is a system-wide benefit, served by a uniform, adjustable GFC, in encouraging system growth through infilling certain unserved areas and

considering that expanding the overall customer ratebase and customer densities will reduce fixed costs which must otherwise be spread over all classes of ratepayers.

4. it is in the public interest to provide for a more uniform rate structure and to replace individual area connection or latecomer fees with a single GFC rate, except only as may be distinguished by the size of connection or connection upgrade, as provided hereafter.
5. it is further in the public interest that those adding additional costs or burdens to the City water system by creating need and demand for new system growth and infill needs in the City water system should pay a GFC therefore. Such customers should be treated and classified in common with customers formerly also subject to a special connection or latecomer connection charge, so that only one uniform GFC should be paid by all customers with new or upgraded utility service.

B. Findings; (~~(Empowerment Zone)~~) Central Incentives Area.

The (~~(city council)~~) City Council finds:

1. Washington State's growth management laws, including RCW 36.70A.110, encourage development first within existing urban areas before moving to other areas.
2. the City of Spokane's comprehensive plan and state growth management policies encourage the "infilling" of developed areas that still have some growth capacity. A consequence of not doing this is sprawling development out in long corridors or scattered areas, making the extension of needed urban services more expensive and less efficient for the public.
3. costs of encouraging development in more densely populated areas already served by existing utility lines is lower than extending new lines to more remote undeveloped areas. Existing utility lines are installed and designed to serve the full growth potential of an area, so it is an unwise use of resources to continue extending lines where some growth can still occur in developed areas.
4. the (~~(empowerment zone)~~) Central Incentives Area (CIA) established herein is in the category of a more densely populated area rather than a more remote, undeveloped area. The savings that City sewer and water utilities realize by encouraging development in the (~~(empowerment zone)~~) CIA, through not assessing a GFC to customers located there, is roughly proportional to the loss of the GFC revenues.
5. properties within the (~~(empowerment zone)~~) CIA are identified as generally of lower value investment than other areas served. The opportunity for new development in the (~~(empowerment zone)~~) CIA to recover acceptable investment value is of a more marginal, doubtful and unlikely character than customers connecting in areas outside the (~~(empowerment zone)~~) CIA. Adding a GFC charge to the class of

customers in the ~~((empowerment zone))~~ CIA would make it significantly more difficult for further development or new connections in such areas. This result is contrary to public policy, growth management laws, and responsible utility system management for the overall benefit of the ratepayers. Encouraging development in the ~~((empowerment zone))~~ CIA will benefit the City sewer and water utilities by new customer revenues, which would otherwise be lost if a GFC were assessed because such development would be less likely to occur.

6. the ~~((empowerment zone))~~ CIA as an area substantially deficient in development and heavily populated with low income and fixed income, poor or elderly customers.
7. there is a reasonable basis to classify customers seeking connections to premises in an ~~((empowerment zone))~~ CIA not to be subject to GFC charge.

C. ~~((Empowerment Zone-))~~ The boundaries of the CIA are:

~~((All that property located within the following described area:-~~

~~Census tracts 1, 2, 4, 14, 15, 16, 20, 23, 24, 25, 26, 27, 28, 30, 31, 33, 34, 35, 36, 40 according to the U.S. Census Bureau 1990 TIGER census data database. Situate in the City of Spokane, Spokane County, Washington.))~~

On the west, the Spokane River;

On the south, a line running from Latah Creek to 9th Avenue, then east on 9th Avenue to Lincoln Street, then north on Lincoln Street to 5th Avenue, then east on 5th Avenue to Sherman Street, then south on Sherman Street to 9th Avenue, then east on 9th Avenue from Sherman Street to Havana Street;

On the east, a line running north on Havana Street from 9th Avenue to Francis Avenue, excluding Minnehaha Park and Esmerelda Golf Course;

On the north, a line running west along Francis Avenue from Havana to Division Street, then south on Division Street to Indiana Avenue, then west on Indiana Avenue to Monroe Street, then north on Monroe Street to Garland Avenue, then west on Garland Avenue to Ash Street, then south on Ash Street to Fairview Avenue, then west on Fairview Avenue to Cochran Street, then south on Cochran Street and T.J. Meenach Drive to the Spokane River; and

All land within the City Limits of the City of Spokane which is owned or controlled by, or which is subject to proprietary interest of, the Spokane Airport Board.

