

**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!**
- 6. No person shall be permitted to speak at open forum more often than once per month.**

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.
- 2.2.6 In an effort to encourage wider participation in open forum so that the Council can hear a wide array of citizen comment, no person shall be permitted to speak at open forum more often than once per month. However, this limitation has no effect on the public comment rules concerning items on the Council's current 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, as specified in Rules 5.3 and 5.4.

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, including but not limited to demonstrations, banners, applause, profanity, vulgar language, or personal insults 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, JANUARY 30, 2017

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 BREEAN BEGGS

COUNCIL MEMBER LORI KINNEAR

COUNCIL MEMBER KAREN STRATTON

COUNCIL MEMBER MIKE FAGAN

COUNCIL MEMBER CANDACE MUMM

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. Value Blanket with lowest responsive bidder, City Service Valcon, for Bulk Gas & Diesel Fuels for various city-owned fueling sites for 5 years—Estimated annual expenditure is \$6,000,000 (incl. tax).
Steve Riggs | Approve | OPR 2016-0027
BID 4296-16 |
| 2. Value Blanket with Wingfoot Commercial Tire, (Spokane, WA) for the purchase of 16", 17" and 18" Goodyear tires for police vehicles on an "as needed" basis using Washington State Contract #01712—\$125,000 (incl. tax).
Steve Riggs | Approve | OPR 2017-0028 |
| 3. Accept funding from the Washington Association of Sheriffs and Police Chiefs for Property Crimes, via the Spokane County Sheriff's Office, from July 1, 2016 through June 30, 2017—\$75,000 revenue.
Eric Olsen | Approve | OPR 2017-0029 |
| 4. Accept equipment from Spokane County's Department of Emergency Management under the FY 2015 Homeland Security Grant Program, (EMW-2015-SS-00013-S01, CFDA# 97.067-HSGP) from July 1, 2016 through June 30, 2017—Equipment value estimate is \$120,000. Eric Olsen | Approve | OPR 2017-0030 |

5. Easement with Schoolyard Billy, LLC, (Spokane, WA) for the proposed I07c Riverside Control Facility tank—\$103,513.76. (East Central Neighborhood)
Dan Buller Approve OPR 2017-0031
ENG 2014096
6. Consultant Agreements for software and hardware support services for the upgrade of the Plant-wide SCADA system to Ethernet at the Riverside Water Reclamation Facility from January 17, 2017 through January 16, 2022, with:
- a. Rockwell Automation (Spokane, WA) OPR 2017-0032
\$234,783.30.
- b. Transource Services Corp. (Phoenix, AZ) OPR 2017-0033
\$93,228.88.
- Mike Taylor**
7. Report of the Mayor of pending claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2017, total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____. Approve & Authorize Payments CPR 2017-0002
8. City Council Meeting Minutes: _____, 2017. Approve All CPR 2017-0013
-

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

Civil Service Commission: One Appointment.

Confirm

CPR 1981-0271

Historic Landmarks Commission: One Appointment.

Confirm

CPR 1981-0122

ADMINISTRATIVE 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.

Note: No person shall be permitted to speak at Open Forum more often than once per month (Council Rule 2.2.6).

LEGISLATIVE AGENDA

NO SPECIAL BUDGET ORDINANCES

NO EMERGENCY ORDINANCES

RESOLUTIONS

(Require Four Affirmative, Recorded Roll Call Votes)

- RES 2017-0009 Recognizing the Mayor's Housing Quality Task Force Final Report and Recommendations as a guide for future policy development and potential regulatory implementation measures.
Alicia Ayars
- RES 2017-0010 Authorizing the loan and grant agreements between the City of
ENG 2015127 Spokane and State of Washington Department of Ecology for High
ENG 2014096 Drive Stormwater (\$967,000), Riverside Interceptor Protection (I-07)
ENG 2015753 (\$4,200,000), Spokane River Infiltration Reduction (\$1,200,859) and the
Rebecca Control Facility (CSO 41) (\$2,393,870). The grant for the High
Drive Stormwater Project is \$241,500. (Multiple Neighborhoods)
Mark Papich
- RES 2017-0011 Setting the assessment roll hearing for February 27, 2017, for the East
Sprague Parking and Business improvement Area (Business
Improvement District – BID) and providing notice of the 2017
assessments to business and property owners.
Melissa Owen

NO FINAL READING ORDINANCES

NO FIRST READING ORDINANCES

NO SPECIAL CONSIDERATIONS

NO HEARINGS

Motion to Approve Advance Agenda for January 30, 2017
(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.

Note: No person shall be permitted to speak at Open Forum more often than once per month (Council Rule 2.2.6).

ADJOURNMENT

The January 30, 2017, Regular Legislative Session of the City Council is adjourned to February 6, 2017.

NOTES

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

01/30/2017

<u>Date Rec'd</u>	1/18/2017
<u>Clerk's File #</u>	OPR 2016-0027
<u>Renews #</u>	

<u>Submitting Dept</u>	FLEET OPERATIONS	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	STEVE RIGGS 625-7066	<u>Project #</u>	
<u>Contact E-Mail</u>	SRIGGS@SPOKANECITY.ORG	<u>Bid #</u>	4296-16
<u>Agenda Item Type</u>	Purchase w/o Contract	<u>Requisition #</u>	VB
<u>Agenda Item Name</u>	5100 - FLEET SERVICES FUEL PURCHASES		

Agenda Wording

Value Blanket with lowest responsive bidder, City Service Valcon (xxxxx,xx) for Bulk Gas & Diesel Fuels for various city-owned fueling sites. This VB will be for a five (5) year period. Estimated annual expenditure is \$6,000,000.00 (including tax)

Summary (Background)

Spokane Transit Authority was the lead agency in issuing a joint fuel bid that included the City of Spokane and Spokane County. Bids were opened on 11/21/16 to provide delivery of bulk gas & diesel fuels to City tanks at Fleet Services, Riverside Park Water Reclamation Facility, nine (9) fire stations, one (1) solid waste facility, Wastewater Management, miscellaneous golf courses as well as numerous facilities for other agencies. Prices bid represent the seller's margin over the

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 6,000,000.00	#	various
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	CHILDS, BRANDON	<u>Study Session</u>	
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	PWC 1/9/17
<u>Finance</u>	DOVAL, MATTHEW	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	tprince@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	taxes & licenses	
<u>Additional Approvals</u>			
<u>Purchasing</u>	PRINCE, THEA		



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

weekly-published OPIS average for a particular fuel. This is a five-year contract. A Value Blanket PO will be issued to facilitate delivery receipts and payment.

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

BRIEFING PAPER
Public Works Committee
Fleet Services
January 9, 2017

Subject:

This is a five year contract for the supply of gasoline and diesel fuels to various locations for the City of Spokane equipment fleet.

Background:

This bid was a combined effort of the City of Spokane, Spokane County, and the Spokane Transit Authority. Seven responses were received. The bid of City Service Valcon is the lowest responsive bidder.

Impact:

This contract is for the supply of gasoline and diesel fuels to power the equipment used by various city departments. Approximately 1.5 million gallons of fuels are purchased annually to support city operations.

Action:

Recommend approval of the award of Bid 4296-16 to City Service Valcon.

Funding

Funding is available for fuel purchase in various departments operating budgets.

**November 21, 2016 - INVITATION FOR BIDS # 16-STA-560
CITY OF SPOKANE BID # 4296-16
SPOKANE COUNTY BID # P10021**

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

01/30/2017

<u>Date Rec'd</u>	1/18/2017
<u>Clerk's File #</u>	OPR 2017-0028
<u>Renews #</u>	

<u>Submitting Dept</u>	FLEET OPERATIONS	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	STEVE RIGGS 625-7706	<u>Project #</u>	
<u>Contact E-Mail</u>	SRIGGS@SPOKANECITY.ORG	<u>Bid #</u>	WA STATE
<u>Agenda Item Type</u>	Purchase w/o Contract	<u>Requisition #</u>	VB
<u>Agenda Item Name</u>	5100 - FLEET SERVICES PURCHASE OF TIRES FOR POLICE VEHICLES		

Agenda Wording

Purchase of 16", 17" and 18" Goodyear tires for police vehicles on an "as needed" basis from WINGFOOT COMMERCIAL TIRE (Spokane, WA) using Washington State Contract #01712 - \$125,000 including tax.

Summary (Background)

As a member of the Washington State Purchasing Cooperative, state contract pricing is available to the City. The State of Washington contract represents the best pricing available to us because the state contract is allowed a deeper discount from the manufacturer.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 125,000.00	#	various
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	CHILDS, BRANDON	<u>Study Session</u>	
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	PWC 1/9/17
<u>Finance</u>	DOVAL, MATTHEW	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	tprince@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	taxes & licenses	
<u>Additional Approvals</u>			
<u>Purchasing</u>	PRINCE, THEA		

BRIEFING PAPER
Public Works Committee
Fleet Services
January 9, 2017

Subject

Approve Value Blanket (VB) for the purchase of 16", 17" and 18" Goodyear tires for police vehicles on an "as needed" basis from WINGFOOT COMMERCIAL TIRE (Spokane, WA) using state contract #01712. The estimated annual expenditure is \$125,000.

Background

As a member of the Washington State Purchasing Cooperative, State contract pricing is available to the city. The state contract represents the best price available to the city as since the State Contractor is allowed a deeper discount from the manufacturer.

Impact

This VB is used to procure the automotive tires specifically for Police application required to maintain the city's equipment fleet.

Action

Approve the annual blanket with WINGFOOT COMMERCIAL TIRE for the supply of automotive tires for police application.

Funding

The expenditure is included in the 2017 Fleet Services Department budget.

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

01/30/2017

Date Rec'd

1/18/2017

Clerk's File #

OPR 2017-0029

Renews #Submitting Dept

POLICE

Cross Ref #Contact Name/Phone

ERIC OLSEN 625-4505

Project #Contact E-Mail

EOLSEN@SPOKANEPOLICE.ORG

Bid #Agenda Item Type

Contract Item

Requisition #Agenda Item Name

0680 - WASPC PROPERTY CRIMES FY2016

Agenda Wording

To accept funding Washington Association of Sheriffs and Police Chiefs (WASPC) for Property Crimes via Spokane County Sheriff's Office. - \$75,000.00. Term 07/01/2016-06/30/2017.

Summary (Background)

WASPC awarded \$300,000.00 to three agencies: Spokane PD, Spokane County Sheriff's, and Spokane Valley PD through pilot project for law enforcement agencies in the City of Spokane, City of Spokane Valley and Spokane County to set up auto theft task forces in high risk locations and increase the use of teams devoted to combat residential burglary. SPD will use the money to buy automated license plate readers and to fund a proactive task force that will make door-to-door contacts with the community

Fiscal ImpactBudget Account

Expense \$ 75,000.00

1620-91745-21250-*****

Revenue \$ 75,000.00

1620-91745-21250-33469

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

LYNDS, SARAH

Study Session

PSC 12/12/2016

Division Director

LYNDS, SARAH

OtherFinance

DOVAL, MATTHEW

Distribution ListLegal

DALTON, PAT

achirowamangu

For the Mayor

SANDERS, THERESA

ewade

Additional Approvals

slynds

Purchasing

sstopher

sbrown

**AGREEMENT BETWEEN SPOKANE COUNTY AND CITY OF SPOKANE
POLICE DEPARTMENT IN CONJUNCTION WITH
RESIDENTIAL BURGLARY & AUTO THEFT TASK FORCES GRANT**

1. Grantee City of Spokane Spokane Police Department Public Safety Building 1100 W. Mallon Spokane, WA 99201		2. Contract Amount <p style="text-align: center;">\$95,000</p>	3. Tax ID# 91-6001280
5. Grantee Representative Sarah Lynds City of Spokane Public Safety Building 1100 W. Mallon Spokane, WA 99201 (509) 625-4056 slynds@spokanepolice.org		6. County's Representative Kari Grytdal Office of Financial Assistance 1116 W. Broadway Spokane, WA 99260 (509) 477-7273 kgrytdal@spokanecounty.org	
7. Grantor ID# 290SA60	8. Original Grant ID# 2016-Spokane-AT/RB	9. Start Date 7/1/2016	10. End Date 6/30/2017
11. Funding Authority: Washington Association of Sheriffs and Police Chiefs			
12. Federal Funds (as applicable) N/A	13. CFDA # N/A	14. Federal Agency: N/A	
15. Contractor Selection Process: (check all that apply or qualify) <input type="checkbox"/> Sole Source <input type="checkbox"/> A/E Services <input type="checkbox"/> Competitive Bidding <input checked="" type="checkbox"/> Pre-approved by Funder		16. Contractor Type: (check all that apply) <input type="checkbox"/> Private Organization/Individual <input checked="" type="checkbox"/> Public Organization/Jurisdiction <input type="checkbox"/> VENDOR <input checked="" type="checkbox"/> SUBRECIPIENT <input checked="" type="checkbox"/> Non-Profit <input type="checkbox"/> For-Profit	
17. Grant Purpose: To fund through a legislative appropriation, a pilot project for law enforcement agencies in the City of Spokane, City of Spokane Valley and Spokane County to set up auto theft task forces in high risk locations and increase the use of teams devoted to combat residential burglary.			
18. COUNTY and the GRANTEE, as identified above, acknowledge and accept the terms of this AGREEMENT and attachments and have executed this AGREEMENT the date below to start as of the date and year referenced above. The rights and obligations of both parties to this AGREEMENT are governed by this AGREEMENT and the following other documents incorporated by reference: (1) General Terms and Conditions, (2) Attachment "A" Scope of Work, and (3) Attachment "B" Budget.			
FOR THE GRANTEE: <div style="border-bottom: 1px solid black; margin-bottom: 10px;"></div> <div style="display: flex; justify-content: space-between;"> Signature Date </div> <div style="border-bottom: 1px solid black; margin-bottom: 10px;"></div> <div style="display: flex; justify-content: space-between;"> Name </div> <div style="border-bottom: 1px solid black; margin-bottom: 10px;"></div> <div style="display: flex; justify-content: space-between;"> Title </div>		FOR COUNTY: <div style="border-bottom: 1px solid black; margin-bottom: 10px;"></div> <div style="display: flex; justify-content: space-between;"> Signature Date </div> <div style="border-bottom: 1px solid black; margin-bottom: 10px;"></div> <div style="display: flex; justify-content: space-between;"> Name </div> <div style="border-bottom: 1px solid black; margin-bottom: 10px;"></div> <div style="display: flex; justify-content: space-between;"> Title </div>	

(FACE SHEET)

GENERAL TERMS AND CONDITIONS

The Washington State Legislature appropriated for fiscal year 2017 to the Washington Association of Sheriffs and Police Chiefs (WASPC) a grant in the amount of \$300,000. As a result of this funding, an MOU was entered between the City of Spokane Police Department (hereinafter referred to as "SPD"), City of Spokane Valley Police Department (hereinafter referred to as "SVPD") and Spokane County (hereinafter referred to as "COUNTY") setting forth Spokane County as fiscal agent as well as the terms of the pilot project. These funds are to be used to set up auto theft task forces in high risk locations and increase the use of teams devoted to combating residential burglary. WASPC deducted \$15,000 of the total award for indirect costs, leaving \$285,000 to be divided equally among the three entities above.

SECTION NO. 1: SERVICES

SPD shall provide those services set forth in the Scope of Work attached hereto as Attachment "A" and incorporated herein by reference.

SECTION NO. 2: COMPENSATION

COUNTY shall reimburse SPD an amount not to exceed the amount set forth in Attachment "B", attached hereto and incorporated herein by reference for the performance of all things necessary for or incidental to the performance of Scope of Work as set forth in Attachment "A". SPD's reimbursement for services set forth in Attachment "A" shall be in accordance with the terms and conditions set forth in the Budget attached hereto as Attachment "B" and incorporated herein by reference. Requests for reimbursement should be submitted no more than monthly. Invoices must be submitted with appropriate supporting documentation, including timesheets or similar documents, copies of receipts, etc., as directed by the COUNTY's representative designated hereinafter. No payments in advance of or in anticipation of goods or services to be provided under this Grant shall be made by the COUNTY. In conjunction with each reimbursement request, SPD shall certify that services to be performed under this AGREEMENT do not duplicate any services to be charged against any other grant, subgrant, or other funding source. A reimbursement voucher is provided and is required for requests for payment.

Requests for reimbursement shall be submitted to:

Matt Descoteaux
Grants & Contracts Analyst
Office of Financial Assistance
1116 West Broadway
Spokane, WA 99260
mdescoteaux@spokanecounty.org

Payment shall be considered timely if made by COUNTY within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by SPD.

SECTION NO. 3: TERM

The term of this AGREEMENT shall commence as of the date on the FACE SHEET and shall terminate on the date on the FACE SHEET.

SECTION NO. 4: RELATIONSHIP OF THE PARTIES

No agent, employee, servant or otherwise of SPD shall be deemed to be an employee, agent, servant, or

otherwise of the SPD for any purpose, and the employees of SPD are not entitled to any of the benefits that the COUNTY provides for COUNTY employees. SPD will be solely and entirely responsible for its acts and the acts of its agents, employees, servants, and subcontractors or otherwise, during the performance of this AGREEMENT.

SECTION NO. 5: VENUE STIPULATION

This AGREEMENT has and shall be construed as having been made and delivered in the State of Washington and the laws of the State of Washington shall be applicable to its construction and enforcement. Any action at law, suit in equity or judicial proceeding for the enforcement of this AGREEMENT or any provision hereto shall be instituted only in courts of competent jurisdiction within Spokane County, Washington.

SECTION NO. 6: COMPLIANCE WITH LAWS

The PARTIES specifically agree to observe all federal, state and local laws, ordinances and regulations and policies to the extent that they may have any bearing on meeting their respective obligations under the terms of this AGREEMENT, including, but not limited to 2 CFR Part 200.

SECTION NO. 7: NON-DISCRIMINATION

The PARTIES hereto specifically agree that no person shall, on the grounds of race, creed, color, sex, sexual orientation, national origin, marital status, age or the presence of any sensory, mental, or physical disability or Vietnam era or disabled veterans status be excluded from full employment rights and participation in, or be denied the benefits of, or be otherwise subject to, discrimination in conjunction with any services which SPD will receive payment under the provisions of this AGREEMENT.

SECTION NO. 8: NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this AGREEMENT, SPD shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the SPD's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this AGREEMENT may be rescinded, canceled or terminated in whole or in part, and SPD may be declared ineligible for further agreements with the COUNTY. SPD shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the dispute resolution provision of this AGREEMENT.

SECTION NO. 9: AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336

SPD must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

SECTION NO. 10: EQUAL OPPORTUNITY TREATMENT FOR FAITH-BASED ORGANIZATIONS

SPD agrees to comply with the applicable requirements of 28 CFR Part 38, the Department of Justice regulation.

SECTION NO. 11: NEW CIVIL RIGHTS PROVISION

SPD shall comply with the Violence Against Women Reauthorization Act of 2013 provision that prohibits recipients from excluding, denying benefits to, or discriminating against any person on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability in any program or activity funded in whole or in part by this AGREEMENT.