~~The ((director of public works)) Director of Public Works ((is authorized to adjust this boundary consistent with the findings and purpose of this section. A copy of the empowerment zone map-)) shall ((be maintained)) maintain a copy of the map of the CIA (Attachment A to this ordinance) ((on file with the director of public works)) for public inspection.~~

D. Charge for new ((Service))service or new upgrades inside the ((empowerment-zone)) CIA: No charge.

E. Service Outside ((Empowerment Zone))CIA.

1. For new service or new upgrades of existing service to the City water system, a GFC is assessed as provided hereafter. The charge will be based upon the tap size required for the facility. If the size of a previous connection is upgraded to a larger connection, only the difference between the charges for the size of a connection, as shown at the time of connection, is charged.

TYPE	WATER TAP SIZE	GFC
House*	NA	\$1,232
Duplex	NA	\$2,464
Multi-family**	2-inch or less	\$3,485
Multi-family	3-inch	\$6,402
Multi-family	4-inch	\$9,857
Multi-family	6-inch	\$18,108
Multi-family	8-inch	\$27,878
Multi-family	10-inch	\$38,961
Multi-family	12-inch	\$51,216
Commercial	1-inch or less	\$1,232
Commercial	2-inch	\$3,485
Commercial	3-inch	\$6,402
Commercial	4-inch	\$9,857
Commercial	6-inch	\$18,108

Commercial	8-inch	\$27,878
Commercial	10-inch	\$38,961
Commercial	12-inch	\$51,216
<p>* In a PUD, each house is charged individually the rate listed for "house."</p> <p>** Multi-family represents three or more living units.</p>		

2. The water GFC is intended to supersede all prior special connection capital charges assessed to defray an equitable share of the cost of the City water system, except for such charges the City may be bound to continue pursuant to chapter 35.91 RCW (developer latecomer charges), or which the City remains legally bound to collect.
 - a. Except for such charges, it is the intent of the ~~((city council))~~ City Council to supersede all previous special connection capital charges of any form or nature, replacing all such charges with a single water GFC for any new connections or connection or service demand upgrades to the City water system at any location served by said system.
 - b. The GFC is to be used to finance new system growth and infill needs created by new or upgraded customers. In the case of latecomer contracts entered into under chapter 35.91 RCW and the like, the GFC herein supersedes the amount to be collected from a party seeking connection.
 - c. However, any GFC collected does not increase or decrease amounts the City may previously have contracted to reimburse to a third party at the time of allowing a connection, said parties to be paid by the City as provided under the preexisting contract.
 - d. Hereafter, consistent with this ordinance, the ~~((director of public works))~~ Director of Public Works may make provision for reimbursement of third parties for facility construction costs, but hereafter, the amount of reimbursement per connection shall not exceed the GFC amount collected, which may change from year to year as the ~~((city council))~~ City may adjust the GFC.
3. Adjustments.
 The charge for a water connection can be adjusted upon a showing of prior payment of similar charges, or for other sound considerations of

fairness, as determined by the (~~director of public works~~) Director of Public Works.

- a. To be eligible for such adjustment, a party required to pay a water GFC must submit a written application to the (~~director of public works~~) Director of Public Works, together with any supporting materials and explanation.
 - b. The (~~director of public works~~) Director of Public Works must receive such materials no later than the time of connection of the subject premises.
 - c. No adjustment may exceed the amount of the water GFC applicable to the connection requested.
4. The water GFC applies, in addition to all other non-capital connection, permit or other fees required by this code or elsewhere. The charge is due and payable in full at or before the time of connection or as otherwise ordered by the (~~director of public works~~) Director of Public Works.
 5. The (~~director of public works~~) Director of Public Works may record appropriate notice with the county auditor concerning areas subject to the water GFC pursuant to the requirements of RCW 65.08.170 and RCW 65.08.180, as applicable, reserving the possibility of upgrade charges.