SECTION NO. 12: SERVICES TO LIMITED-ENGLISH-PROFICIENT (LEP) PERSONS

To ensure compliance with Title VI and the Safe Streets Act, recipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including interpretation and translation services, where necessary. Recipients are encouraged to consider the need for language services for LEP persons served or encountered both in developing their programs and budgets and in conducting their programs and activities. Reasonable costs associated with providing meaningful access for LEP individuals are considered allowable program costs. Additional assistance regarding LEP obligations and information may be found at www.lep.gov.

SECTION NO. 13: TERMINATION FOR CAUSE / SUSPENSION

In the event COUNTY determines that SPD failed to comply with any term or condition of this AGREEMENT, COUNTY may terminate the AGREEMENT in whole or in part upon written notice to SPD. Such termination shall be deemed "Termination for Cause." Termination shall take effect on the date specified in the notice.

In the alternative, COUNTY upon written notice may allow SPD a specific period of time in which to correct the non-compliance. During the corrective-action time period, COUNTY may suspend further payment to SPD in whole or in part, or may restrict SPD's right to perform duties under this AGREEMENT. Failure by SPD to take timely corrective action shall allow COUNTY to terminate the AGREEMENT upon written notice to SPD.

"Termination for Cause" shall be deemed a "Termination for Convenience" when COUNTY determines that SPD did not fail to comply with the terms of the AGREEMENT or when COUNTY determines the failure was not caused by SPD's actions or negligence.

In the event of termination or suspension, SPD shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original AGREEMENT and the replacement or cover agreement and all administrative costs directly related to the replacement agreement, e.g. cost of the competitive bidding, mailing, advertising and staff time.

SECTION NO. 14: TERMINATION FOR CONVENIENCE

Except as otherwise provided in this AGREEMENT, COUNTY may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this AGREEMENT, in whole or in part. If this AGREEMENT is so terminated, the COUNTY shall be liable only for payment required under the terms of this AGREEMENT for services rendered prior to the effective date of termination.

SECTION NO. 15: TERMINATION PROCEDURES

After receipt of a Notice of Termination, except as otherwise directed by COUNTY, SPD shall:

- A. Stop work under the AGREEMENT on the date, and to the extent specified, in the notice;
- B. Place no further orders for materials, services, or facilities related to the AGREEMENT;

- C. Assign to COUNTY all of the rights, title, and interest of SPD under the orders and subcontracts so terminated, in which case COUNTY has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts. Any attempt by SPD to settle such claims must have the prior written approval of COUNTY; and
- D. Preserve and transfer any materials, AGREEMENT deliverables and/or COUNTY property in SPD's possession as directed by COUNTY.

Upon termination of the AGREEMENT, COUNTY shall pay SPD for any service provided by SPD under the AGREEMENT prior to the date of termination. COUNTY may withhold any amount due as COUNTY reasonably determines is necessary to protect COUNTY against potential loss or liability resulting from the termination. COUNTY shall pay any withheld amount to SPD if COUNTY later determines that loss or liability will not occur.

The rights and remedies of COUNTY under this Section are in addition to any other rights and remedies provided under this AGREEMENT or otherwise provided under law. Provided, further, in the event that SPD fails to perform this AGREEMENT in accordance with state laws, federal laws, and/or the provisions of this AGREEMENT, COUNTY reserves the right to recapture funds in an amount to compensate COUNTY for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by SPD of funds under this recapture provision shall occur within the time period specified by COUNTY. In the alternative, COUNTY may recapture such funds from payments due under this AGREEMENT.

SECTION NO. 16: COUNTY REPRESENTATIVE

The COUNTY hereby appoints and SPD hereby accepts the COUNTY's representative or her designee as identified on the FACE SHEET as the COUNTY'S liaison for the purpose of administering this AGREEMENT. SPD hereby appoints and COUNTY hereby accepts SPD's representative or his/her designee as identified on the FACE SHEET as SPD's liaison for the purpose of administering this AGREEMENT.

SECTION NO. 17: NOTICES

Except as provided to the contrary herein, all notices or other communications given hereunder shall be deemed given on: (i) the day such notices or other communications are received when sent by personal delivery; or (ii) the third day following the day on which the same have been mailed by first class delivery, postage prepaid addressed to the COUNTY or SPD at the address set forth on the FACE SHEET for such party, or at such other address as either party shall from time-to-time designate by notice in writing to the other Party.

SECTION NO. 18: MODIFICATION

No modification or amendment of this AGREEMENT shall be valid until the same is reduced to writing and executed with the same formalities as this present AGREEMENT.

SECTION NO. 19: WAIVER

No officer, employee, agent or otherwise of the COUNTY has the power, right or authority to waive any of the conditions or provisions to this AGREEMENT. No waiver of any breach of this AGREEMENT shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this

AGREEMENT or at law, shall be taken and construed as cumulative that is, in addition to every other remedy provided herein or by law. Failure of the COUNTY to enforce at any time any of the provisions of this AGREEMENT, or to require at any time performance by SPD of any provision hereof, shall in no way be construed to be a waiver of such provisions, nor in any way effect the validity of this AGREEMENT of any part hereof, or the right of the COUNTY to hereafter enforce each and every such provision.

SECTION NO. 20: INDEMNIFICATION

The COUNTY shall protect, defend, indemnify, and hold harmless SPD, its officers, officials, employees, and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons and/or property). The COUNTY will not be required to indemnify, defend, or save harmless SPD if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of SPD. Where such claims, suits, or actions result from the concurrent negligence of both Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of each Party's own negligence.

SPD agrees to protect, defend, indemnify, and hold harmless the COUNTY, its officers, officials, employees, and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments and/or awards of damages (both to persons and/or property). SPD will not be required to indemnify, defend, or save harmless the COUNTY if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of the COUNTY. Where such claims, suits, or actions result from the concurrent negligence of both Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of each Party's own negligence.

The COUNTY and SPD agree that its obligations under this section extend to any claim, demand and/or cause of action brought by, or on behalf of, any COUNTY or SPD employees or agents while performing work authorized under this AGREEMENT. For this purpose, the COUNTY and SPD, by mutual negotiation, hereby waives any immunity that would otherwise be available to it against such claims under the Industrial Insurance provisions of chapter 51.12 RCW.

These indemnifications and waiver shall survive the termination of this AGREEMENT.

No officer or employee of SPD or the COUNTY shall be personally liable for any act, or failure to act, in connection with this AGREEMENT, it is understood that in such matters they are acting solely as agents of their respective agencies.

SECTION NO. 21: MAINTENANCE OF RECORDS

SPD shall maintain all books, records, documents, data and other evidence relating to this AGREEMENT and performance of the Services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this AGREEMENT. SPD shall retain such records for a period of six years following the date of final payment.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been finally resolved.

At no additional cost, SPD shall make available to the COUNTY, Washington State Auditor, federal and state officials so authorized by law, or their duly authorized representatives at any time during their normal operating hours, all records, books or pertinent information which the COUNTY may be required by law

to make part of its auditing procedures, an audit trail, or which may be required for the purpose of funding the Services contracted for herein. SPD shall provide access to its facilities for this purpose.

SECTION NO. 22: ALL WRITINGS CONTAINED HEREIN

This AGREEMENT contains all the terms and conditions agreed upon by the PARTIES. No other understandings, oral or otherwise, regarding the subject matter of this AGREEMENT shall be deemed to exist or to bind any of the PARTIES hereto. SPD has read and understands all of this AGREEMENT and now states that no representation, promise or condition not expressed in this AGREEMENT has been made to induce SPD to execute the same.

SECTION NO. 23: SEVERABILITY

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

SECTION NO. 24: EXECUTION AND APPROVAL

The PARTIES warrant that the officers/individuals executing below have been duly authorized to act for and on behalf of the party for purposes of confirming this AGREEMENT.

SECTION NO. 25: COUNTERPARTS

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

SECTION NO. 26: DISPUTE RESOLUTION

Any dispute between the PARTIES which cannot be resolved between the PARTIES shall be subject to arbitration. Except as provided for to the contrary herein, such dispute shall first be reduced to writing. If the COUNTY and SPD representatives cannot resolve the dispute it will be submitted to arbitration. The provisions of chapter 7.04A RCW shall be applicable to any arbitration proceeding.

The COUNTY and SPD shall have the right to designate one person each to act as an arbitrator. The two selected arbitrators shall then jointly select a third arbitrator. The decision of the arbitration panel shall be binding on the PARTIES and shall be subject to judicial review as provided for in chapter 7.04A RCW.

The costs of the arbitration panel shall be equally split between the PARTIES.

SECTION NO. 27: NO THIRD PARTY BENEFICIARIES

Nothing in this AGREEMENT is intended to give, or shall give, whether directly or indirectly, any benefit or right, greater than that enjoyed by the general public, to third persons.

SECTION NO. 28: SURVIVAL

Any Sections of this AGREEMENT which, by their sense and context, are intended to survive shall survive the termination of this AGREEMENT.

SECTION NO. 29: INSURANCE

SPD shall, at its expense, maintain all insurance for the duration of this AGREEMENT.

SECTION NO. 30: ASSIGNMENT

Neither this AGREEMENT, nor any claim arising under this AGREEMENT, shall be transferred or assigned by SPD without prior written consent of COUNTY.

SECTION NO. 31: ATTORNEYS' FEES

Unless expressly permitted under another provision of the AGREEMENT, in the event of litigation or other action brought to enforce the terms of the AGREEMENT, each party agrees to bear its own attorneys' fees and costs.

SECTION NO. 32: LOSS OF FUNDING

In the event funding from the legislature which is the source of funding by the COUNTY for this AGREEMENT is withdrawn, reduced, or limited in any way after the effective date of this AGREEMENT, and prior to normal completion, COUNTY may terminate the AGREEMENT under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the AGREEMENT may be amended to reflect the new funding limitations and conditions.

SECTION NO. 33: REPORTING

SPD will assist COUNTY and the SVPD in providing to Washington Association of Sheriffs & Police Chiefs, a final report. It is anticipated that the final report will be due before June 30, 2017.

SECTION NO. 34: ORDER OF PRECEDENCE:

In the event of an inconsistency between the provisions in AGREEMENT, the inconsistency shall be resolved by giving precedence in the following order:

- 1) Applicable federal and state of Washington statutes and regulations
- 2) Face Sheet
- 3) Attachment "A" Scope of Work
- 4) Attachment "B" Budget

ATTACHMENT "A"

SCOPE OF WORK

This Scope of Work clearly identifies the roles and responsibilities of the City of Spokane Police Department (hereinafter referred to as SPD) as related to the Residential Burglary & Auto Theft Task Forces Grant.

The goal of investing these funds is to generate both an immediate and lasting reduction in residential burglaries, auto theft and other related property crimes. While incarceration has an immediate impact, judicial and sentencing limitations makes this a somewhat temporary solution. Utilizing this grant across all three agencies for a public awareness campaign, automated license plate readers, and a dedicated anti-crime task force/neighborhood canvas will have a lasting effect on residential burglaries, auto theft and other related crime rates in the City of Spokane, City of Spokane Valley and Spokane County, and will continue to build the bridge between our agencies and the community.

SPD agrees to, but not limited to, the following conditions:

1. **Public Awareness Campaign:** SPD is awarded \$20,000 which will remain with Spokane County as the fiscal agent for funding, who will use the funds to hire an advertising firm and making large media buys to promote crime reduction through education and the hardening of “soft” targets. A majority of vehicle prowling’s and auto thefts involve unlocked vehicles, some with wallets, purses, electronics, and firearms still inside, and many burglaries begin with the opportunity presented by an unsecured residence or open garage. The public awareness campaign will reach the entire community and broaden the public’s knowledge. This will help reduce community citizens’ likelihood of becoming victims.
2. **Technology-Automated License Plate Readers:** SPD will receive \$30,000 and the funds will be used to advance the hardware and supporting software of automated license plate readers (ALPRs). This will allow the SPD to strategically place the ALPRs throughout the cities and county to combat vehicle theft, which is leading the spike in property crimes. The ALPRs will also be particularly valuable in dealing with missing persons and Amber Alerts. The new ALPRs will have a lasting impact on the region’s ability to combat auto theft for many years to come.
3. **Proactive Property Crime Task Force/Neighborhood Canvas:** SPD Department will receive \$45,000 and the funds will be devoted to staffing a county-wide anti-crime task force and neighborhood canvas efforts. These proactive groups will be implemented for a dedicated amount of time. A specialized anti-crime task force will apply intelligence and data analysis to specifically target the offenders committing the highest percentage of residential burglary, auto theft and other related property crimes. The canvas will consist of uniformed police officers making door-to-door and face-to-face contacts with community members in high crime rate areas and educating them on crime prevention, basic CEPTED concepts, and building relationships through community partnership.

ATTACHMENT “B”
BUDGET



**Spokane County
INVOICE VOUCHER**

Subrecipient Number	Award Number	Award Name

Category	Budget Protected Direct Costs
Public Awareness Campaign	\$20,000.00
Technology-ALPRs	\$30,000.00
Proactive Property Crime Task Force/Neighborhood Canvas	\$45,000.00
Total	\$95,000.00

Any change in the above budget item categories must be approved by COUNTY'S representative.

Payment will be on a reimbursement basis only and supporting documentation must be provided.

AGENCY NAME City of Spokane Spokane Police Department
CLAIMANT (Warrant is to be payable to) (please fill in your department's mailing address) City of Spokane Spokane Police Department

INSTRUCTIONS TO CLAIMANT: Submit this form to claim payment for materials, merchandise or services. Show complete detail for each item.

Claimant's Certificate: I hereby certify under penalty of perjury that the items and totals listed herein are proper charges for materials, merchandise or services furnished to Spokane County, and that all goods furnished and/or services rendered have been provided without discrimination because of age, sex, marital status, race, creed, color, national origin, handicap, religion, or Vietnam era or disabled veterans status and all expenses claimed will not be charged to any other grant, subgrant or funding source.

BY		
	(SIGN IN INK)	
	(TITLE)	(DATE)



FEDERAL I.D. NO. OR SOCIAL SECURITY NO. (For reporting Personal Services Contract Payments to I.R.S.)



RECEIVED BY

DATE RECEIVED

DATE	DESCRIPTION	AMOUNT BILLED

**Briefing Paper
City of Spokane
Spokane Police Department
WSPC Property Crimes Grant Acceptance
December 12, 2016**

Subject

Approval to accept sub-recipient funding for Property Crimes from Washington Association of Sheriffs and Police Chiefs (WASPC) via the Spokane County Sheriff's Office.

Background

WASPC awarded \$300,000.00 to three agencies: Spokane PD, Spokane County Sheriff's, and Spokane Valley PD to reduce the occurrences of residential burglary, auto theft and other property crimes in Spokane County.

Impact

Spokane Police will receive about \$75,000.00. \$30,000.00 will be used to buy automated license plate readers (ALPRs). The ALPRs will be used to locate missing persons and for amber alerts. \$45,000.00 will be set aside for a proactive property crime task force which will be made up of officers who will make door-to-door and face-to-face contracts with community members in high crime rate areas.

Action

Approval to accept funding from WASPC through the Spokane County Sheriff's Office.

Funding

State Legislative funds.

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

01/30/2017

<u>Date Rec'd</u>	12/30/2016
<u>Clerk's File #</u>	OPR 2017-0030
<u>Renews #</u>	

<u>Submitting Dept</u>	POLICE	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	ERIC OLSEN 835-4505	<u>Project #</u>	
<u>Contact E-Mail</u>	EOLSEN@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Contract Item	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0680-DEM EQUIPMENT MOU		

Agenda Wording

To accept equipment from Spokane County's Department of Emergency Management (DEM) under the FY 2015 Homeland Security Grant Program (EMW-2015-SS-00013-S01). CFDA# 97.067 - HSGP. Equipment value estimate is \$120,000.00. Term is 07/01/2016-06/30/2017.

Summary (Background)

The purpose of the FY 2015 Homeland Security Grant Program (HSGP) is to support state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for threats and hazards that pose the greatest risk to the security of the United States. 15 HSGP provides funding to implement investments that build, sustain and deliver the core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 120,000.00	#	1620-91711-*****_*****
Revenue	\$ 120,000.00	#	1620-91711-*****_*****
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	LYNDS, SARAH	<u>Study Session</u>	12/12/2016
<u>Division Director</u>	MEIDL, CRAIG	<u>Other</u>	
<u>Finance</u>	DOVAL, MATTHEW	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	achirowamangu	
<u>For the Mayor</u>	SANDERS, THERESA	ewade	
<u>Additional Approvals</u>		slynds	
<u>Purchasing</u>		sbrown	
		sstopher	
		cbarnes@spokanecounty.org	

1. Grantee City of Spokane 808 West Spokane Falls Blvd. Spokane, WA 99201		2. Contract Amount \$101,799.72		3. Tax ID# 91-60001280	
				4. DUNS# 938132271	
5. Grantee Representative Sarah Lynds City of Spokane Public Safety Building 1100 W. Mallon Spokane, WA 99201 (509) 625-4056 slynds@spokanepolice.org		6. Spokane County's Representative Christopher Barnes Program Specialist Spokane County Greater Spokane Department of Emergency Management 1121 W Gardner Ave. Spokane, WA 99201 509-477-3007 cbarnes@spokanecounty.org			
7. Grant ID # GSEM-1511		8. Original Grant ID# E16-076		9. Start Date 7/1/2016	
10. End Date 6/30/2017					
11. Funding Source: <input checked="" type="checkbox"/> Federal <input type="checkbox"/>					
12. Federal Funds (as applicable) EMW-2015-SS-00013-S01		CFDA # 97.067 - HSGP		Federal Agency: U.S. Department of Homeland Security	
13. Contractor Selection Process: (check all that apply or qualify) <input type="checkbox"/> Sole Source <input type="checkbox"/> A/E Services <input type="checkbox"/> Competitive Bidding <input checked="" type="checkbox"/> Pre-approved by Funder		14. Contractor Type: (check all that apply) <input type="checkbox"/> Private Organization/Individual <input checked="" type="checkbox"/> Public Organization/Jurisdiction <input type="checkbox"/> VENDOR <input checked="" type="checkbox"/> SUBRECIPIENT <input type="checkbox"/> Non-Profit <input type="checkbox"/> For-Profit			
15. Grant Purpose & Description: The purpose of the FY 2015 Homeland Security Grant Program (HSGP) is to support state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for threats and hazards that pose the greatest risk to the security of the United States. 15 HSGP provides funding to implement investments that build, sustain and deliver the core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation. The building, sustainment and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community. 15HSGP supports core capabilities across the five mission areas of Prevention, Protection, Mitigation, Response, and Recovery based on allowable costs. HSGP is comprised of three interconnected grant programs: State Homeland Security Program (SHSP), Urban Areas Security Initiative (UASI), and Operation Stonegarden (OPSG). Together these grant programs fund a range of preparedness activities, including planning, organization, equipment, training, exercises, management and administration. THE CITY OF SPOKANE is a sub-recipient of the 15HSGP Award which is attached and incorporated by reference into this Agreement. THE CITY OF SPOKANE is accountable to both the Washington State Military Department and SPOKANE COUNTY for proper use of the federal funds provided under this Agreement. THE CITY OF SPOKANE's preparedness activities (scope) for this subaward are detailed in Exhibit A.					
16. IN WITNESS WHEREOF SPOKANE COUNTY and THE CITY OF SPOKANE, acknowledge and accept the terms of this AGREEMENT, including all referenced Exhibits and Attachments which are hereby incorporated in and made a part hereof, and have executed this AGREEMENT as of the date below. This AGREEMENT Face Sheet; Work Plan/Approved Projects (Exhibit A); Budget (Exhibit B); and all other documents, exhibits and attachments expressly referenced and incorporated herein contain All the terms and conditions agreed upon by the parties and govern the rights and obligations of the parties to this AGREEMENT. No other understandings, oral or otherwise, regarding the subject matter of this AGREEMENT shall be deemed to exist or to bind any of the parties hereto.					
FOR THE GRANTEE:		FOR SPOKANE COUNTY:			
Signature _____ Date _____		Signature _____ Date _____			
Name _____		Edward Lewis Name _____			
Title _____		Deputy Director GSEM Title _____			

SECTION NO. 1: SERVICES

THE CITY OF SPOKANE has received equipment and/or supplies as set forth in Exhibit “B” Budget. This equipment and/or supplies will be used in furtherance of meeting Project #2 set forth in the Work Plan attached hereto as Exhibit “A” and incorporated by reference.

SECTION NO 2: RESPONSIBILITY FOR PROJECT/STATEMENT OF WORK/WORK PLAN

While SPOKANE COUNTY undertakes to assist THE CITY OF SPOKANE with the project/statement of work/work plan (project) by providing funds pursuant to this AGREEMENT, the project itself remains the sole responsibility of THE CITY OF SPOKANE. SPOKANE COUNTY undertakes no responsibility to THE CITY OF SPOKANE, or to any third party, other than as is expressly set out in this AGREEMENT.

The responsibility for the design, development, construction, implementation, operation and maintenance of the project, as these phrases are applicable to this project, is solely that of THE CITY OF SPOKANE, as is responsibility for any claim or suit of any nature by any third party related in any way to the project.

THE CITY OF SPOKANE shall defend, at its own cost, any and all claims or suits at law or in equity, which may be brought against THE CITY OF SPOKANE in connection with the project. THE CITY OF SPOKANE shall not look to SPOKANE COUNTY and/or the Washington State Military Department, or to any state or federal agency, or to any of their employees or agents, for any performance, assistance, or any payment or indemnity, including but not limited to cost of defense and/or attorneys’ fees, in connection with any claim or lawsuit brought by any third party related to any design, development, construction, implementation, operation and/or maintenance of a project.

SECTION NO. 3: HOMELAND SECURITY GRANT PROGRAM SPECIFIC REQUIREMENTS

- A. Use of HSGP funds must be consistent with and supportive of implementation of the State Homeland Security Strategy.
- B. SHSP-funded projects must address high-priority preparedness gaps across all core capabilities where a nexus to terrorism exists. All supported investments are based on capability targets and gaps identified during the assessment process.

SECTION NO. 4: TERM

The term of this AGREEMENT shall commence as of the date on the FACE SHEET and shall terminate on the date on the FACE SHEET.

SECTION NO. 5: RELATIONSHIP OF THE PARTIES

The PARTIES intend that an independent contractor relationship will be created by this AGREEMENT. THE CITY OF SPOKANE and/or employees or agents performing under this AGREEMENT are not employees or agents of SPOKANE COUNTY or the Washington State Military Department in any manner whatsoever. THE CITY OF SPOKANE will not be presented as, nor claim to be, an officer or employee of SPOKANE COUNTY or the Washington State Military Department by reason of this AGREEMENT nor will THE CITY OF SPOKANE make

any claim, demand or application to or for any right or privilege applicable to an officer or employee of SPOKANE COUNTY or the Washington State Military Department by reason of this AGREEMENT, including but not limited to, Workmen's Compensation coverage, unemployment insurance benefits, social security benefits, retirement membership or credit, or privilege or benefit which would accrue to a civil service employee under Chapter 41.06 RCW.

Unless otherwise provided in this AGREEMENT, THE CITY OF SPOKANE shall be responsible for, pay and maintain in current status all taxes, unemployment contributions, fees, licenses, assessments, permit charges and expenses of any other kind for THE CITY OF SPOKANE or its staff required by statute or regulation that are applicable to the AGREEMENT performance.

SECTION NO. 6: ADMINISTRATIVE AND/OR FINANCIAL REQUIREMENTS

THE CITY OF SPOKANE agrees to comply with all applicable state and federal laws, rules, regulations, requirements and program guidance identified or referenced in this AGREEMENT and the informational documents published by FEMA applicable to the FY 2015 HSGP Program, including but not limited to, all criteria restrictions and requirements of the "Department of Homeland Security Funding Opportunity Announcement FY 2015 Homeland Security Grant Program" document published by FEMA, the DHS Award Announcement Letter for Grant No. EMW-2015-SS-00013-S01, and the federal regulations commonly applicable to DHS/FEMA grants, which are incorporated herein by reference.

THE CITY OF SPOKANE acknowledges that since this AGREEMENT involves federal award funding, the period of performance described herein will likely begin prior to the availability of appropriated federal funds. THE CITY OF SPOKANE agrees that it will not hold the Washington State Military Department, the State of Washington, SPOKANE COUNTY or the United States liable for any damages, claim for reimbursement or any type of payment whatsoever for services performed under this AGREEMENT prior to the distribution of appropriated federal funds or if federal funds are not appropriated or in a particular amount.

The use or disclosure by any party of any information concerning the Washington State Department of Military for any purpose not directly connected with the administration of the Washington State Department of Military, SPOKANE COUNTY's, or THE CITY OF SPOKANE's responsibilities with respect to services provided under this AGREEMENT is prohibited except by prior written consent of SPOKANE COUNTY, and/or the Washington State Department of Military or as required to comply with the state Public Records Act, other law or court order.

SECTION NO. 7: COMPLIANCE WITH LAWS

THE CITY OF SPOKANE and SPOKANE COUNTY agree that all activity pursuant to this AGREEMENT will be in accordance with all applicable current federal, state and local laws, rules and regulations. As a recipient of federal financial assistance under this AGREEMENT, THE CITY OF SPOKANE shall comply with all applicable state and federal statutes, regulations, executive orders and guidelines, including but not limited to the following:

- A. THE CITY OF SPOKANE must comply with the Americans with Disabilities Act (ADA) of 1990, Public Law 101-336, 42 U.S.C. 12101 et seq. and its implementing regulations also referred to as the ADA 28 CFR Part 35. The ADA provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications

B. THE CITY OF SPOKANE and all its contractors and subrecipients shall comply with and SPOKANE COUNTY and the Washington State Military Department are not responsible for determining compliance with, any and all applicable federal, state and local laws, regulations, executive orders, OMB Circulars and/or policies. This obligation includes, but is not limited to: nondiscrimination laws and/or policies, Energy Policy and Conservation Act (PL 94-163, as amended), Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) which prohibits discrimination on the basis of race, color or national origin; (b) the Civil Rights Act of 1968 (42 U.S.C. 3601), which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex; the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (PL 93-288, as amended), Ethics in Public Service (RCW 42.52), Covenant Against Contingent Fees (48 CFR Section 52.203-5), Public Records Act (RCW 42.56), Prevailing Wages on Public Works (RCW 39.12), State Environmental Policy Act (RCW 43.21C), Shoreline Management Act of 1971 (RCW 90.58), State Building Code (RCW 19.27), Energy Related Building Standards (RCW 19.27A), Provisions in Buildings for Aged and Handicapped Person (RCW 70.92), and safety and health regulations.

THE CITY OF SPOKANE shall comply with all applicable federal and state non-discrimination laws, regulations and policies. No person shall on the grounds of age, race, creed, color, sex, sexual orientation, religion, national origin, marital status, honorably discharged veteran or military status, or disability (physical, mental or sensory) be denied the benefits of, or otherwise be subjected to discrimination under any project, program, or activity, funded in whole or in part, under this AGREEMENT.

In the event of noncompliance or refusal to comply with any applicable law, regulation, executive order, OMB Circular or policy by THE CITY OF SPOKANE, its subcontractors or subrecipients, SPOKANE COUNTY may rescind, cancel or terminate the AGREEMENT in whole or in part in its sole discretion. THE CITY OF SPOKANE is responsible for all costs or liability arising from its failure and that of its subcontractors and/or subrecipients to comply with application laws, regulations, executive orders, OMB Circulars or policies.

SECTION NO. 8: REPORTING REQUIREMENTS

THE CITY OF SPOKANE shall comply with the Federal Funding Accountability and Transparency Act (FFATA) and related OMB Guidance consistent with Public Law 109-282 as amended by section 6202(a) of Public Law 110-252 (see 31 U.S.C. 6101 note) and complete and return to SPOKANE COUNTY the FFATA Form located at <http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms> which is incorporated by reference and made a part of this AGREEMENT.

SECTION NO. 9: EQUIPMENT AND SUPPLY MANAGEMENT

A. THE CITY OF SPOKANE and any non-federal entity to which THE CITY OF SPOKANE makes a subaward shall comply with 2 CFR 200.318 – 200.326, to include but not limited to:

1. Upon successful completion of the terms of this AGREEMENT, all equipment and supplies purchased through this AGREEMENT will be owned by THE CITY OF SPOKANE or a recognized non-federal entity to which THE CITY OF SPOKANE has made a subaward, for which a contract, subrecipient grant agreement, or other means of legal transfer of

ownership is in place.

2. All equipment and supplies as applicable, purchased under this AGREEMENT will be recorded and maintained in THE CITY OF SPOKANE's inventory system.
3. Equipment records shall include: a description of the property; the manufacturer's serial number, model number, or other identification number; the source of the equipment, including the Federal Award Identification Number (FAIN); Catalogue of Federal Domestic Assistance (CFDA) number; who holds the title; the acquisition date; the cost of the equipment and the percentage of Federal participation in the cost; the location, use and condition of the equipment at the date the information was reported; and disposition data including the date of disposal and sale price of the property.
4. If applicable, THE CITY OF SPOKANE shall be responsible for any and all operational and maintenance expenses and for the safe operation of equipment and supplies including all questions of liability. Further, if applicable THE CITY OF SPOKANE shall develop appropriate maintenance schedules and procedures to ensure that equipment and supplies are well maintained and kept in good operating condition.
5. THE CITY OF SPOKANE shall take a physical inventory of the equipment and reconcile the results with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the records shall be investigated by THE CITY OF SPOKANE to determine the cause of the difference. THE CITY OF SPOKANE shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.
6. If applicable, THE CITY OF SPOKANE must develop a control system to ensure adequate safeguards to prevent loss, damage and theft of the property. Any loss, damage or theft shall be investigated and a report generated and sent to SPOKANE COUNTY and the Washington State Military Department.
7. THE CITY OF SPOKANE must obtain and maintain all necessary certifications and licenses for the equipment.
8. If THE CITY OF SPOKANE is authorized or required to sell the property, proper sales procedures must be established and followed to ensure the highest possible return.
9. If upon termination or at the AGREEMENT end date, there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value which will not be needed for any other Federal award, or when original or replacement equipment is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, THE CITY OF SPOKANE must comply with the following procedures:
 - a. THE CITY OF SPOKANE may retain the supplies for use on other non-Federal related activities or sell them, but must compensate the Federal sponsoring agency for its share.
 - b. THE CITY OF SPOKANE must dispose of equipment as follows:
 - i. Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of by THE CITY OF SPOKANE with no further obligation to SPOKANE COUNTY and the Washington State Military Department.
 - ii. Items of equipment with a current per-unit fair market value of more than \$5,000 may be retained or sold and THE CITY OF SPOKANE shall compensate the Federal-sponsoring agency for its share
10. Records for equipment shall be retained by THE CITY OF SPOKANE for a period of six years from the date of disposition, replacement, or transfer. If any litigation, claim, or audit is started before the expiration of the six-year period, the records shall be retained by THE CITY OF SPOKANE until all litigation, claims, or audit findings involving the records have been resolved.

11. Allowable equipment and supply categories for 15HSGP are listed on the Authorized Equipment List (AEL) located on the FEMA website at <http://www.fema.gov/preparedness-non-disaster-grants>. The AEL consists of 21 categories which are divided into sub-categories. It is important THE CITY OF SPOKANE and any non-federal entity to which THE CITY OF SPOKANE makes a subaward regard the AEL as an authorized purchasing list identifying items allowed under the specific grant program, and includes items that may not be categorized as equipment according to the federal, state, local, and tribal definitions of equipment. THE CITY OF SPOKANE is solely responsible for ensuring purchased items under this AGREEMENT are authorized as allowed items by the AEL at the time purchase. If the item is not identified on the AEL as allowable under HSGP, THE CITY OF SPOKANE must contact the Department Key Personnel for assistance in seeking FEMA approval prior to acquisition. THE CITY OF SPOKANE is solely responsible ensuring equipment eligibility in accordance with the AEL.
12. Unless expressly provided otherwise, all equipment must meet all mandatory regulatory and/or DHS/FEMA adopted standards to be eligible for purchase using Federal award funds.
13. Equipment purchased with DHS federal award funds is to be marked with "Purchased with funds provided by the U.S. Department of Homeland Security" when practicable.
14. Prior to procuring pharmaceuticals, THE CITY OF SPOKANE must have in place an inventory management plan to avoid large periodic variations in supplies due to coinciding purchase and expiration dates. THE CITY OF SPOKANE is encouraged to enter into rotational procurement agreements with vendors and distributors. Purchases of pharmaceuticals must include a budget for the disposal of expired drugs within each fiscal year's period of performance for 15HSGP. The cost of disposal cannot be carried over to another DHS/FEMA grant or grant period.
15. As a subrecipient of federal funds, THE CITY OF SPOKANE must pass on equipment and supply management requirements that meet or exceed the requirements outlined above to any non-federal entity to which THE CITY OF SPOKANE makes a subaward of federal award funds under this AGREEMENT.

SECTION NO. 10: GRANTEE MONITORING

- A. SPOKANE COUNTY will monitor the activities of THE CITY OF SPOKANE from the award date to closeout. The goal of SPOKANE COUNTY'S monitoring activities will be to ensure that agencies receiving federal pass-through funds are in compliance with this AGREEMENT, federal and state audit requirements, federal grant guidance, and applicable federal and state financial regulations, as well as 2 CFR Part 200 Subpart F. To document compliance with 2 CFR Part 200 Subpart F requirements, THE CITY OF SPOKANE shall complete and return to SPOKANE COUNTY the attached Audit Certification Form, which is incorporated herein and made part of this AGREEMENT. The Audit Certification Form must be signed each fiscal year thereafter until the completion of this AGREEMENT.
- B. The monitoring activities performed by SPOKANE COUNTY may include, but are not limited to:
 1. Review of financial and performance reports;
 2. Monitoring and documenting the completion of the AGREEMENT deliverables;
 3. Documentation of phone calls, meetings, e-mails and correspondence;
 4. Review of reimbursement requests and supporting documentation to ensure allowability and consistency with the AGREEMENT work plan, budget and federal requirements;
 5. Observation and documentation of AGREEMENT related activities, such as exercises,

- training, and funded events.
6. On-site visits to review and verify source documentation for reimbursement requests and performance reports and to verify completion of deliverables.
- C. Compliance will be monitored throughout the performance period to assess risk. Concerns will be addressed through a Corrective Action Plan.

SECTION NO 11: LIMITED ENGLISH PROFICIENCY (CIVIL RIGHTS ACT OF 1964 TITLE VI)

THE CITY OF SPOKANE must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that subrecipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768 (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. Assistance and information regarding language access obligations can be accessed at DHS Recipient Guidance at <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

SECTION NO 12: SINGLE AUDIT ACT REQUIREMENTS

- A. Non-federal entities, as subrecipients of a federal award, that expend \$750,000 or more in one fiscal year of federal funds from all sources, direct and indirect, are required to have a single or a program-specific audit conducted in accordance with 2 CFR Part 200 Subpart F. Non-federal entities that spend less than \$750,000 a year in federal awards are exempt from federal audit requirements for that year, except as noted in 2 CFR Part 200 Subpart F. As defined in 2 CFR Part 200, the term “non-federal entity” means a State, local government, Indian tribe, institution of higher education, or non-profit organization, that carries out a federal award as a recipient or subrecipient.
- B. If THE CITY OF SPOKANE is required to have an audit, it must ensure the audit is performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) as found in the Government Auditing Standards (the Revised Yellow Book) developed by the United States Comptroller General and the OMB Compliance Supplement. THE CITY OF SPOKANE has the responsibility of notifying its auditor and requesting an audit in compliance with 2 CFR Part 200 Subpart F, to include the Washington State Auditor’s Office, a federal auditor, or a public accountant performing work using GAGAS, as appropriate. Costs of the audit may be an allowable grant expenditure as authorized by 2 CFR Part 200 Subpart F.
- C. THE CITY OF SPOKANE shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any sub-contractors also maintain auditable

records. THE CITY OF SPOKANE is responsible for any audit exceptions incurred by its own organization or that of its sub-contractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report.

- D. THE CITY OF SPOKANE must respond to SPOKANE COUNTY's requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. SPOKANE COUNTY reserves the right to recover from THE CITY OF SPOKANE all disallowed costs resulting from the audit.
- E. Once the single audit has been completed, THE CITY OF SPOKANE must send a full copy of the audit to SPOKANE COUNTY. In addition to a copy of the audit, THE CITY OF SPOKANE must send a letter stating there were no findings, or if there were findings, the letter should provide a list of the findings. In addition to sending a copy of the audit, and whenever appropriate, THE CITY OF SPOKANE must include a corrective action plan for any audit findings and a copy of the management letter if one was received. THE CITY OF SPOKANE must send the audit, findings, corrective plan and the letter no later than nine (9) months after the end of THE CITY OF SPOKANE's fiscal year(s) to the following:

**Christopher Barnes
Program Specialist
Greater Spokane Emergency Management
1121 W Gardner Ave.
Spokane WA 99201**

- F. If THE CITY OF SPOKANE claims it is exempt from the audit requirements of 2 CFR Part 200 Subpart F, it must send a letter identifying this AGREEMENT and explaining the criteria for exemption no later than nine (9) months after the end of THE CITY OF SPOKANE's fiscal year(s) to:

**Christopher Barnes
Program Specialist
Greater Spokane Emergency Management
1121 W Gardner Ave.
Spokane WA 99201**

- G. SPOKANE COUNTY retains the sole discretion to determine whether a valid claim for an exemption from the audit requirements of this provision has been established.
- H. Conducting a single or program-specific audit in compliance with 2 CFR Part 200 Subpart F is a material requirement of this AGREEMENT. In the absence of a valid claim of exemption from the audit requirements of 2 CFR Part 200 Subpart F, THE CITY OF SPOKANE's failure to comply with said audit requirements may result in one or more of the following actions in SPOKANE COUNTY's sole discretion: a percentage of federal awards being withheld until the audit is completed in accordance with 2 CFR Part 200 Subpart F; the withholding or disallowing of overhead costs; the suspension of federal awards until the audit is conducted and submitted; or termination of the federal award.

SECTION NO. 13: VENUE STIPULATION

This AGREEMENT shall be construed and enforced in accordance with, and the validity and performance shall be governed by the laws of the state of Washington. Venue of any suit between the PARTIES arising out of this AGREEMENT shall be the Superior Court of SPOKANE COUNTY, Washington. THE CITY OF SPOKANE, by execution of this AGREEMENT acknowledges the jurisdiction of the courts of the State of Washington.