Section 2. That section 13.03.0732 of the Spokane Municipal Code is amended to read as follows:

Section 13.03.0732 Wastewater General Facilities Charge (GFC) – Schedule of Charges

A. Findings – General Facilities Charge.

The (~~city council~~) City Council finds:

1. under the previous system providing for collection of latecomer connection charges under chapter 35.91 RCW or special connection charges under RCW 35.92.025, customers happening to connect in certain areas must pay extra costs, although the primary benefit of access to the public sewer system is the same to a new customer, whether the customer is within or outside an area subject to such special connection charges.
 - a. Additionally, upgraded customers moving from a smaller to a larger connection capacity gain additional system benefits, but may otherwise escape paying a special connection or latecomer charge, once having connected and paid an initial connection charge based on a smaller size connection;
2. undue administrative burdens and costs are created in administering various connection and latecomer charges, each of which may have

differing effective dates and which may also have differing limits in terms of allowable interest accruing on such payments as well as the period or periods such charges may be collected;

3. there is a system-wide benefit, served by a uniform, adjustable ~~((general facilities charge))~~ GFC, in encouraging system growth through infilling certain unserved areas and considering that expanding the overall customer rate base and customer densities will reduce fixed costs which must otherwise be spread over all classes of ratepayers;
4. it is in the public interest to provide for a more uniform rate structure and to replace individual area connection or latecomer fees with a single ~~((general facilities charge))~~ GFC rate, except only as may be distinguished by the size of connection or connection upgrade, as provided hereafter;
5. it is further in the public interest that those adding additional costs or burdens to the City sewer system by creating need and demand for new system growth and infill needs in the City sewer system should pay a ~~((general facilities charge))~~ GFC therefor. Such customers should be treated and classified in common with customers formerly also subject to a special connection or latecomer connection charge, so that only one uniform ~~((general facilities charge))~~ GFC should be paid by all customers with new or upgraded utility service.

B. Findings – ~~((Empowerment Zone))~~ Central Incentives Area (CIA).

The ~~((city council))~~ City Council finds:

1. Washington State's growth management laws, including RCW 36.70A.110, encourage development first within existing urban areas before moving to other areas.
2. the City of Spokane's comprehensive plan and state growth management policies encourage the "infilling" of developed areas that still have some growth capacity. A consequence of not doing this is sprawling development out in long corridors or scattered areas, making the extension of needed urban services more expensive and less efficient for the public;
3. costs of encouraging development in more densely populated areas already served by existing utility lines is lower than extending new lines to more remote undeveloped areas. Existing utility lines are installed and designed to serve the full growth potential of an area, so it is an unwise use of resources to continue extending lines where some growth can still occur in developed areas;
4. the ~~((empowerment zone))~~ CIA established herein is in the category of a more densely populated area rather than a more remote, undeveloped area. The savings that City sewer and water utilities realize by encouraging development in the ~~((empowerment zone))~~ CIA, through not assessing a ~~((general facilities charge))~~ GFC to customers

located there, is roughly proportional to the loss of the ~~((general facilities charge))~~ GFC revenues;

5. properties within the ~~((empowerment zone))~~ CIA are identified as generally of lower value investment than other areas served. The opportunity for new development in the ~~((empowerment zone))~~ CIA to recover acceptable investment value is of a more marginal, doubtful and unlikely character than customers connecting in areas outside the ~~((empowerment zone))~~ CIA. Adding a ~~((general facilities charge))~~ GFC to the class of customers in the ~~((empowerment zone))~~ CIA would make it significantly more difficult for further development or new connections in such areas. This result is contrary to public policy, growth management laws and responsible utility system management for the overall benefit of the ratepayers. Encouraging development in the ~~((empowerment zone))~~ CIA will benefit the City sewer and water utilities by new customer revenues, which would otherwise be lost if a ~~((general facilities charge))~~ GFC were assessed because such development would be less likely to occur;
6. the ~~((empowerment zone))~~ CIA as an area substantially deficient in development and heavily populated with low income and fixed income, poor or elderly customers;
7. there is a reasonable basis to classify customers seeking connection to premises in an ~~((empowerment zone))~~ CIA not to be subject to a ~~((general facilities charge))~~ GFC.