SECTION NO 14: SEVERABILITY

If any court of rightful jurisdiction holds any provision or condition under this AGREEMENT or its application to any person or circumstances invalid, this invalidity does not affect other provisions, terms or conditions of the AGREEMENT, which can be given effect without the invalid provision. To this end, the terms and conditions of this AGREEMENT are declared severable.

SECTION NO. 15: AMENDMENTS AND MODIFICATIONS

THE CITY OF SPOKANE and/or SPOKANE COUNTY may request, in writing, an amendment or modification of this AGREEMENT. However, such amendment or modification shall not be binding, take effect or be incorporated herein until made in writing and signed by the authorized representatives of SPOKANE COUNTY and THE CITY OF SPOKANE. No other understandings or agreements, written or oral, shall be binding on the parties.

SECTION NO. 16: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, OR INELIGIBILITY

As federal funds are a basis for this AGREEMENT, THE CITY OF SPOKANE certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this AGREEMENT by any federal department or agency.

THE CITY OF SPOKANE shall complete, sign and return a Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion form which is attached and incorporated to this AGREEMENT.

Further, THE CITY OF SPOKANE agrees to comply with all applicable federal regulations concerning the federal debarment and suspension system, including 2 CFR Part 180. THE CITY OF SPOKANE certifies that it will ensure that potential sub-contractors or sub-recipients or any of their principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in “covered transactions” by any federal department or agency. “Covered transactions” include procurement contracts for goods or services awarded under a non-procurement transaction (e.g. grant or cooperative agreement) that are expected to equal or exceed \$25,000, and subawards to subrecipients for any amount. With respect to covered transactions, THE CITY OF SPOKANE may comply with this provision by obtaining a certification statement from the potential subcontractor or subrecipient or by checking the System for Award Management (<http://www.sam.gov>) maintained by the federal government. THE CITY OF SPOKANE also agrees not to enter into any arrangements or contracts with any party on the Washington State Department of Labor and Industries’ “Debarred Contractor List” (<http://www.lni.wa.gov/TradesLicensing/PrevWage/AwardingAgencies/DebarredContractors/>).

THE CITY OF SPOKANE also agrees not to enter into any agreements or contracts for the purchase of goods and services with any part on the Department of Enterprise Services’ Debarred Vendor List (<http://www.des.wa.gov/services/ContractingPurchasing/Business/Pages/Vendor-Debarment.aspx>).

SECTION NO. 17: CERTIFICATION REGARDING RESTRICTIONS ON LOBBYING

As required by 44 CFR Part 18, THE CITY OF SPOKANE hereby certifies that to the best of its

knowledge and belief: (1) no federally appropriated funds have been paid or will be paid by or on behalf of THE CITY OF SPOKANE to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; (2) that if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this AGREEMENT, THE CITY OF SPOKANE will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; (3) and that, as applicable, THE CITY OF SPOKANE will require that the language of this certification be included in the award documents for all subawards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into, and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.

SECTION NO 18: CONFLICT OF INTEREST

No officer or employee of the SPOKANE COUNTY; no member, officer, or employee of THE CITY OF SPOKANE or its designees or agents; no member of the governing body of the jurisdiction in which the project is undertaken or located; and no other official of THE CITY OF SPOKANE who exercises any functions or responsibilities with respect to the project during his or her tenure, shall have any personal or pecuniary gain or interest, direct or indirect, in any contract, subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this AGREEMENT.

SECTION NO. 19: DISPUTE RESOLUTION

Except as otherwise provided in this AGREEMENT, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute resolution panel to resolve the dispute. A request for a dispute resolution panel shall be in writing, state the disputed issues, state the relative positions of the parties and be sent to all parties. The panel shall consist of a representative appointed by SPOKANE COUNTY, a representative by THE CITY OF SPOKANE and a third party mutually agreed upon by both parties. The panel shall by majority vote, resolve the dispute. Each party shall bear the cost for its panel member and its attorney fees and costs and share equally the cost of the third panel member.

SECTION NO. 20: INDEMNIFICATION

It is understood and agreed that this AGREEMENT is solely for the benefit of the PARTIES to the AGREEMENT and gives no right to any other party. No joint venture or partnership is formed as a result of this AGREEMENT.

To the extent allowed by law, THE CITY OF SPOKANE, its successors or assigns, shall protect, save, indemnify, defend, and hold harmless SPOKANE COUNTY, the Washington State Military Department, the State of Washington and the United States Government and their authorized agents and employees, from and against all claims, actions, costs, expenses or

damages of any nature whatsoever by reason of the acts or omissions of THE CITY OF SPOKANE its' sub-contractors, consultants, subrecipients, assigns, agents, licensees, invitees, employees or any person whomsoever arising out of or in connection with any acts or activities authorized by this AGREEMENT.

To the extent allowed by law, THE CITY OF SPOKANE further agrees to defend SPOKANE COUNTY, the Washington State Military Department and the State of Washington and their authorized agents and employees in any litigation; including payment of any costs or attorney's fees for any claims or action commenced thereon arising out of or in connection with acts or activities authorized by this AGREEMENT.

This obligation shall not include such claims, costs, damages or expenses which may be caused by the sold negligence of SPOKANE COUNTY; provided, that if the claims or damages are caused by or result from the concurrent negligence of (1) SPOKANE COUNTY, and (2) THE CITY OF SPOKANE, its agents or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of THE CITY OF SPOKANE or its agents or employees.

Insofar as the funding source, the Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA), is an agency of the federal government, the following shall apply:

44 CFR 206.9 Non-liability. The federal government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the federal government in carrying out the provisions of the Stafford Act.

OCCUPATIONAL SAFETY/HEALTH ACT and WASHINGTON INDUSTRIAL SAFETY/HEALTH ACT (OSHA/WISHA): THE CITY OF SPOKANE represents and warrants that its work place does now or will meet all applicable federal and state safety and health regulations that are in effect during THE CITY OF SPOKANE's performance under this AGREEMENT. To the extent allowed by law, THE CITY OF SPOKANE further agrees to indemnify and hold harmless SPOKANE COUNTY, the Washington State Military Department and its employees and agents from all liability, damages and costs of any nature, including but not limited to, costs of suits and attorneys' fees assessed against SPOKANE COUNTY, and the Washington State Military Department, as a result of the failure of THE CITY OF SPOKANE to so comply.

SECTION NO. 21: EXECUTION AND APPROVAL

The signatories to this AGREEMENT represent that they have the authority to bind their respective organizations to this AGREEMENT. Only the PARTIES' authorized representatives shall have the express, implied or apparent authority to alter, amend, modify or waive any clause or condition of this AGREEMENT. Any alteration, amendment, modification, or waiver of any clause or condition of this AGREEMENT is not effective or binding unless made in writing and signed by both PARTIES' authorized representatives. Further, only the Authorized Signature representatives or the designee of the Authorized Signature representative shall have signature authority to sign reimbursement requests, time extension requests, amendment and modification request, requests for changes to projects or work plans and other requests, certifications and documents authorized by or required under this AGREEMENT.

SECTION NO. 22: LOSS OR REDUCTION OF FUNDING

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this AGREEMENT and prior to normal completion or end date, SPOKANE COUNTY and/or the Washington State Military Department may unilaterally reduce the scope of work and budget or unilaterally terminate all or part of the AGREEMENT as a “Termination for Cause” without providing THE CITY OF SPOKANE an opportunity to cure. Alternatively, the PARTIES may renegotiate the terms of this AGREEMENT under “Amendments and Modifications” to comply with new funding limitations and conditions, although SPOKANE COUNTY and/or the Washington State Military Department has no obligation to do so.

SECTION NO. 23: NONASSIGNABILITY

Neither this AGREEMENT, nor any claim arising under this AGREEMENT, shall be transferred or assigned by THE CITY OF SPOKANE.

SECTION NO. 24: NOTICES

THE CITY OF SPOKANE shall comply with all public notices or notices to individuals required by applicable local, state and federal laws and regulations and shall maintain a record of this compliance.

SECTION NO. 25: POLITICAL ACTIVITY

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

SECTION NO. 26: PUBLICITY

THE CITY OF SPOKANE agrees to submit to SPOKANE COUNTY and the Washington State Military Department, prior to issuance all advertising and publicity matters relating to this AGREEMENT wherein SPOKANE COUNTY’s and/or the Washington State Military Department’s name is mentioned or language used from which the connection of SPOKANE COUNTY and/or the Washington State Military Department’s name may, in the judgment of SPOKANE COUNTY and/or the Washington State Military Department be inferred or implied. THE CITY OF SPOKANE agrees not to publish or use such advertising and publicity matters without the prior written consent of SPOKANE COUNTY and/or the Washington State Military Department. THE CITY OF SPOKANE may copyright original work it develops in the course of or under this AGREEMENT, however, pursuant to 2 CFR Part 200.315, FEMA reserves a royalty-free, nonexclusive and irrevocable license to reproduce, public or otherwise use and to authorize others to use the work for government purposes.

Publication resulting from work performed under this AGREEMENT shall include an acknowledgement of FEMA’s financial support, by CFDA number, and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA’s views.

SECTION NO. 27: RECORDS

- A. THE CITY OF SPOKANE agrees to maintain all books, records, documents, receipts, invoices and all other electronic or written records necessary to sufficiently and properly reflect THE CITY OF SPOKANE's contracts, subawards, grant administration, and payments, including all direct and indirect charges, and expenditures in the performance of this AGREEMENT (the "records").
- B. THE CITY OF SPOKANE's records related to this AGREEMENT and the projects funded may be inspected and audited by SPOKANE COUNTY and/or the Washington state Military Department or its designee, by the Office of the State Auditor, DHS, FEMA or their designees, by the Comptroller General of the United States or its designees, or by other state or federal officials authorized by law, for the purposes of determining compliance by THE CITY OF SPOKANE with the terms of this AGREEMENT and to determine the appropriate level of funding to be paid under the AGREEMENT.
- C. The records shall be made available by THE CITY OF SPOKANE for such inspection, and audit together with suitable space for such purpose, at any and all times during THE CITY OF SPOKANE's normal working day.
- D. THE CITY OF SPOKANE shall retain and allow access to all records related to this AGREEMENT and the funded project(s) for a period of at least six (6) years following final payment and closure of the grant under this AGREEMENT. Despite the minimum federal retention requirement of three (3) years, the more stringent State requirement of six (6) years must be followed.

SECTION NO. 28: TERMINATION FOR CONVENIENCE

Notwithstanding any provisions of this AGREEMENT, THE CITY OF SPOKANE may terminate this AGREEMENT by providing written notice of such termination to SPOKANE COUNTY'S Key Personnel identified in the AGREEMENT, specifying the effective date thereof, at least thirty (30) days prior to such date.

Except as otherwise provided in this AGREEMENT, SPOKANE COUNTY, in its sole discretion and in the best interests of SPOKANE COUNTY and/or the State of Washington, may terminate this AGREEMENT in whole or in part by providing ten (10) calendar days' written notice, beginning on the second day after mailing to THE CITY OF SPOKANE. Upon notice of termination for convenience, SPOKANE COUNTY reserves the right to suspend all or part of the AGREEMENT, withhold further payments, or prohibit THE CITY OF SPOKANE from incurring additional obligations of funds. In the event of termination, THE CITY OF SPOKANE shall be liable for all damages as authorized by law. The rights and remedies of SPOKANE COUNTY provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

SECTION NO. 29: TERMINATION OR SUSPENSION FOR CAUSE

In the event SPOKANE COUNTY, in its sole discretion, determines THE CITY OF SPOKANE has failed to fulfill in a timely and proper manner its obligations under this AGREEMENT, is in an unsound financial condition so as to endanger performance hereunder, is in violation of any laws or regulations that render THE CITY OF SPOKANE unable to perform any aspect of the AGREEMENT, or has violated any of the covenants, agreements or stipulations of this AGREEMENT, SPOKANE COUNTY has the right to immediately suspend or terminate this AGREEMENT in whole or in part.

SPOKANE COUNTY may notify THE CITY OF SPOKANE in writing of the need to take

corrective action and provide a period of time in which to cure any defect identified. SPOKANE COUNTY is not required to allow THE CITY OF SPOKANE an opportunity to cure if it is not feasible as determined solely within SPOKANE COUNTY'S discretion. Any time allowed for cure shall not diminish or eliminate THE CITY OF SPOKANE's liability for damages or otherwise affect any other remedies available to SPOKANE COUNTY. If SPOKANE COUNTY allows THE CITY OF SPOKANE an opportunity to cure, SPOKANE COUNTY shall notify THE CITY OF SPOKANE in writing of the need to take corrective action. If the corrective action is not taken within ten (10) calendar days or as otherwise specified by SPOKANE COUNTY, or if such corrective action is deemed by SPOKANE COUNTY to be insufficient, the AGREEMENT may be terminated in whole or in part.

SPOKANE COUNTY reserves the right to suspend all or part of the AGREEMENT, withhold further payments, or prohibit THE CITY OF SPOKANE from incurring additional obligations of funds during investigation of the alleged compliance breach, pending corrective action by THE CITY OF SPOKANE, if allowed, or pending a decision by SPOKANE COUNTY to terminate the AGREEMENT in whole or in part.

In the event of termination, THE CITY OF SPOKANE shall be liable for all damages as authorized by law, including but not limited to, any cost difference between the original AGREEMENT and the replacement or cover AGREEMENT and all administrative costs directly related to the replacement AGREEMENT, e.g., cost of administering the competitive solicitation process, mailing, advertising and other associated staff time. The rights and remedies of SPOKANE COUNTY provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

If it is determined that THE CITY OF SPOKANE: (1) was not in default or material breach, or (2) failure to perform was outside of THE CITY OF SPOKANE's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience".

SECTION NO. 30: TERMINATION PROCEDURES

In addition to the procedures set forth below, if SPOKANE COUNTY terminates this AGREEMENT, THE CITY OF SPOKANE shall follow any procedures specified in the termination notice. Upon termination of this AGREEMENT and in addition to any other rights provided in this AGREEMENT, SPOKANE COUNTY may require THE CITY OF SPOKANE to deliver to SPOKANE COUNTY any property specifically produced or acquired for the performance of such part of this AGREEMENT as has been terminated.

If the termination is for convenience, SPOKANE COUNTY shall pay to THE CITY OF SPOKANE an agreed upon price, if separately stated, for properly authorized and completed work and services rendered or goods delivered to and accepted by SPOKANE COUNTY prior to the effective date of AGREEMENT termination, and the amount agreed upon by THE CITY OF SPOKANE and SPOKANE COUNTY for (i) completed work, supplies and services provided for which no separate price is stated, (ii) partially completed work, supplies and services provided which are accepted by SPOKANE COUNTY, (iii) other work, supplies and services which are accepted by SPOKANE COUNTY, and (iv) the protection and preservation of property.

Failure to agree with such amounts shall be a dispute within the meaning of the "Disputes" clause of this AGREEMENT. If the termination is for cause, SPOKANE COUNTY shall determine the extent of the liability of SPOKANE COUNTY. SPOKANE COUNTY shall have no other obligation to THE CITY OF SPOKANE for termination. SPOKANE COUNTY may

withhold from any amounts due THE CITY OF SPOKANE such sum as SPOKANE COUNTY determines to be necessary to protect SPOKANE COUNTY against potential loss or liability.

The rights and remedies of SPOKANE COUNTY provided in this AGREEMENT shall not be exclusive and are in addition to any other rights and remedies provided by law.

After receipt of a notice of termination, and except as otherwise directed by SPOKANE COUNTY in writing, THE CITY OF SPOKANE shall:

- A. Stop work under the AGREEMENT on the date, and to the extent specified, in the notice;
- B. Place no further orders or sub-contracts for materials, services, and/or supplies, in relation to this AGREEMENT except as may be necessary for completion of such portion of the work under the AGREEMENT as is not terminated;
- C. Assign to SPOKANE COUNTY, in the manner, at the times, and to the extent directed by SPOKANE COUNTY, all of the rights, title, and interest of THE CITY OF SPOKANE under the orders and sub-contracts so terminated, in which case SPOKANE COUNTY has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and sub-contracts;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and sub-contracts, with the approval or ratification of SPOKANE COUNTY to the extent SPOKANE COUNTY may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Transfer to title to SPOKANE COUNTY and/or the Washington State Military Department and deliver in the manner, at the times, and to the extent directed by SPOKANE COUNTY any property which, if the AGREEMENT had been completed, would have been required to be furnished to SPOKANE COUNTY and/or the Washington State Military Department;
- F. Complete performance of such part of the work as shall not have been terminated by SPOKANE COUNTY in compliance with all contractual requirements; and
- G. Take such action as may be necessary, or as SPOKANE COUNTY may require, for the protection and preservation of the property related to this AGREEMENT which is in the possession of THE CITY OF SPOKANE and in which SPOKANE COUNTY and/or the Washington State Military Department has or may acquire an interest.

SECTION NO. 31: WAIVER

No conditions or provisions to this AGREEMENT can be waived unless approved in advance by SPOKANE COUNTY in writing. SPOKANE COUNTY's failure to insist upon strict performance of any provision of the AGREEMENT or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this AGREEMENT.

SECTION NO. 32: UTILIZATION OF MINORITY AND WOMEN BUSINESS ENTERPRISES (MWBE)

THE CITY OF SPOKANE is encouraged to utilize business firms that are certified as minority-owned and/or women-owned in carrying out the purposes of this AGREEMENT. THE CITY OF SPOKANE may set utilization standards, based upon local conditions or may utilize the state of Washington MWBE goals, as identified in WAC 326-30-041.

EXHIBIT “A”
2015 HOMELAND SECURITY GRANT (HSGP)
STATE HOMELAND SECURITY PROGRAM
APPROVED PROJECTS

Work Plan/Statement of Work
FFY 2015 Region 9 Homeland Security Program
Agency: City of Spokane

INTRODUCTION:

As the Pass-through Entity (PTE), the Washington State Military department (WMD) Emergency Management Division’s (EMD) Preparedness Grants Section (PGS), referenced as the Department, is responsible for ensuring federal funding is expended and programs implemented in full accordance with governing law and regulations. Eighty-percent of the state’s award is allocated to local and tribal units of government in accordance with Federal guidelines. Washington State is divided into nine Homeland Security Regions. Funding is allocated to the Regions according to a county base, population, and population density funding formula. The remaining twenty percent is allocated to state agencies using a sustainment funding model.

Region 9 has conducted extensive regional planning efforts that produced a regional Threat/Risk Assessment and Vulnerability Analysis Report, All Hazard Emergency Preparedness Strategic Plan and Programmatic Enhancements. Seventeen natural and technological risks are identified. Threat, risk and vulnerability were analyzed and are annually reviewed to help focus our capabilities based prioritization. The primary hazards we face on an annual basis and priority planning efforts are: wildland fire, severe winter storm, flood, HAZMAT and transportation HAZMAT, infectious disease, and terrorism. Priority is given these threats and hazards, an all-hazards focus is encouraged and WMD is looking to integrate a catastrophic framework. The regional hazards are distributed across four risk categories (severe, high, moderate and low). The northern portion of the region (Ferry, Stevens, Pend Oreille counties) border Canada so border security and coordination with federal and state partners is prioritized.