C. Empowerment Zone The boundaries of the CIA are:

~~((All that property located within the following described area:-~~

~~Census tracts 1, 2, 4, 14, 15, 16, 20, 23, 24, 25, 26, 27, 28, 30, 31, 33, 34, 35, 36, 40 according to the U.S. Census Bureau 1990 TIGER census data database. Situate in the City of Spokane, Spokane County, Washington.))~~

On the west, the Spokane River;

On the south, a line running from Latah Creek to 9th Avenue, then east on 9th Avenue to Lincoln Street, then north on Lincoln Street to 5th Avenue, then east on 5th Avenue to Sherman Street, then south on Sherman Street to 9th Avenue, then east on 9th Avenue from Sherman Street to Havana Street;

On the east, a line running north on Havana Street from 9th Avenue to Francis Avenue, excluding Minnehaha Park and Esmerelda Golf Course;

On the north, a line running west along Francis Avenue from Havana to Division Street, then south on Division Street to Indiana Avenue, then west on Indiana Avenue to Monroe Street, then north on Monroe Street to Garland Avenue, then west on Garland Avenue to Ash Street, then south on Ash Street to Fairview Avenue, then west on Fairview Avenue to Cochran Street, then south on Cochran Street and T.J. Meenach Drive to the Spokane River; and

All land within the City Limits of the City of Spokane which is owned or controlled by, or subject to a proprietary interest of, the Spokane Airport Board.

~~The ((director of public works))~~ Director of Public Works ~~((is authorized to adjust this boundary consistent with the findings and purpose of this section. A copy of the empowerment zone map-))~~ shall ~~((be maintained))~~ maintain a copy of the map of the CIA (Attachment A to this ordinance) ~~((on file with the director of public works))~~ for public inspection.

D. Charge for new ((Service))service or new upgrades inside the ((empowerment-zone)) CIA: No charge.

E. Service Outside ((Empowerment Zone)) the CIA.

1. For new service or new upgrades to existing service from the City sewer system, a wastewater ~~((general facilities charge))~~ GFC is assessed as provided hereafter. The charge will be based on the water tap size that would otherwise be required for the facility without fire flow and/or irrigation flow.
 - a. Upgrades are charged at the current difference between the old and new connection size charges.

TYPE	WATER TAP SIZE	CHARGE
House*	NA	\$2,400
Duplex	NA	\$4,800
Multi-family**	2 inches or less	\$6,767
Multi-family	3 inches	\$12,468
Multi-family	4 inches	\$19,194
Multi-family	6 inches	\$35,265
Multi-family	8 inches	\$54,299
Multi-family	10 inches	\$75,876
Multi-family	12 inches	\$99,753
Commercial	1 inch or less	\$2,400
Commercial	2 inches	\$6,787
Commercial	3 inches	\$12,468
Commercial	4 inches	\$19,194
Commercial	6 inches	\$35,265

Commercial	8 inches	\$54,299
Commercial	10 inches	\$75,876
Commercial	12 inches	\$99,753
* In a PUD, each house is charged individually the rate listed for "House".		
** Multi-family represents three or more living units.		

2. The wastewater ~~((general facilities charge))~~ GFC is intended to supersede all prior special connection capital charges assessed to defray an equitable share of the cost of the City sewer system, except for such charges the City may be bound to continue pursuant to chapter 35.91 RCW (Developer Latecomer Charges) or which the City otherwise remains legally bound to collect.
 - a. Except for such charges, it is the intent of the ~~((city council))~~ City Council to supersede all previous special connection capital charges of any form or nature, replacing all such charges with a single wastewater ~~((general facilities charge))~~ GFC for any new connections or connection or service demand upgrades to the City sewer system at any location served by said system.
 - b. The ~~((general facilities charge))~~ GFC is to be used to finance new system growth and infill needs created by new or upgraded customers.
 - c. In the case of latecomer contracts entered into under chapter 35.91 RCW and the like, the ~~((general facilities charge))~~ GFC herein supersedes the amount to be collected from a party seeking connection. However, any ~~((general facilities charge))~~ GFC collected does not increase or decrease amounts the City may previously have contracted to reimburse to a third party at the time of allowing a connection, said parties to be paid by the City as provided under the pre-existing contract.
 - d. Hereinafter consistent with this ordinance, the ~~((director))~~ Director of Public Works may make provision for reimbursement of third parties for facility construction costs, but hereafter, the amount of reimbursement per connection shall not exceed the ~~((general facilities charge))~~ GFC amount collected, which may change from year to year as the ~~((city council))~~ City Council may adjust the ~~((general facilities charge))~~ GFC.
3. Adjustments.
 The charge for a wastewater connection can be adjusted for facilities with water tap sizes two inches and greater when the tap size also accounts for fire flow and/or irrigation flow upon a showing of prior payment of similar charges, or for other sound considerations of

fairness, as determined by the ~~((wastewater management director))~~
Wastewater Management Director.

- a. To be eligible for such adjustment, a party required to pay a wastewater ~~((general facilities charge))~~ GFC must submit a written application to the ~~((wastewater director))~~ Wastewater Management Director, together with any supporting materials and explanation. The ~~((director))~~ Wastewater Management Director must receive such materials at the time of application for connection of the subject premises.
 - b. No adjustment may exceed the amount of the ~~((general facilities charge))~~ GFC applicable to the connection requested.
4. The wastewater ~~((general facilities charge))~~ GFC applies in addition to all other non-capital connection, permit or other fees required by this code or elsewhere, to parties seeking to connect premises who have not paid an equitable share of the cost of the City's sewer system as determined by the ~~((wastewater director))~~ Wastewater Management Director.
- a. The charge is due and payable in full at the time of application for connection or as otherwise ordered by the ~~((director))~~ Director of Public Works.
5. The ~~((wastewater director))~~ Wastewater Management Director may record appropriate notice with the county auditor concerning areas subject to the wastewater ~~((general facilities charge))~~ GFC in accord with RCW 65.08.170 and RCW 65.08.180, as applicable.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

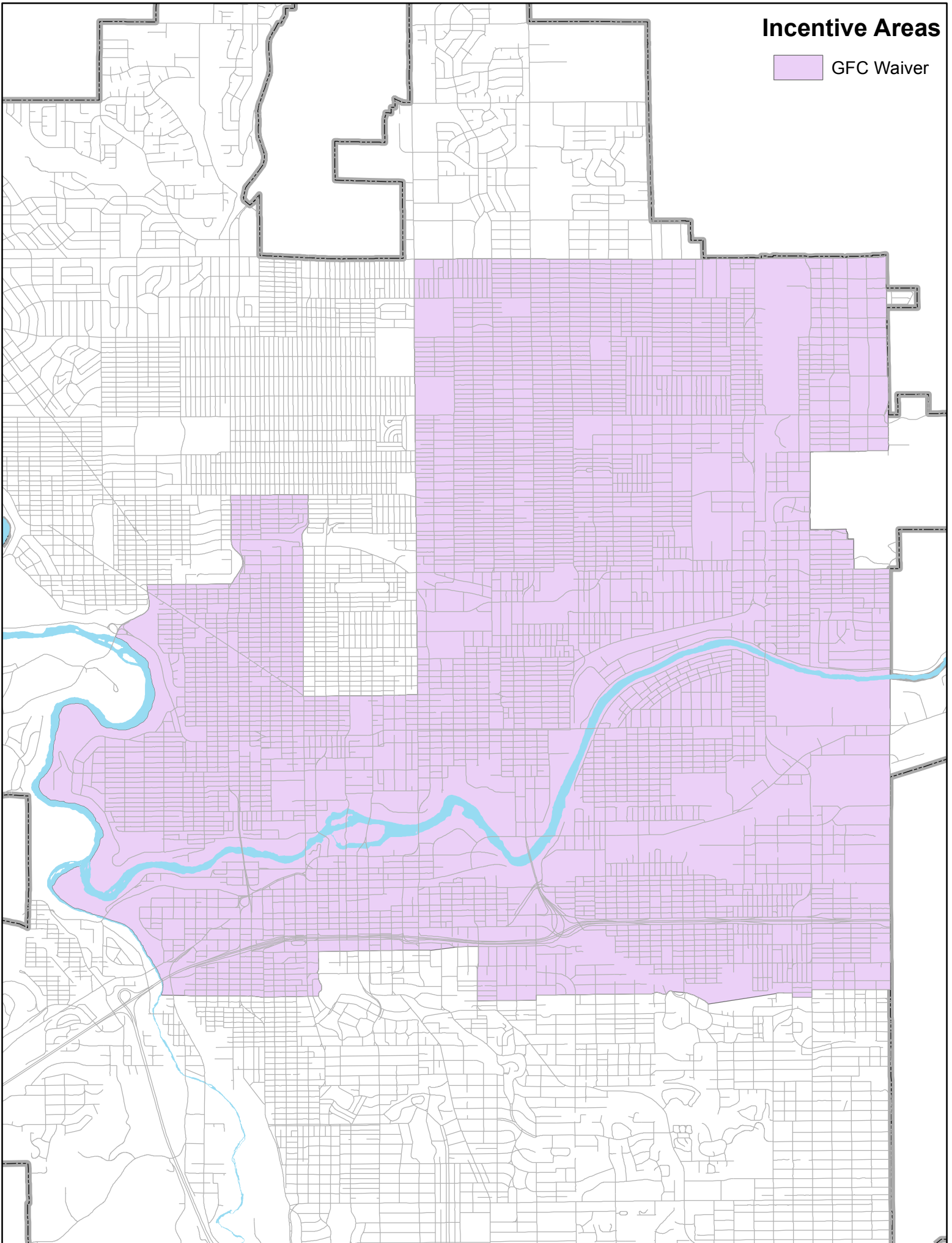
Mayor

Date

Effective Date

Incentive Areas

 GFC Waiver





OFFICE OF THE CITY CLERK
808 W. SPOKANE FALLS BLVD.
SPOKANE, WASHINGTON 99201-3342
509.625.6350

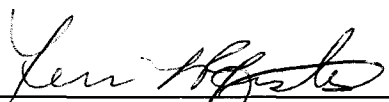