Region 9 participates in the annual WA State SPR and THIRA, primarily through the regional coordinator who shares and seeks input from regional partners. Planning is coordinated at the local/tribal level and across Region 9. Regional planning efforts support capability specific plans, procedures, and training and exercise programs. This investment supports ongoing regional efforts

to attain and maintain NIMS compliance, update and maintain county mitigation and comprehensive emergency management plans to include Terrorism Annexes and integration of the whole community into existing plans. The results are cross-walked with the State's priorities, goals and capability targets and incorporated into the local and regional plans. This Investment sustains previous year's SHSP investments and will primarily address Planning and Operational Coordination, priorities identified as high in the SPR.

Region 9 is composed of Adams, Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, and Whitman Counties. Spokane County is the designated Region 9 Homeland Security Coordinating Office and the point of contact for the Region 9 Investment, which was submitted as part of the Washington State FY15 SHSP Investment Justification. The following project was approved as a part of the Investment:

Project #2	Enhance Preparedness Response and Recovery	\$101,799.72
DESCRIPTION	<p>Planning efforts support the enhancement of local and regional teams and capabilities. It will support local and tribal planning as well as regional collaboration/coordination and an interagency/inter-jurisdictional approach to implement all-hazard emergency preparedness across Washington State Homeland Security Region 9. Local, tribal, and regional planning integrates a terrorism nexus in the all-hazards approach. This project is supported by the regional planning project and will support local and regional teams to enhance communication capabilities to include: infrastructure, mobile, portables, handhelds, and communication support equipment. In addition, this project will enhance and sustain capability with alert and warning, bomb response, SWAT, SAR, Sheriff's Air Support Unit, and HAZMAT. These projects directly and indirectly impact our all-hazards planning and includes terrorism. The primary gap that will be addressed is the prioritization and implementation of the recommendations and strategies in the Washington State Region 9 All Hazard Emergency Preparedness Strategic Plan. The primary goals identified through this investment/project are: strengthen systems, processes and capacity of capability sustainment Region-wide; prevent hazard events when possible and minimize impacts from all incidents or events; protect people, property, the economy and the environment; and respond to region-wide and sub-regional incidents effectively and in a coordinated manner. Specifically gaps filled for alert and warning, interoperable communications, EDU, SWAT, SAR, Sheriff's Air Support Unit, and HAZMAT. This ongoing project is ensuring planning, operational coordination and public information and warning across the region is integrated.</p>	

EXHIBIT “B”
BUDGET

FFY15 Homeland Security Grant Program Budget Summary

**Agency: The City
of Spokane**

**Contract #:
GSEM-1511**

Project #2 Enhance Preparedness and Recovery	Qty	Unit Cost	Planning	Organization	Equipment	Training	Exercise	Total (Including tax)
AVON C50 Respirator Kit Large	2	\$488.00			\$976.00			\$1,060.91
AVON C50 Respirator Kit Medium	34	\$488.00			\$16,592.00			\$18,035.50
AVON C50 Respirator Kit Small	6	\$488.00			\$2,928.00			\$3,182.74
AVON Voice Projection Unit for C50	37	\$360.00			\$13,320.00			\$14,478.84
TNVC TNV/Sentinel Gen3 Binocular Night Vision Device	7	\$8,149.99			\$57,043.00			\$62,005.74
Wilcox L4 G24 Mount w/ Low Profile Breakaway Base	7	\$399.00			\$2,793.00			\$3,035.99
Total								\$101,799.72

FFATA FORM

Subrecipient Agency: City of Spokane				
Grant and Year: FY15 SHSP		Agreement Number: E16-076		
Completed by: _____				
Name	Title	Telephone		
Date Completed: _____				
STEP 1				
Is your grant agreement less than \$25,000?	YES <input type="checkbox"/>	STOP, no further analysis needed, GO to Step 6	NO <input type="checkbox"/>	GO to Step 2
STEP 2				
In your preceding fiscal year, did your organization receive 80% or more of its annual gross revenues from federal funding?	YES <input type="checkbox"/>	GO to STEP 3	NO <input type="checkbox"/>	STOP, no further analysis needed, GO to Step 6
STEP 3				
In your preceding fiscal year, did your organization receive \$25,000,000 or more in federal funding?	YES <input type="checkbox"/>	GO to STEP 4	NO <input type="checkbox"/>	STOP, no further analysis needed, GO to Step 6
STEP 4				
Does the public have access to information about the total compensation* of senior executives in your organization?	YES <input type="checkbox"/>	STOP, no further analysis needed, GO to step 6	NO <input type="checkbox"/>	GO to STEP 5
STEP 5				
Executive #1	Name: _____			
	Total Compensation amount: \$ _____			
Executive #2	Name: _____			
	Total Compensation amount: \$ _____			
Executive #3	Name: _____			
	Total Compensation amount: \$ _____			
Executive #4	Name: _____			
	Total Compensation amount: \$ _____			
Executive #5	Name: _____			
	Total Compensation amount: \$ _____			
STEP 6				

If your organization does not meet these criteria, specifically identify below **each** criteria that is not met for your organization: For Example: "Our organization received less than \$25,000."

Signature: _____ **Date:** _____

* Total compensation refers to:

- Salary and bonuses
- Awards of stock, stock options, and stock appreciation rights
- Other compensation including, but not limited to, severance and termination payments
- Life insurance value paid on behalf of the employee

Additional Resources:

<http://www.whitehouse.gov/omb/open>

<http://www.hrsa.gov/grants/ffata.html>

<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf>

<http://www.grants.gov/>

2 CFR Part 200 Subpart F Audit Certification Form

Audits of States, Local Governments, Indian Tribes and Non-Profit Organizations

Contact Information	
Subrecipient Name: City of Spokane	
Authorized Chief Financial Officer:	
Address:	
Email:	Phone #:

Purpose: As a pass-through entity of federal grant funds, SPOKANE COUNTY and/or the Washington State Military Department is required by 2 CFR Part 200 Subpart F to monitor activities of subrecipients to ensure federal awards are used for authorized purposes and verify that subrecipients expending \$750,000 or more in federal awards during their fiscal year have met the 2 CFR Part 200 Subpart F Audit Requirements. Your entity is a subrecipient subject to such monitoring by SPOKANE COUNTY and/or the Washington State Military Department because it is a non-federal entity that expends federal grant funds received from SPOKANE COUNTY as a pass-through entity to carry out a federal program. 2 CFR Part 200 Subpart F should be consulted when completing this form.

Directions: As required by 2 CFR Part 200 Subpart F, non-federal entities that expend \$750,000 in federal awards in a fiscal year shall have a single or program-specific audit conducted for that year. If you entity **is not** subject to these requirements, you must complete Section A of this form. If your entity **is** subject to these requirements, you must complete Section B of this form. When completed, you must sign, date and return this form with your grant agreement and every fiscal year thereafter until the grant agreement is closed. Failure to return this completed Audit Certification Form may result in delay of grant agreement processing, withholding of federal awards or disallowance of costs and suspension or termination of federal awards.

SECTION A: Entities NOT subject to the audit requirements of 2 CFR Part 200 Subpart F

Our entity is not subject to the requirements of 2 CFR Part 200 Subpart F because (check all that apply):

- ☐ We did not expend \$750,000 or more of *total* federal awards during the fiscal year.
- ☐ We are a for-profit agency.
- ☐ We are exempt for other reasons (describe):

However, by signing below, I agree that we are still subject to the audit requirements, laws and regulations governing the program(s) in which we participate, that we are required to maintain records of federal funding and to provide access to such records by federal and state agencies and their designees, and that SPOKANE COUNTY and/or the Washington State Military Department may request and be provided access to additional information and/or documentation to ensure proper stewardship of federal funds.

SECTION B: Entities that ARE subject to the requirements of 2 CFR Part 200 Subpart F

(Complete the information below and check the appropriate box)

- ☐ We completed our last 2 CFR Part 200 Subpart F Audit on [enter date] _____ for Fiscal Year ending [enter date] _____. There were no findings related to federal awards from SPOKANE COUNTY/ Washington State Military Department. No follow-up action is required by SPOKANE COUNTY as the pass-through entity.

A complete copy of the audit report, which includes exceptions, corrective action plan and management response, is either provided electronically to the SPOKANE COUNTY Office of Financial Assistance, is enclosed or is available online at:

http://www:_____.

- ☐ We completed our last 2 CFR Part 200 Subpart F Audit on [enter date] _____ for Fiscal Year ending [enter date] _____. There were findings related to federal awards.

A complete copy of the audit report, which includes exceptions, corrective action plan and management response, is either provided electronically to the SPOKANE COUNTY Office of Financial Assistance, is enclosed or is available online at:

http://www:_____.

- ☐ Our completed 2 CFR Part 200 Subpart F Audit will be available on [enter date] _____ for Fiscal Year ending [enter date] _____. We will forward a copy of the audit report to SPOKANE COUNTY Office of Financial Assistance at that time to provide the state auditor report number:_____.

I hereby certify that I am an individual authorized by the above identified entity to complete this form. Further, I certify that the above information is true and correct and all relevant material findings contained in audit report/statement have been disclosed. Additionally, I understand this Form is to be submitted every fiscal year for which this entity is a subrecipient of federal grant funds from SPOKANE COUNTY/ Washington State Military Department until the grant agreement contract is closed.

Signature of Authorized Financial Official: _____ Date: _____

Print Name & Title: _____

Debarment, Suspension, Ineligibility or Voluntary Exclusion Certification Form

NAME		Doing business as (DBA)	
ADDRESS	Applicable Procurement or Solicitation #, if any:	WA Uniform Business Identifier (UBI)	Federal Employer Tax Identification #:
This certification is submitted as part of a request to contract.			

Instructions For Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

READ CAREFULLY BEFORE SIGNING THE CERTIFICATION. Federal regulations require contractors and bidders to sign and abide by the terms of this certification, without modification, in order to participate in certain transactions directly or indirectly involving federal funds.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the department, institution or office to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. 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 person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable CFR, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under applicable CFR, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to required establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business activity.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under applicable CFR, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction

The prospective lower tier participant certifies, by submission of this proposal or contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this form.

Bidder or Contractor Signature: _____

Date: _____

Print Name and Title: _____

**Briefing Paper
City of Spokane
Spokane Police Department
DOJ/OJP/ODP Grant Acceptance
December 12, 2016**

Subject

Approval to accept equipment from Spokane City/County Department of Emergency Management (DEM).

Background

The Spokane City/County DEM gets funding from the USDOJ/OJP/ODP State Domestic Preparedness Equipment Program (CFDA# 97.067). Spokane County is the lead agency of this program. The program is used to enhance the capability of State and local jurisdictions to prepare for and respond to terrorist acts including events of terrorism involving weapons of mass destruction and biological, nuclear, incendiary, chemical, and explosive devises.

Impact

The estimated value of equipment is \$120,000.00. SPD has received the following equipment from the grant: night vision goggles, gas masks, and trauma equipment to be used by the SWAT and TAC teams. The department's SWAT team expects to receive respirator kits, night vision binoculars and mounts from the program.

Action

Approval to accept equipment from Spokane County DEM under the State Domestic Preparedness Equipment Program.

Funding

U.S. Department of Justice grant funds.



Agenda Sheet for City Council Meeting of:

01/30/2017

<u>Date Rec'd</u>	1/17/2017
<u>Clerk's File #</u>	OPR 2017-0031
<u>Renews #</u>	

Submitting Dept	ENGINEERING SERVICES	Cross Ref #	
Contact Name/Phone	DAN BULLER 625-6391	Project #	2014096
Contact E-Mail	DBULLER@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	CR17688
Agenda Item Name	0370 - PERMANENT EASEMENT FOR I07C TANK		

Agenda Wording

Contract for permanent easement for the proposed I07c Riverside Control Facility tank. (East Central Neighborhood Council)

Summary (Background)

Engineering Services and Integrated Capital Management have been searching for a number of years for a suitable site to build the proposed I07c tank in the vicinity of Napa Street and Sprague Avenue. While negotiating on a price for a different parcel, the McKinley School building, located at 117 North Napa Street, with its large parking area sold. Engineering Services representatives approached the new owner and inquired about a permanent easement for the proposed tank. Those negotiations

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ \$103,513.76	#	4340-43416-94000-56501-10100
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 1/23/17
<u>Finance</u>	DOVAL, MATTHEW	<u>Distribution List</u>	
<u>Legal</u>	RICHMAN, JAMES	Engineering Admin	
<u>For the Mayor</u>	SANDERS, THERESA	kkeck@spokanecity.org	
<u>Additional Approvals</u>		kschmitt@spokanecity.org	
<u>Purchasing</u>		htrautman@spokanecity.org	
		jlargent@spokanecity.org	
		mhughes@spokanecity.org	
		dsteele@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

have been successful and the new property owner as worked closely to incorporate our tank design and surface restoration into their development plans.

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

BRIEFING PAPER
Public Works Committee
Engineering Services
January 23, 2017

Subject:

I07c Tank Site Acquisition, Engineering Services Project No. 2014096

Background:

The I07c tank is a proposed 200,000 gallon tank which must be located in general the vicinity of Napa Street and Sprague Avenue because of the existing sewer piping network.

Discussion:

Engineering Services and Integrated Capital Management have been searching for a number of years for a suitable site to build the proposed I07c tank in the largely developed area in the vicinity of Napa Street and Sprague Avenue. The City made an offer on a potential tank site just west of the intersection of Napa Street and Riverside Avenue. That site was one of the few sites available in this area, but would have presented some shoring challenges due to adjacent buildings. While negotiating on price for that parcel, the McKinley School building with its large parking area sold. Engineering Services representatives approached the new owner and inquired about a permanent easement for the proposed tank. Those negotiations were successful and the new property owner has worked closely to incorporate our tank design and surface restoration into their development plans.

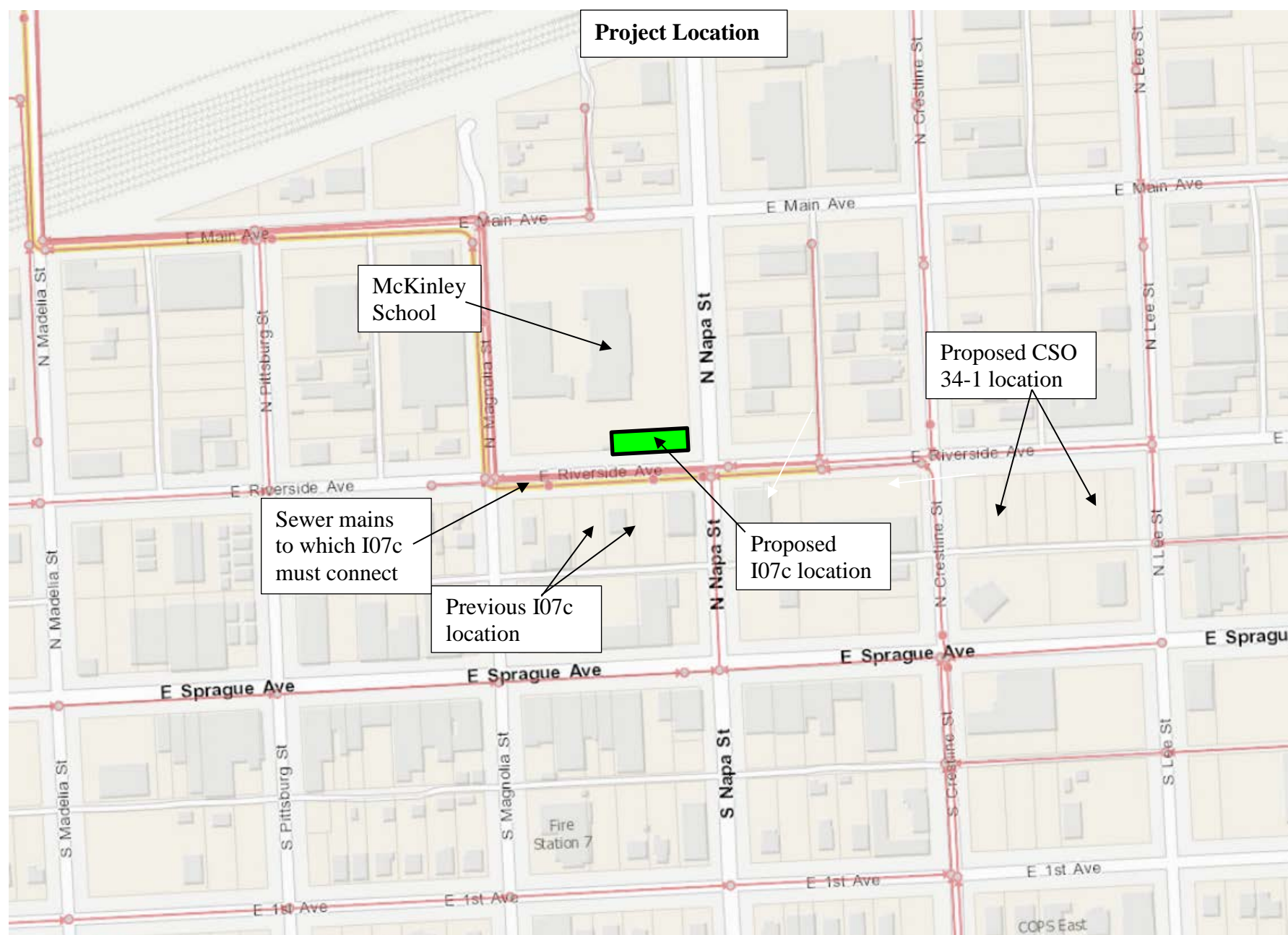
(Note: the "I0" tanks such as this tank, I07c, and the Bosch lot, I04, are identical to CSO tanks except that they don't overflow into the river during an extreme storm event.)

Impact:

The negotiated price is \$103,000. This cost is to be paid with utility rate fees.

Action:

This information is presented for Council consideration. Authorization to complete this purchase will be on Council's advanced agenda on January 23, 2017.



After recording return document to:
City of Spokane
Engineering Services
2nd Floor, City Hall
808 West Spokane Falls Blvd.
Spokane WA 99201

PLEASE MAKE NO MARK IN THE MARGIN SPACE - RESERVED FOR COUNTY AUDITOR'S USE

Document Title: Easement
Reference Number of Related Documents:
Grantor(s): Schoolyard Billy, LLC
Grantee(s): City of Spokane
Legal Description: Blk 69 Sub of School Section 16
Additional Legal Description is on Page 4 of Document
Assessor's Tax Parcel Number: 35163.3001

**EASEMENT FOR
CITY OF SPOKANE, I07 COMBINED SEWER CONTROL FACILITY - 2014096**

This Access and Utility Easement ("Easement") is made and executed this ____ day of _____, 20____, by **SCHOOLYARD BILLY, LLC**, a Washington Limited Liability Company (the "**Grantor**"), and the **CITY OF SPOKANE**, a Washington municipal corporation ("**City**" or "**Grantee**"), hereinafter jointly referred to as "**Parties**".