October 19, 2015

City Clerk File No.:
FIN 2015-0001

COUNCIL ACTION MEMORANDUM

RE: SETTING PUBLIC HEARINGS (1) ON POSSIBLE REVENUE SOURCES FOR THE 2016 BUDGET and (2) FOR REVIEW OF THE 2016 PROPOSED BUDGET

During its 3:30 p.m. Administrative Session held Monday, October 19, 2015, the Spokane City Council, upon consideration of the October 19 Current Consent Agenda, unanimously approved the setting of hearings (1) on possible revenue sources for the 2016 Budget for November 2, 2015, and (2) for review of the 2016 Proposed Budget beginning Monday, November 9, 2015, and continuing thereafter at the regular council meetings during the month of November.



Terri L. Pfister, MMC
Spokane City Clerk



Agenda Sheet for City Council Meeting of:
11/9/2015

Date Rec'd	10/7/2015
Clerk's File #	FIN 2015-0001
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	FINANCE
Contact Name/Phone	TIM DUNIVANT 625-6845
Contact E-Mail	TDUNIVANT@SPOKANECITY.ORG
Agenda Item Type	Hearings
Agenda Item Name	0410 - SET BUDGET HEARINGS

Agenda Wording

Setting the hearings for review of the 2016 Proposed Budget beginning Monday, November 9, 2015 and continuing thereafter at the regular council meetings during the month of November.

Summary (Background)

As part of the annual budget process, the City Council will hold public hearings on the proposed 2016 budget for the City of Spokane. Public testimony is welcome on all sections of the budget at each hearing. The first hearing will be held on November 9, 2015 and are currently scheduled to continue each Monday during the month of November. The Council may continue the hearing up to the 25th day prior to the beginning of the next fiscal year.