WHEREAS, Grantor is the owner of the property described in Exhibits A and B hereto (the "**Property**");

WHEREAS, under the imminent threat of the Grantee's exercise of its rights of Eminent Domain, the Parties have agreed to the terms under which Grantor will grant the City an access and utility easement under, over, through, upon, and across the portion of the Property described in Exhibit A as the "Area 1 Permanent Easement – Build OK" and "Area 2 Permanent Easement – No Build" (collectively referenced in this Easement as the "Easement Area") for the purpose of construction, operation, maintenance, repair, and/or replacement of public utilities, including a combined sewer overflow facility and related appurtenances;

NOW, THEREFORE, in consideration of payment by the City to Grantor the sum of ONE HUNDRED THREE THOUSAND AND 00/100 DOLLARS (\$103,000.00), and other

EASEMENT

good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

1. Easement. Grantor hereby grants, conveys, warrants and delivers to the City a perpetual easement on, over, under, through, across, and upon the Easement Area for purposes of constructing, installing, operating, maintaining, repairing, removing, and/or replacing a combined sewer overflow facility together with related appurtenances (the "CSO Facilities"), including access to the same for such purposes.
2. Purpose. This Easement is granted solely for the purposes of allowing the City, through its officers, employees, contractors and agents, at all times to enter the Easement Area for the purposes of constructing, installing, operating, maintaining, repairing, removing and/or replacing the CSO Facilities and related appurtenances.
3. Non-Exclusive. The Easement is non-exclusive; provided, however, Grantor shall not grant or convey any interest that materially conflicts with the rights, privileges and interest of the City under this Easement, or allow others to obstruct, impair or interfere with the Easement or the CSO Facilities installed therein.
4. Obstructions. With the exception of landscaping (grasses, mulch, shrubs and ornamental sized trees, together with related irrigation systems) and other surfacing such as pavement or concrete, neither Grantor, nor their successors or assigns shall erect or place any improvement(s) within those portions of the Easement Area described in Exhibit A as a "No Build" area without the prior written approval of the City's Director of Wastewater Management, which shall not be unreasonably withheld. In the event improvements of any type are placed within the No Build portion of the Easement Area, it will be the responsibility of the Grantor to bear all the costs to replace any such improvements should the City have to disrupt or remove the same for the operation, maintenance, repair, reconstruction, removal and/or replacement of the CSO Facilities.
5. Build OK. Within those portions of the Easement Area described in Exhibit A as "Build OK", Grantor and Grantor's successors and assigns may construct improvements and perform excavation work, provided that no structure(s) or excavation shall be placed or occur at depths greater than nine (9) feet below the existing ground surface level, as existing as of the mutual date of acceptance of this Easement.
6. Ownership of CSO Facilities. The CSO Facilities placed within the Easement Area shall remain the property of the City, with the City retaining authority over the CSO Facilities. Aside from excise taxes due upon recording this Easement, in no event shall Grantor have any liability or responsibility for payment of any personal, real estate taxes, sales tax, fee or other governmental tax in existence today and/or forever associated with or related to the CSO Facilities.

EASEMENT

7. Condition of Easement Area. Following the City's initial installation of the CSO Facilities, all areas within the Easement Area excavated by the City or areas where dirt has been stockpiled by the City shall be restored following project completion with either a 4" lift of compacted crushed rock or a 4" lift of topsoil as selected by the Grantor. Thereafter, except as provided in Section 4 above, upon each and every occasion that the City constructs, installs, repairs, maintains, removes, and/or replaces the CSO Facilities, it shall restore Grantor's surrounding property to the condition such surrounding property was in prior to any such installation or work, to the extent any damage or disturbance of Grantor's surrounding property was caused by the City's installation, repair, maintenance, removal and/or replacement of the CSO Facilities. However, mature landscaping materials may be replaced with less mature material.
8. Successors. The easement described herein and the rights granted hereby shall run with the land. The duties and obligations of the parties described in this Easement shall bind and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.
9. Utility Service. Nothing in this Easement or any action or inaction by the City shall create any obligation on the part of the City to pay for any improvements, to provide public utility services, or to pay for any service connections, or installations near or adjacent to the Easement.
10. Indemnification. The City shall indemnify, defend, and hold the Grantor, its officers, agents, and employees harmless and free from all loss and liability for any claim (including but not limited to attorney's fees, costs and related litigation expenses) by any person, or for any injury or property damage resulting from, or by reason of, the construction, maintenance, operation, repair, or use of the CSO Facilities pursuant to this Easement including the enjoyment of all privileges under this Easement, unless caused directly or indirectly by Grantor's negligence or intentional misconduct. The Grantor shall indemnify, defend, and hold the City, its officers, agents, and employees harmless and free from all loss and liability for any claim (including but not limited to attorney's fees, costs and related litigation expenses) by any person, or for any injury or property damage resulting from, or by reason of, Grantor's activities in and immediately around the Easement Area, unless caused directly or indirectly by the City's negligence or intentional misconduct.
11. Attorney's Fees. This Easement will be governed by and construed in accordance with the laws of the state of Washington. If either party fails to perform any of its obligations under this Easement or if a dispute arises concerning the meaning or interpretation of any provision of this Easement, the defaulting party or the party not substantially prevailing in the dispute, as the case may be, shall pay any and all costs and expenses

EASEMENT

incurred by the other party in enforcing or establishing its rights under this Easement, including, without limitation, court costs and reasonable attorney fees incurred in connection with any federal, state or bankruptcy court proceeding. Venue for any court proceedings shall be Spokane County.

12. Miscellaneous.

12.1 Partial Invalidity. If any term, covenant or condition of this Easement or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Easement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Easement shall be valid and be enforced to the fullest extent permitted by law.

12.2 Notices. Any notices required in accordance with any of the provisions herein shall be delivered or mailed by registered or certified mail, postage prepaid and return receipt requested, to the addresses set forth below or at such other place as either party may in writing from time to time specify. Any such notice shall be deemed effective on the date of delivery or two (2) business days after mailing.

Notices to City: Wastewater Management, Director
City of Spokane
808 W. Spokane Falls Blvd.
Spokane, WA 99201

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

Notices to Grantor: _____

With a copy to: _____

12.3 Amendments. No provision of this Easement may be amended or added to except by an agreement in writing signed by the parties hereto or their respective

EASEMENT

successors in interest. This Easement shall not be effective or binding on any party until fully executed by both parties hereto.

12.4 Interpretation. This Easement and each of its terms and provisions are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Easement will, in all cases, be construed according to its fair meaning and not strictly for or against either party.

12.5 Time of the Essence. Time is of the essence of this Agreement.


12.6 Entire Agreement. This Easement and the exhibits to it constitute the entire agreement between the parties with respect to the Easement, and supersede all prior agreements and understandings between the parties relating to the subject matter of this Easement.

13. Government Approval. Grantor acknowledges and agrees that this Easement shall not become binding on the City unless and until it has been properly approved and signed by the Mayor.

Date: _____,

SCHOOLYARD BILLY, LLC

By: North Park Development, LLC
Its: Manager

By: 
Robert C. Brewster
Manager

EASEMENT

Accepted and Approved

CITY OF SPOKANE

By: _____

Authorized agent

Date: _____

Attest:

Approved as to form:

Clerk

Assistant City Attorney

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EASEMENT

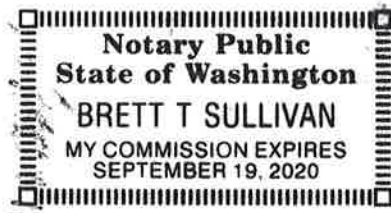
STATE OF WASHINGTON)

) : ss

County of Spokane)

On this 4th day of January 2017, before me personally appeared Robert C. Brewster to me known to be the Manager of North Park Development, LLC, which is Manager of Schoolyard Billy, L.L.C., a Washington Limited Liability Company that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said Limited Liability Company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument on behalf of said Limited Liability Company.

(SEAL)



Brett T. Sullivan, Notary Public
in and for the State of Washington,
residing at Spokane WA 99203
My commission expires 9/19/2020

[REST OF PAGE LEFT INTENTIONALLY BLANK]

EASEMENT**LIEN HOLDER'S CONSENT TO EASEMENT**

Spokane Transfer and Storage Company, a Washington corporation, grantee and beneficiary under that certain deed of trust, dated August 29, 2016, and filed for record on August 31, 2016 under Auditor's File No. 6530928, Records of Spokane County, and relating to that certain master form deed of trust, filed for record on August 31, 2016, under Auditor's File No. 6530929, records of Spokane County (collectively, the "Deed of Trust"), hereby acknowledges and consents to this Easement and agrees that the Easement shall be superior to the Deed of Trust and shall survive any foreclosure of deed in lieu relating to said Deed of Trust.

By: Spokane Transfer and Storage Company

Dated this 13th day of January, 2017, 2016.

By: Dale Douglas Ross

Title: PRESIDENT

By: _____

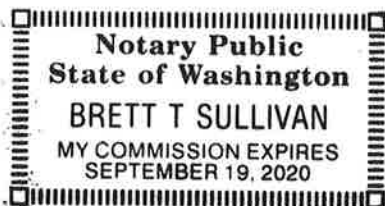
Title: _____

STATE OF Washington)
)ss

COUNTY OF Spokane)

On this 13th day of January, 2017, before me personally appeared Dale Douglas Ross to me known to be the President of Spokane Transfer and Storage Company a Washington Limited Liability Company that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said Limited Liability Company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument.

(SEAL)



Brett T. Sullivan
Washington Notary Public
in and for the State of Washington
residing at Spokane WA
My commission expires 9/19/20

EASEMENT

EXHIBIT "A"

AREA 1 PERMANENT EASEMENT – BUILD OK

A PORTION OF BLOCK 69 OF THE PLAT OF THE AMENDED MAP OF SCHOOL SECTION 16 IN THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 43 EAST, W.M. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTH 20 FEET OF THE SOUTH 55 FEET OF THE WEST 130 FEET OF SAID BLOCK 69,

ALL SITUATE IN THE COUNTY OF SPOKANE, STATE OF WASHINGTON.

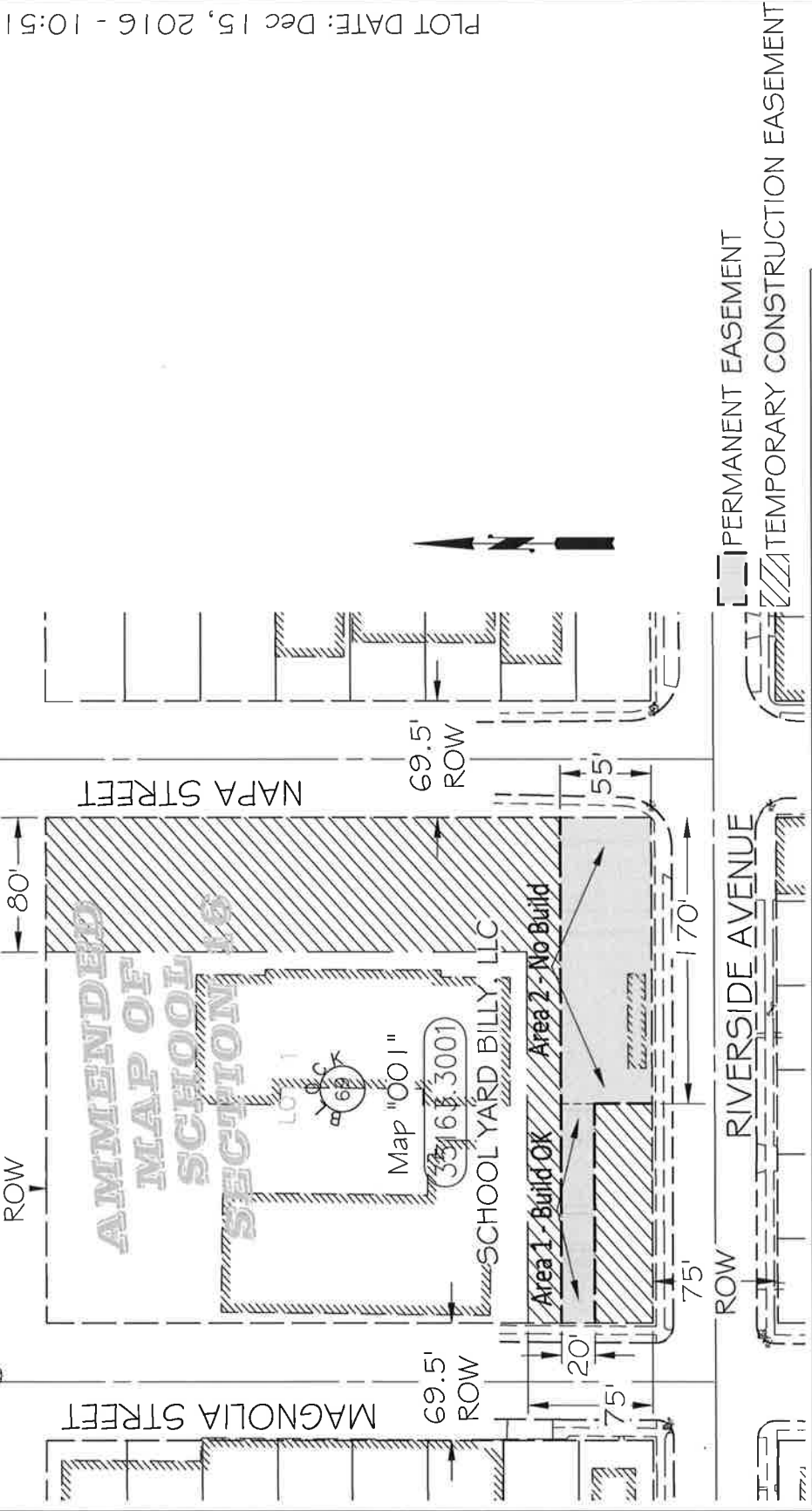
AREA 2 PERMANENT EASEMENT – NO BUILD

A PORTION OF BLOCK 69 OF THE PLAT OF THE AMENDED MAP OF SCHOOL SECTION 16 IN THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 43 EAST, W.M. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SOUTH 55 FEET OF THE EAST 170 FEET OF SAID BLOCK 69,

ALL SITUATE IN THE COUNTY OF SPOKANE, STATE OF WASHINGTON.

EXHIBIT "B" 60' ROW E MAIN AVENUE S.16 T.25N.,R43E.,W.M.



TOTAL AREA IS FROM SPOKANE COUNTY ASSESSOR'S RECORDS				
AND ALL AREAS SHOWN IN SQUARE FEET				
MAP NUMBER	PARCEL NO.	OWNER NAME	TOTAL AREA	REMAINDER PERMANENT EASEMENT
001	35163.3001	SCHOOL YARD BILLY, LLC	108750 SF	11950 SF
				TEMPORARY CONSTRUCTION EASEMENT
				33500 SF

ESCROW AGREEMENT

TO:

Spokane County Title Company
Northbank Building
1010 North Normandie Street,
Suite 203
Spokane, 99201 WA

Your Reference: SP7834

CUSTOMER REFERENCE:

City of Spokane –
CSO-34 Control Facility - 2012088
School Yard Billy

Parcel No.: 35163.3001

Schoolyard Billy, LLC (Seller) and the City of Spokane (Purchaser), mutually agree and direct you to close this escrow in accordance with the following instructions:

1. The Seller hereby authorizes the issuance of payment to the above Escrow Agent, for our benefit.
2. Receive herewith a Permanent Easement and a Temporary Construction Easement from the Sellers to the City of Spokane, Purchaser, affecting a portion of the lands described in your above-referenced preliminary commitment.
3. Receive the sum of \$103,586.76 which includes the easement price of \$103,000.00 plus \$586.76 for payment of the escrow fee, excise processing fee, additional title premium, and recording fees.
4. The following is a summarized required disposition of all exceptions shown on your preliminary commitment dated October 24, 2016.

- 1: Delete: City Exempt
- 2: Subject to – show on policy
- 3: Subject to – show on policy

Pay the following charges:

Escrow Fee of \$380.45
Excise processing fee of \$10.00
Recording fees of \$155.00

Please do not withhold any sums to assure payment of any utility service charges. Any closing costs, including those fees listed as title charges, recording and transfer charges, and/or additional settlement charges, are to be charged to the Purchaser and shown as such on the settlement statement. No recording fee or excise tax is to be charged to the Seller. Fees are to be billed directly to our office at City of Spokane, Engineering Services, 2nd Floor, City Hall, 808 West Spokane Falls Boulevard, Spokane WA, 99201.

5. Record the instruments shown in Instruction 2 above and prepare CLOSING DETAIL STATEMENT as explained on page 3 hereof.

6. Remit the balance by check to Sellers as follows:

SchoolYard Billy, LLC
2049 South Oneida Place
Spokane, WA 99203

7. Issue policy of title insurance in the sum of \$77,400.00 insuring the City of Spokane, as holder of the appropriate interest conveyed.

8. Upon completion of closing, mail recorded instruments, copy of closing detail statement, and title policy to City of Spokane, Engineering Services, 2nd Floor, City Hall, 808 West Spokane Falls Boulevard, Spokane WA 99201. *Please also email a copy of the recorded instruments, settlement statement and copy of check from the City of Spokane to dressa@epicland.com.*

Purchaser:

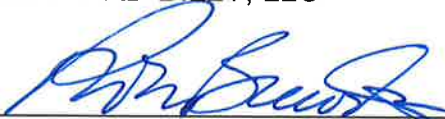
CITY OF SPOKANE

By: _____

Title: _____

Seller:

SCHOOLYARD BILLY, LLC



BY: North Park Development, LLC
By: Robert C. Brewster, Manager

Date 01/04/2016, 2016

Phone No. _____

ESCROW AGENT ACKNOWLEDGMENT:

Escrow Agent acknowledges and consents to act in accordance with this Escrow Agreement.

SPOKANE COUNTY TITLE COMPANY

By: _____

Title: _____

CLOSING DETAIL STATEMENT

As indicated on the Escrow Agreement, the Escrow Agent shall furnish, upon completion of the closing of the escrow transaction, a CLOSING DETAIL STATEMENT, which shall show thereon:

- (a) The total amount of escrowed funds.
- (b) The fee for escrow services and a statement that the entire escrow fee has been paid solely by the City of Spokane;
- (c) The date on which the Escrow Agent disburses funds to the Seller(s);
- (d) Date of closing of the escrow;
- (e) Detail of a deed of trust or mortgage payoff which includes:
 - Principal unpaid balance and date
 - Accrued interest and dates for which interest is paid
 - Prepayment penalty assessed, if any
 - Offset of reserves held by beneficiary or mortgagee
 - Net amount paid to beneficiary or mortgagee and date
- (f) Sums, if any, withheld from distribution to Seller(s) at time of closing, and for what reason. *
- (g) Endorsements to the effect that
 1. The statement has been read by the Seller(s), is approved, and acknowledgment of receipt of the funds indicated as the net balance due from the Escrow Agent.
 2. The closing officer certifies that the statement is true and correct.

*In case the Escrow Agent has withheld funds from distribution to the Seller(s) for any reason, the Escrow Agent shall furnish to the City copies of correspondence transmitting such withheld funds at the time of their final disposition.

City of Spokane
Engineering Services
2nd Floor, City Hall
808 West Spokane Falls Blvd.
Spokane WA 99201

Parcel Number: 35163.3001

Attached is the information requested per the Escrow Agreement

Document: _____

Date Recorded _____ Recording No. _____


Document: _____

Date Recorded _____ Recording No. _____

DATE OF DISBURSEMENT OF FUNDS: _____

Spokane County Title Company
Northbank Building
1010 North Normandie Street, Suite 100
Spokane, WA 99201

REAL PROPERTY VOUCHER

AGENCY NAME CITY OF SPOKANE Department of Engineering Services 808 West Spokane Falls Boulevard Spokane, WA 99201		I hereby certify under penalty of perjury that the items and amounts listed herein are proper charges against the Agency, that the same or any part thereof has not been paid, and that I am authorized to sign for the claimant.		
GRANTOR OR CLAIMANT (NAME, ADDRESS) SPOKANE COUNTY TITLE Northbank Building, Suite 100 1010 North Normandie Street Spokane, WA 99201		TIN/SSN:	SIGNATURE (IN INK) FOR EACH CLAIMANT School Yard Billy, LLC  By: North Park Development, LLC Robert Brewster, Manager	DATED 01/04/17
PROJECT NO. AND TITLE City of Spokane, CSO 34-1 CONTROL FACILITY - 2012088		X		
FEDERAL AID NO.		PARCEL NO. 35163 3001		
In full, complete and final payment and settlement for the title or interest conveyed or released, as fully set forth in:		DATED		
Permanent Easement		\$ AMOUNT		
LAND: Approximately 11,950 square feet of permanent easement		\$77,400.00		
Approximately 33,500 square feet of temporary construction easement for 18 months		+ \$25,600.00		
IMPROVEMENTS:		+		
DAMAGES: Cost to Cure Proximity Other:		+ + +		
SPECIAL BENEFITS		+		
JC (Just Compensation) Amount		\$103,000.00		
REMAINDER: Uneconomic Remnant Excess Acquisition		+ +		
DEDUCTIONS: Amount Previously Paid Performance Bond Salvage Amount Pre Paid Rent Other		+ + + + +		
ADMINISTRATIVE SETTLEMENT		+		
STATUTORY EVALUATION ALLOWANCE		+		
ESCROW FEE		+ \$380.45		
REAL ESTATE EXCISE TAX		+ \$10.00		
OTHER: Additional Title Premium Recording Permanent Easement		+ \$41.31 \$82.00		
ACQUISITION AGENT		DATE	Voucher No.	
AUTHORIZED AGENT FOR AGENCY		DATE	TOTAL AMOUNT PAID \$103,513.76	

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

01/30/2017

<u>Date Rec'd</u>	1/18/2017
<u>Clerk's File #</u>	OPR 2017-0032
<u>Renews #</u>	

<u>Submitting Dept</u>	INTEGRATED CAPITAL	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	MIKE TAYLOR 625-4660	<u>Project #</u>	
<u>Contact E-Mail</u>	PMTAYLOR@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Contract Item	<u>Requisition #</u>	
<u>Agenda Item Name</u>	RPWRF SCADA UPGRADE TECHNOLOGY COMPONENTS		

Agenda Wording

Software and Hardware components for the upgrade of Plant-wide SCADA system to Ethernet.

Summary (Background)

City of Spokane IT best practices identify the City as the appropriate owner of this technology. In coordination with the Next Level of Treatment upgrades at RPWRF, the City is updating all SCADA technology. The upgrade to the City's antiquated system will improve operational efficiency and avoid the operation of two parallel systems. Design and installation costs are included in the NLT Budget, as are the software and hardware cost identified here.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 234,783.30	#	4340-43387-94000-56501-14323
Expense	\$ 93,228.88	#	4340-43387-94000-56501-14323
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MILLER, KATHERINE E	<u>Study Session</u>	1/9/17
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	
<u>Finance</u>	DOVAL, MATTHEW	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	lmoon@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	kkeck@spokanecity.org	
<u>Additional Approvals</u>		lberry@spokanecity.org	
<u>Purchasing</u>		kheatherly@spokanecity.org	
		msloon@spokanecity.org	



City of Spokane

CONSULTANT AGREEMENT

**Title: ROCKWELL AUTOMATION SOFTWARE/HARDWARE
SUPPORT SERVICES
FOR "FACTORY TALK" AT THE CITY'S RPWRF**

This Agreement is made and entered into by and between the City of Spokane as ("City"), a Washington municipal corporation, and **ROCKWELL AUTOMATION**, whose Spokane authorized distributor is Columbia Electric Supply, with an address of 203 East Augusta Avenue, Spokane, Washington 99207 as ("Consultant").

WHEREAS, the purpose of this Agreement is to continue uninterrupted software and hardware support at the City's Riverside Water Reclamation Facility (RPWRF); and

WHEREAS, the Consultant was selected due to the type of sole-sourced hardware and software in use at RPWRF, entitled "Factory Talk".

-- NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance of the Scope of Work contained herein, the City and Consultant mutually agree as follows:

1. TERM OF AGREEMENT.

The term of this Agreement begins on January 17, 2017, and ends on January, 16 2022, unless amended by written agreement or terminated earlier under the provisions.

2. TIME OF BEGINNING AND COMPLETION.

The Consultant shall begin the work outlined in the "Scope of Work" ("Work") on the beginning date, above. The City will acknowledge in writing when the Work is complete. Time limits established under this Agreement shall not be extended because of delays for which the Consultant is responsible, but may be extended by the City, in writing, for the City's convenience or conditions beyond the Consultant's control.

3. SCOPE OF WORK.

The General Scope of Work for this Agreement is described in Exhibit A, which is attached to and made a part of this Agreement. In the event of a conflict or discrepancy in the contract documents, the City Agreement controls.

**ROCKWELL AUTOMATION SOFTWARE/HARDWARE SUPPORT SERVICES
FOR "FACTORY TALK" AT THE CITY'S RPWRF**

The Work is subject to City review and approval. The Consultant shall confer with the City periodically, and prepare and present information and materials (e.g. detailed outline of completed Work) requested by the City to determine the adequacy of the Work or Consultant's progress.

4. PAYMENT.

Total compensation for Consultant's services under this Agreement shall not exceed **TWO HUNDRED THIRTY FOUR THOUSAND SEVEN HUNDRED EIGHTY THREE AND 30/100 DOLLARS (\$234,783.30)**, unless modified by a written amendment to this Agreement.

5. REIMBURSABLES

The reimbursables under this Agreement are to be included, and considered part of the maximum amount not to exceed (above), and require the Consultant's submittal of appropriate documentation and actual itemized receipts, the following limitations apply.

- A. City will reimburse the Consultant at actual cost for expenditures that are pre-approved by the City in writing and are necessary and directly applicable to the work required by this Contract provided that similar direct project costs related to the contracts of other clients are consistently accounted for in a like manner. Such direct project costs may not be charged as part of overhead expenses or include a markup. Other direct charges may include, but are not limited to the following types of items: travel, printing, cell phone, supplies, materials, computer charges, and fees of subconsultants.
- B. The billing for third party direct expenses specifically identifiable with this project shall be an itemized listing of the charges supported by copies of the original bills, invoices, expense accounts, subconsultant paid invoices, and other supporting documents used by the Consultant to generate invoice(s) to the City. The original supporting documents shall be available to the City for inspection upon request. All charges must be necessary for the services provided under this Contract.
- C. The City will reimburse the actual cost for travel expenses incurred as evidenced by copies of receipts (excluding meals) supporting such travel expenses, and in accordance with the City of Spokane Travel Policy, details of which can be provided upon request.
- D. **Airfare:** Airfare will be reimbursed at the actual cost of the airline ticket. The City will reimburse for Economy or Coach Fare only. Receipts detailing each airfare are required.
- E. **Meals:** Meals will be reimbursed at the Federal Per Diem daily meal rate for the city in which the work is performed. *Receipts are not required as documentation.* The invoice shall state "the meals are being billed at the Federal Per Diem daily meal rate", and shall detail how many of each meal is being billed (e.g. the number of breakfasts, lunches, and dinners). The City will not reimburse for alcohol at any time.
- F. **Lodging:** Lodging will be reimbursed at actual cost incurred up to a maximum of the published General Services Administration (GSA) Index for the city in which the work is performed (*the current maximum allowed reimbursement amount can be provided upon request*). Receipts detailing each day / night lodging are required. The City will not reimburse for ancillary expenses charged to the room (e.g. movies, laundry, mini bar, refreshment center, fitness center, sundry items, etc.)
- G. **Vehicle mileage:** Vehicle mileage will be reimbursed at the Federal Internal Revenue Service Standard Business Mileage Rate in affect at the time the mileage expense is incurred (currently that rate for 2016 is 54 cents per mile.) Please note: payment for mileage for long distances traveled will not be more than an equivalent trip round-trip airfare of a common carrier for a coach or economy class ticket.
- H. **Rental Car:** Rental car expenses will be reimbursed at the actual cost of the rental. Rental car receipts are required for all rental car expenses. The City will reimburse for a standard car of a mid-size class or less. The City will not reimburse for ancillary expenses charged to the car rental (e.g. GPS unit).

- I. **Miscellaneous Travel** (e.g. parking, rental car gas, taxi, shuttle, toll fees, ferry fees, etc.): Miscellaneous travel expenses will be reimbursed at the actual cost incurred. Receipts are required for each expense of \$10.00 or more.
- J. **Miscellaneous other business expenses** (e.g. printing, photo development, binding): Other miscellaneous business expenses will be reimbursed at the actual cost incurred and may not include a mark up. Receipts are required for all miscellaneous expenses that are billed.

Subconsultant: Subconsultant expenses will be reimbursed at the actual cost incurred. Copies of all Subconsultant invoices that are rebilled to the City are required

6. PAYMENT PROCEDURES.

The Consultant may submit invoices to the City as frequently as once per month during progress of work, for partial payment for work completed to date. Payment shall be made by the City to the Consultant upon the City's receipt of an invoice containing the information listed below.

Invoices shall be submitted to:
CITY OF SPOKANE IT DEPARTMENT 7th Floor – City Hall 808 West Spokane Falls Boulevard Spokane, WA 99201
Invoices under this Contract shall clearly display the following information (sub-consultants' invoices shall also include this information):
<ul style="list-style-type: none"> • Invoice Date and Invoice Number • IT DEPARTMENT • Project Coordinator: City Employee Name (Please do not put name in the address portion of the invoice) • Department Contract No. OPR # _____ • Contract Title: ROCKWELL AUTOMATION SOFTWARE/HARDWARE SUPPORT SERVICES FOR "FACTORY TALK" AT THE CITY'S RPWRF • Period covered by the invoice • Project Title • Employee's name and classification • Employee's all-inclusive hourly rate excluding fixed fee and # of hours worked • Total labor costs per Project • Itemization of direct, non-salary costs (per Project, if so allocated) • The following Sub-Consultant payment information will be provided <i>[if needed]</i> (attach Sub-Consultant invoices as backup): <ul style="list-style-type: none"> ○ Amount Paid to all Sub-Consultants for the invoice period (list separate totals for each Sub-Consultant). ○ Cumulative To-Date amount paid to all Sub-Consultants (list separate totals for each Sub-Consultant). • Cumulative costs per Project and for the total Agreement

7. TAXES, FEES AND LICENSES.

- A. Consultant shall pay and maintain in current status, all necessary licenses, fees, assessments, permit charges, etc. necessary to conduct the work included under this Agreement. It is the Consultant's

sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.

- B. Where required by state statute, ordinance or regulation, Consultant shall pay and maintain in current status all taxes necessary for performance. Consultant shall not charge the City for federal excise taxes. The City will furnish Consultant an exemption certificate where appropriate.
- C. The Director of Finance and Administrative Services may withhold payment pending satisfactory resolution of unpaid taxes and fees due the City.
- D. The cost of any permits, licenses, fees, etc. arising as a result of the projects included in this Agreement shall be included in the project budgets.
- E.

8. CITY OF SPOKANE BUSINESS LICENSE.

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Consultant 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.

9. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

Deliver all official notices under this Agreement to:

If to the City:	If to the Consultant:
IT Department - City of Spokane 7th Floor – City Hall 808 West Spokane Falls Boulevard Spokane, Washington 99201	ROCKWELL AUTOMATION Employee Name: _____ Authorized distributor: Columbia Electric Supply 203 East Augusta Avenue Spokane, Washington 99207

10. SOCIAL EQUITY REQUIREMENTS.

- A. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. Consultant 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 Consultant. Consultant shall seek inclusion of woman and minority business for subcontracting. A woman or minority business is one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington.

11. INDEMNIFICATION.

The Consultant shall indemnify and hold the City and the State and their officers and employees harmless from all claims, demands, or suits at law or equity, including but not limited to attorney's fees and litigation costs asserted by third parties for bodily injury (including death) and/or property damage which arise from the Consultant's negligence or willful misconduct under this Agreement; provided that nothing herein shall require a Consultant to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the conduct of the City, its agents, officers and employees and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Consultant's agents or employees and (b) the City, its agents, officers and employees, this indemnity provision with

respect to (1) claims or suits based upon such negligence, (2) the costs to the City of defending such claims and suits, etc.; shall be valid and enforceable only to the extent of the negligence of the Consultant, its agents or employees. The Consultant specifically assumes potential liability for actions brought by the Consultant's own employees against the City and, solely for the purpose of this indemnification and defense, the Consultant specifically waives any immunity under the state industrial insurance law, or Title 51 RCW. The Consultant recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnification provided for in this section shall survive any termination or expiration of this Agreement.

The parties agree that the City is fully responsible for its own negligence, including negligent plant operations controlled by the City, and for its material breaches of this Contract. It is not the intent of this Section to limit this understanding.

12. INSURANCE.

The Consultant shall comply with all federal, state and local laws and ordinances applicable to the work to be done under this Agreement. This Agreement shall be interpreted and construed in accord with the laws of Washington.

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

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;
- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,500,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this agreement. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Consultant's services to be provided under this Agreement; and
- C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.
- 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 Agreement. The coverage must remain in effect for at least two (2) years after the Agreement is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without sixty (60) days written notice from the Consultant or its insurer(s) to the City. As evidence of the insurance coverages required by this Agreement, the Consultant shall furnish acceptable insurance certificates to the City at the time it returns the signed Agreement. The certificate shall specify all of the parties who are additional insureds, and include applicable policy endorsements, the sixty (60) day cancellation clause, and the deduction or retention level. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

13. AUDIT.

Upon request, the Consultant shall permit the City and any other governmental agency ("Agency") involved in the funding of the Work to inspect and audit all pertinent books and records. This includes work of the Consultant, any subconsultant, or any other person or entity that performed connected or

related Work. Such books and records shall be made available upon reasonable notice of a request by the City, including up to three (3) years after final payment or release of withheld amounts. Such inspection and audit shall occur in Spokane County, Washington, or other reasonable locations mutually agreed to by the parties. The Consultant shall permit the City to copy such books and records at its own expense. The Consultant shall ensure that inspection, audit and copying rights of the City is a condition of any subcontract, agreement or other arrangement under which any other persons or entity may perform Work under this Agreement.

14. INDEPENDENT CONSULTANT.

- A. The Consultant is an independent Consultant. This Agreement does not intend the Consultant to act as a City employee. The City has neither direct nor immediate control over the Consultant nor the right to control the manner or means by which the Consultant works. Neither the Consultant nor any Consultant employee shall be an employee of the City. This Agreement prohibits the Consultant to act as an agent or legal representative of the City. The Consultant is not granted express or implied rights or authority to assume or create any obligation or responsibility for or in the name of the City, or to bind the City. The City is not liable for or obligated to pay sick leave, vacation pay, or any other benefit of employment, nor to pay social security or other tax that may arise from employment. The Consultant shall pay all income and other taxes as due. The Consultant may perform work for other parties; the City is not the exclusive user of the services that the Consultant provides.
- B. If the City needs the Consultant to Work on City premises and/or with City equipment, the City may provide the necessary premises and equipment. Such premises and equipment are exclusively for the Work and not to be used for any other purpose.
- C. If the Consultant works on the City premises using City equipment, the Consultant remains an independent Consultant and not a City employee. The Consultant will notify the City Project Manager if s/he or any other Workers are within ninety (90) days of a consecutive 36-month placement on City property. If the City determines using City premises or equipment is unnecessary to complete the Work, the Consultant will be required to work from its own office space or in the field. The City may negotiate a reduction in Consultant fees or charge a rental fee based on the actual costs to the City, for City premises or equipment.

15. KEY PERSONS.

The Consultant shall not transfer or reassign any individual designated in this Agreement as essential to the Work, nor shall those key persons, or employees of Consultant identified as to be involved in the Project Work be replaced, removed or withdrawn from the Work without the express written consent of the City, which shall not be unreasonably withheld. If any such individual leaves the Consultant's employment, the Consultant shall present to the City one or more individuals with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval does not release the Consultant from its obligations under this Agreement.

16. ASSIGNMENT AND SUBCONTRACTING.

The Consultant shall not assign or subcontract its obligations under this Agreement without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by the Consultant shall incorporate by reference this Agreement, except as otherwise provided. The Consultant shall ensure that all subconsultants comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release the consultant from liability or any obligation within this Agreement, whether before or after City consent, assignment or subcontract.

17. CITY ETHICS CODE.

- A. Consultant shall promptly notify the City in writing of any person expected to be a Consultant Worker (including any Consultant employee, subconsultant, principal, or owner) and was a former City officer or employee within the past twelve (12) months.

- B. Consultant shall ensure compliance with the City Ethics Code by any Consultant Worker when the Work or matter related to the Work is performed by a Consultant Worker who has been a City officer or employee within the past two (2) years.
- C. Consultant shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer or official that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Consultant. Promotional items worth less than \$25 may be distributed by the Consultant to a City employee if the Consultant uses the items as routine and standard promotional materials. Any violation of this provision may cause termination of this Agreement. Nothing in this Agreement prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

18. NO CONFLICT OF INTEREST.

Consultant confirms that the Consultant or workers have no business interest or a close family relationship with any City officer or employee who was or will be involved in the consultant selection, negotiation, drafting, signing, administration or evaluation of the Consultant's work. As used in this Section, the term Consultant includes any worker of the Consultant who was, is, or will be, involved in negotiation, drafting, signing, administration or performance of the Agreement. The term "close family relationship" refers to: spouse or domestic partner, any dependent parent, parent-in-law, child, son-in-law, daughter-in-law, or any parent, parent-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a City officer or employee described above.

19. ERRORS AND OMISSIONS, CORRECTIONS.

Consultant is responsible for professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Consultant under this Agreement in the delivery of a final work product. The standard of care applicable to Consultant's services will be the degree of skill and diligence normally employed by professional engineers or Consultants performing the same or similar services at the time said services are performed. The Final Work Product is defined as a stamped, signed work product. Consultant, without additional compensation, shall correct or revise errors or mistakes in designs, drawings, specifications, and/or other consultant services immediately upon notification by the City. The obligation provided for in this Section regarding acts or omissions resulting from this Agreement survives Agreement termination or expiration.