<u>Fiscal Impact</u>	<u>Budget Account</u>
Select \$	#
Select \$	#
Select \$	#
Select \$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	DUNIVANT, TIMOTHY	<u>Study Session</u>	
<u>Division Director</u>	DUNIVANT, TIMOTHY	<u>Other</u>	
<u>Finance</u>	DAVIS, LEONARD	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	tdunivant@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	cmarchand@spokanecity.org	

<u>Additional Approvals</u>	
<u>Purchasing</u>	



Agenda Sheet for City Council Meeting of:
11/23/2015

Date Rec'd	11/11/2015
Clerk's File #	ORD C35322
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	FINANCE
Contact Name/Phone	TIM DUNIVANT 625-6845
Contact E-Mail	TDUNIVANT@SPOKANECITY.ORG
Agenda Item Type	Final Reading Ordinance
Agenda Item Name	0410 - 2016 BUDGET ADOPTION

Agenda Wording

Adopting the Annual Budget of the City of Spokane for 2016, making appropriations to the various funds of the City of Spokane for the year ending December 31, 2016, providing it shall take effect immediately upon passage.

Summary (Background)

The City of Spokane is a first class city with a population of less than 300,000 persons and is required, pursuant to RCW 35.33.075 to adopt a final budget prior to the close of the current fiscal year at midnight, December 31, 2015.

<u>Fiscal Impact</u>	<u>Budget Account</u>
Select \$	#
Select \$	#
Select \$	#
Select \$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	DUNIVANT, TIMOTHY	<u>Study Session</u>	
<u>Division Director</u>	DUNIVANT, TIMOTHY	<u>Other</u>	Nov. Budget Hearings
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE	tdunivant@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	cmarchand@spokanecity.org	
<u>Additional Approvals</u>		kbustos@spokanecity.org	
<u>Purchasing</u>		gcooley@spokanecity.org	

ORDINANCE NO. C35322

An ordinance adopting the Annual Budget of the City of Spokane for 2016, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2016, and providing it shall take effect immediately upon passage.

WHEREAS, the City of Spokane is a first class city with a population of less than 300,000 persons and is required, pursuant to RCW 35.33.075 to adopt a final budget prior to the close of the current fiscal year at midnight, December 31, 2015; and

WHEREAS, all appropriations in the final budget must be limited to the total estimated revenues therein including the amount to be raised by all municipal revenue sources and the unencumbered fund balances estimated to be available at the close of the current fiscal year; and

WHEREAS, pursuant to RCW 35.33.121 the expenditures as classified and itemized by fund in the final budget adopted by the City Council shall constitute the City of Spokane's appropriations for the fiscal year commencing after midnight, December 31, 2015, subject to later adjustments as provided therein;

NOW, THEREFORE,

The City of Spokane does ordain:

Section 1.

A. That the revenues to be generated by the revenue sources set forth in the final budget are required for the continuation of the existing essential municipal programs and services of the City of Spokane.

B. That without said essential municipal programs and services, the public health, safety and welfare of the citizens of the City of Spokane would be seriously impaired.

C. That the following Annual Budget of the City of Spokane for 2016 reflects a continuation of said essential municipal services and programs provided by the City of Spokane for the public health, safety and welfare of the citizens of the City of Spokane as required by the constitution and laws of the State of Washington, the City Charter, ordinances, other legislative enactments and lawful obligations of the City of Spokane.

D. That the Annual Budget of the City of Spokane for 2016 elevates Information Technology from a Department to a Division within the City's organizational structure.

Section 2. That the Annual Budget of the City of Spokane for the fiscal year ending December 31, 2016, as set forth in the document attached hereto and entitled, "2016 Adopted Budget, City of Spokane, Washington," hereinafter referred to as the 2016 Annual Budget, be and the same is, hereby fixed, determined and adopted; and that the amounts set forth in said budget are hereby appropriated for the use of the several funds as specified.

Section 3. That the foregoing appropriations are to be paid from the respective funds as specifically indicated in the 2016 Annual Budget and the salaries and wages therein set forth in detail as prescribed by RCW 35.33.051 shall be paid on a biweekly basis, payable every other Friday of such fiscal year.

Section 4. That because this ordinance adopts the Annual Budget, as provided by Section 19 of the City Charter, it shall take effect immediately upon its passage.

Passed the City Council _____.

Council President

Mayor

Attest: _____
City Clerk

Approved as to form:

Assistant City Attorney