20. INTELLECTUAL PROPERTY RIGHTS.

- A. Copyrights. The Consultant shall retain the copyright (including the right of reuse) to all materials and documents prepared by the Consultant for the Work, whether or not the Work is completed. The Consultant grants to the City a non-exclusive, irrevocable, unlimited, royalty-free license to use copy and distribute every document and all the materials prepared by the Consultant for the City under this Agreement. If requested by the City, a copy of all drawings, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs, and other storage facilities), software program or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials) and/or any other related documents or materials developed solely for and paid for by the City to perform the Work, shall be promptly delivered to the City.
- B. Patents: The Consultant assigns to the City all rights in any invention, improvement, or discovery, with all related information, including but not limited to designs, specifications, data, patent rights and findings developed with the performance of the Agreement or any subcontract. Notwithstanding the above, the Consultant does not convey to the City, nor does the City obtain, any right to any document or material utilized by the Consultant created or produced separate from the Agreement or was pre-existing material (not already owned by the City), provided that the Consultant has identified in writing such material as pre-existing prior to commencement of the Work. If pre-existing materials are incorporated in the work, the Consultant grants the City an irrevocable, non-exclusive right and/or

license to use, execute, reproduce, display and transfer the pre-existing material, but only as an inseparable part of the work.

- C. The City may make and retain copies of such documents for its information and reference with their use on the project. The Consultant does not represent or warrant that such documents are suitable for reuse by the City or others, on extensions of the project or on any other project, and the City releases the Consultant from liability for any unauthorized reuse of such documents.

21. CONFIDENTIALITY.

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act*) all materials received or created by the City of Spokane are **public records**. These records include but are not limited to bid or proposal submittals, agreement documents, contract work product, or other bid material. Some records or portions of records are legally *exempt from disclosure* and can be redacted or withheld. The Public Records Act (RCW 42.56 and RCW 19.10) describes those exemptions. Consultant must familiarize themselves with the Washington State Public Records Act (PRA) and the City of Spokane's process for managing records.

The City will try to redact anything that seems obvious in the City opinion for redaction. For example, the City will black out (redact) Social Security Numbers, federal tax identifiers, and financial account numbers before records are made viewable by the public. However, this does not replace your own obligations to identify any materials you wish to have redacted or protected, and that you think are so under the Public Records Act (PRA).

Protecting your Materials from Disclosure (Protected, Confidential, or Proprietary): You must determine and declare any materials you want exempted (redacted), and that you also believe are eligible for redaction. This includes but is not limited to your bid submissions, contract materials and work products.

Contract Work Products: If you wish to assert exemptions for your contract work products you must notify the City Project Manager at the time such records are generated.

Please note the City cannot accept a generic marking of materials, such as marking everything with a document header or footer, page stamp, or a generic statement that a document is non-disclosable, exempt, confidential, proprietary, or protected. You may not exempt an entire page unless each sentence is entitled to exemption; instead, identify paragraphs or sentences that meet the RCW exemption criteria you are relying upon.

City's Response to a Public Records Act Requests: The City will prepare two versions of your materials:

Full Redaction: A public copy that redacts (blacks out) both the exemptions (such as social security numbers) identified by the City and also materials or text you identified as exempt. The fully redacted version is made public upon contract execution and will be supplied with no notification to you.

Limited Redaction: A copy that redacts (blacks out) only the exemptions (such as social security numbers) identified by the City. This does not redact (black out) exemptions you identified. The Limited Redaction will be released only after you are provided "third party notice" that allows you the legal right under RCW 42.56.540 to bring a legal action to enjoin the release of any records you believe are not subject to disclosure.

If any requestor seeks the Limited Redacted or original versions, the City will provide you "third party notice", giving ten business days to obtain a temporary restraining order while you pursue a court injunction. A judge will determine the status of your exemptions and the Public Records Act.

22. DISPUTES.

Any dispute or misunderstanding that may arise under this Agreement, concerning the Consultant's performance, shall first be through negotiations, if possible, between the Consultant's Project Manager and the City's Project Manager. It shall be referred to the Director and the Consultant's senior executive(s). If such officials do not agree upon a decision within a reasonable period of time, either party may decline or discontinue such discussions and may then pursue the legal means to resolve such disputes, including but not limited to mediation, arbitration and/or alternative dispute resolution processes. Nothing in this dispute process shall mitigate the rights of the City to terminate the Agreement. Notwithstanding all of the above, if the City believes in good faith that some portion of the Work has not been completed satisfactorily, the City may require the Consultant to correct such work prior to the City payment. The City will provide to the Consultant an explanation of the concern and the remedy that the City expects. The City may withhold from any payment otherwise due, an amount that the City in good faith finds to be under dispute, or if the Consultant provides no sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correcting or remedying the work not properly completed. Waiver of any of these rights is not deemed a future waiver of any such right or remedy available at law, contract or equity.

23. TERMINATION.

- A. For Cause: The City or Consultant may terminate the Agreement if the other party is in material breach of this Agreement, and such breach has not been corrected to the other party's reasonable satisfaction in a timely manner. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- B. For Reasons Beyond Control of Parties: Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as, but not limited to, an act of nature, war or warlike operation, civil commotion, riot, labor dispute including strike, walkout or lockout, except labor disputes involving the Consultant's own employees, sabotage, or superior governmental regulation or control. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- C. For City's Convenience: The City may terminate this Agreement without cause and including the City's convenience, upon written notice to the Consultant. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than ninety (90) business days prior to the effective date of termination.
- D. Actions upon Termination: if termination occurs not the fault of the Consultant, the Consultant shall be paid for the services properly performed prior to the actual termination date, with any reimbursable expenses then due, but such compensation shall not exceed the maximum compensation to be paid under the Agreement. The Consultant agrees this payment shall fully and adequately compensate the Consultant and all subconsultants for all profits, costs, expenses, losses, liabilities, damages, taxes and charges of any kind (whether foreseen or unforeseen) attributable to the termination of this Agreement.
- E. Upon termination, the Consultant shall provide the City with the most current design documents, contract documents, writings and other products the Consultant has produced to termination, along with copies of all project-related correspondence and similar items. The City shall have the same rights to use these materials as if termination had not occurred; provided however, that the City shall indemnify and hold the Consultant harmless from any claims, losses, or damages to the extent caused by modifications made by the City to the Consultant's work product.

24. EXPANSION FOR NEW WORK.

This Agreement scope may be expanded for new work. Any expansion for New Work (work not specified within the original Scope of Work Section of this Agreement, and/or not specified in the original RFP as intended work for the Agreement) must comply with all the following limitations and requirements: (a) the New Work is not reasonable to solicit separately; (b) the New Work is for reasonable purpose; (c) the

New Work was not reasonably known either the City or Consultant at time of contract or else was mentioned as a possibility in the solicitation (such as future phases of work, or a change in law); (d) the New Work is not significant enough to be reasonably regarded as an independent body of work; (e) the New Work would not have attracted a different field of competition; and (f) the change does not vary the essential identified or main purposes of the Agreement. The City may make exceptions for immaterial changes, emergency or sole source conditions, or other situations required in City opinion. Certain changes are not New Work subject to these limitations, such as additional phases of Work anticipated at the time of solicitation, time extensions, Work Orders issued on an On-Call contract, and similar. New Work must be mutually agreed and issued by the City through written Addenda. New Work performed before an authorizing Amendment may not be eligible for payment.

25. MISCELLANEOUS PROVISIONS.

- A. Amendments: No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- B. Binding Agreement: This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.
- C. Americans with Disabilities Act (ADA): Specific attention by the designer is required in association with the Americans with Disabilities Act (ADA) 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611, its requirements, regulations, standards and guidelines, which were updated in 2010 and are effective and mandatory for all State and local government facilities and places of public accommodation for construction projects including alteration of existing facilities, as of March 15, 2012. The City advises that the requirements for accessibility under the ADA, may contain provisions that differ substantively from accessibility provisions in applicable State and City codes, and if the provisions of the ADA impose a greater or equal protection for the rights of individuals with disabilities or individuals associated with them than the adopted local codes, the ADA prevail unless approval for an exception is obtained by a formal documented process. Where local codes provide exceptions from accessibility requirements that differ from the ADA Standards; such exceptions may not be permitted for publicly owned facilities subject to Title II requirements unless the same exception exists in the Title II regulations. It is the responsibility of the designer to determine the code provisions.
- D. The Consultant, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, the Consultant shall comply with the requirements of this Section.
- E. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in the Superior Court of Spokane County.
- F. Remedies Cumulative: Rights under this Agreement are cumulative and nonexclusive of any other remedy of law or in equity.
- G. Captions: The titles of sections or subsections are for convenience only and do not define or limit the contents.
- H. Severability: If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- I. Waiver: No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Consultant after the time the same shall have become due nor payment to the Consultant for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- J. Additional Provisions: This Agreement may be modified by additional terms and conditions ("Special Conditions") which shall be attached to this Agreement as Exhibit D. The parties agree that the Special Conditions shall supplement the terms and conditions of the Agreement, and in the event of

ambiguity or conflict with the terms and conditions of the Agreement, these Special Conditions shall govern.

- K. Entire Agreement: This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Consultant. If conflict occurs between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this contract to afford the City the maximum benefits.
- L. Negotiated Agreement: The parties acknowledge this is a negotiated agreement, that they have had this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship.
- M. No personal liability: No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

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

ROCKWELL AUTOMATION

By _____
Signature Date

Type or Print Name

Title

Attest:

City Clerk

CITY OF SPOKANE

By _____
Signature Date

Type or Print Name

Title

Approved as to form:

Assistant City Attorney

Attachments: Amendment 5 to Exhibit A – Consultant's Statement of Work concerning AUTOMATION SOFTWARE/HARDWARE SUPPORT SERVICES FOR "FACTORY TALK" AT THE CITY'S RPWRF referencing the City's OPR 2015-0183

17-414

COLUMBIA - SPOKANE
EAST 203 AUGUSTA

SPOKANE WA 99207 USA
TEL: (509)325-4500 FAX: (509)326-7217
CONTACT: FRANK PAQUET

QUOTE FOR: CITY OF SPOKANE
ACCT: MH-79477 CITY OF SPOKANE

E 909 SPRAGUE AVE
SPOKANE, WA 99202
TEL: (509)625-7910

QUOTATION			PAGE 1
QUOTE # 1045644	DATE 01/05/2017	REV # 2	REV DATE 01/05/2017
QUOTE EXPIRES 03/31/2017		PREPARED BY FP	
SLS 5258		INSL 2053	
FOB SHIPPING POINT		FREIGHT PP & CHARGE	

CUST PO #
JOB NAME BRUCE

LN	QTY	PRODUCT CODE	DESCRIPTION	PRICE	PER	EXT AMT
01	*	*****LATEST REVSION 1/5/2017 *** SOFTWARE *****				
02	4	AB 9701-VWSS000LENE	SE SERVER SFT	16500.00	E	66000.00
03	4	AB ANNUAL SUPPORT	PER YEAR	2934.00	E	11736.00
04	25	AB 9701-VWSCWAENE	RSVIEW SE CLIE	2750.00	E	68750.00
05	25	AB ANNUAL SUPPORT	PER YEAR	495.00	E	12375.00
06	2	AB 9701-VWSTENE	RSVIEW STUDIO	2780.00	E	5560.00
07	2	AB ANNUAL SUPPORT	PER YEAR	501.00	E	1002.00
08	1	AB 9518-HSE5K	SITE EDITION	22800.00	E	22800.00
09	1	AB ANNUAL SUPPORT	PER YEAR	4104.00	E	4104.00
10	4	AB 9518-HPBENE	HSTRN PRCSBK CLIE	963.00	E	3852.00
11	4	AB ANNUAL SUPPORT	PER YEAR	174.00	E	696.00
12	4	AB 9518-HDLENE	HSTRN DATALINK EXC	453.00	E	1812.00
13	4	AB ANNUAL SUPPORT	PER YEAR	82.00	E	328.00
14	1	AB 9515-ASTSRVSTENE	ASSET CENTER SYSTEM	15600.00	E	15600.00
15	1	AB ANNUAL SUPPORT	PER YEAR	1080.00	E	1080.00
16	1	AB 9515-ASTCLMANENE	ASSET MGT INR	18200.00	E	18200.00
17	1	AB ANNUAL SUPPORT	PER YEAR	3276.00	E	3276.00
18	1	AB 9515-ASTCAP0500E	FT ASSET CENT	18200.00	E	18200.00
19	1	AB ANNUAL SUPPORT	PER YEAR	3276.00	E	3276.00
20	*					
21	*					
22	*	ROCKWELL'S STEP FORWARD PROGRAM				
23	*	RETURN OF THE FOLLOWING				
24	-2	MISC IFIX PLUS SCADA	UNLIMIT DEV. V5.8	-8250.00	E	-16500.00
25	-17	MISC IFIX ICLIENT RUN	V5	-1375.00	E	-23375.00
26	-2	MISC IFIX PROFICY	WEBSpace SINGLE PRODUCT	-1390.00	E	-2780.00
27	*	WILL ALLOW FOR THE ABOVE CREDITS				

MDSE: 215992.00 *

TAX: 18791.30

TOTAL: 234783.30 **

PLEASE NOTE: This is not an offer to contract, but merely a quotation of current prices for your convenience and information. Orders based on this quotation are subject to your acceptance of the terms and conditions located at sales.our-terms.com, which we may change from time to time without prior notice. We make no representation with respect to compliance with job specifications.

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

01/30/2017

<u>Date Rec'd</u>	1/18/2017
<u>Clerk's File #</u>	OPR 2017-0033
<u>Renews #</u>	

<u>Submitting Dept</u>	INTEGRATED CAPITAL	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	MIKE TAYLOR 625-4660	<u>Project #</u>	
<u>Contact E-Mail</u>	PMTAYLOR@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Contract Item	<u>Requisition #</u>	
<u>Agenda Item Name</u>	RPWRF SCADA UPGRADE TECHNOLOGY COMPONENTS		

Agenda Wording

Software and Hardware components for the upgrade of Plant-wide SCADA system to Ethernet.

Summary (Background)

City of Spokane IT best practices identify the City as the appropriate owner of this technology. In coordination with the Next Level of Treatment upgrades at RPWRF, the City is updating all SCADA technology. The upgrade to the City's antiquated system will improve operational efficiency and avoid the operation of two parallel systems. Design and installation costs are included in the NLT Budget, as are the software and hardware cost identified here.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 234,783.30	#	4340-43387-94000-56501-14323
Expense	\$ 93,228.88	#	4340-43387-94000-56501-14323
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MILLER, KATHERINE E	<u>Study Session</u>	1/9/17
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	
<u>Finance</u>	DOVAL, MATTHEW	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	lmoon@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	kkeck@spokanecity.org	
<u>Additional Approvals</u>		lberry@spokanecity.org	
<u>Purchasing</u>		kheatherly@spokanecity.org	
		msloon@spokanecity.org	



City of Spokane

CONSULTANT AGREEMENT

**Title: TRANSOURCE SERVICES CORP.
SOFTWARE/HARDWARE SUPPORT SERVICES
FOR THE CITY'S RPWRF & NLT PROJECT**

This Agreement is made and entered into by and between the City of Spokane as ("City"), a Washington municipal corporation, and **TRANSOURCE SERVICES CORP.**, whose address is 2405 West Utopia Road, Phoenix, Arizona 85027 as ("Consultant").

WHEREAS, the purpose of this Agreement is to continue uninterrupted software support at the City's Riverside Water Reclamation Facility (RPWRF); and

WHEREAS, the Consultant was selected due to the type of software in use at RPWRF.

-- NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance of the Scope of Work contained herein, the City and Consultant mutually agree as follows:

1. TERM OF AGREEMENT.

The term of this Agreement begins on January 17, 2017, and ends on January, 16 2022, unless amended by written agreement or terminated earlier under the provisions.

2. TIME OF BEGINNING AND COMPLETION.

The Consultant shall begin the work outlined in the "Scope of Work" ("Work") on the beginning date, above. The City will acknowledge in writing when the Work is complete. Time limits established under this Agreement shall not be extended because of delays for which the Consultant is responsible, but may be extended by the City, in writing, for the City's convenience or conditions beyond the Consultant's control.

3. SCOPE OF WORK.

The General Scope of Work for this Agreement is described in Exhibit A, which is attached to and made a part of this Agreement. In the event of a conflict or discrepancy in the contract documents, the City Agreement controls.

**TRANSOURCE SERVICES CORP. SOFTWARE/HARDWARE SUPPORT SERVICES
FOR THE CITY'S RPWRF & NLT PROJECT**

The Work is subject to City review and approval. The Consultant shall confer with the City periodically, and prepare and present information and materials (e.g. detailed outline of completed Work) requested by the City to determine the adequacy of the Work or Consultant's progress.

4. PAYMENT.

Total compensation for Consultant's services under this Agreement shall not exceed **NINETY THREE THOUSAND TWO HUNDRED TWENTY EIGHT AND 88/100 DOLLARS (\$93,228.88)**, unless modified by a written amendment to this Agreement.

5. REIMBURSABLES

The reimbursables under this Agreement are to be included, and considered part of the maximum amount not to exceed (above), and require the Consultant's submittal of appropriate documentation and actual itemized receipts, the following limitations apply.

- A. City will reimburse the Consultant at actual cost for expenditures that are pre-approved by the City in writing and are necessary and directly applicable to the work required by this Contract provided that similar direct project costs related to the contracts of other clients are consistently accounted for in a like manner. Such direct project costs may not be charged as part of overhead expenses or include a markup. Other direct charges may include, but are not limited to the following types of items: travel, printing, cell phone, supplies, materials, computer charges, and fees of subconsultants.
- B. The billing for third party direct expenses specifically identifiable with this project shall be an itemized listing of the charges supported by copies of the original bills, invoices, expense accounts, subconsultant paid invoices, and other supporting documents used by the Consultant to generate invoice(s) to the City. The original supporting documents shall be available to the City for inspection upon request. All charges must be necessary for the services provided under this Contract.
- C. The City will reimburse the actual cost for travel expenses incurred as evidenced by copies of receipts (excluding meals) supporting such travel expenses, and in accordance with the City of Spokane Travel Policy, details of which can be provided upon request.
- D. **Airfare:** Airfare will be reimbursed at the actual cost of the airline ticket. The City will reimburse for Economy or Coach Fare only. Receipts detailing each airfare are required.
- E. **Meals:** Meals will be reimbursed at the Federal Per Diem daily meal rate (*excluding the "Incidental" portion of the published CONUS Federal M&I Rate*) for the city in which the work is performed. *Receipts are not required as documentation.* The invoice shall state "the meals are being billed at the Federal Per Diem daily meal rate", and shall detail how many of each meal is being billed (e.g. the number of breakfasts, lunches, and dinners). The City will not reimburse for alcohol at any time.
- F. **Lodging:** Lodging will be reimbursed at actual cost incurred up to a maximum of the published General Services Administration (GSA) Index for the city in which the work is performed (*the current maximum allowed reimbursement amount can be provided upon request*). Receipts detailing each day / night lodging are required. The City will not reimburse for ancillary expenses charged to the room (e.g. movies, laundry, mini bar, refreshment center, fitness center, sundry items, etc.)
- G. **Vehicle mileage:** Vehicle mileage will be reimbursed at the Federal Internal Revenue Service Standard Business Mileage Rate in effect at the time the mileage expense is incurred (currently that rate for 2016 is 54 cents per mile.) Please note: payment for mileage for long distances traveled will not be more than an equivalent trip round-trip airfare of a common carrier for a coach or economy class ticket.
- H. **Rental Car:** Rental car expenses will be reimbursed at the actual cost of the rental. Rental car receipts are required for all rental car expenses. The City will reimburse for a standard car of a mid-size class or less. The City will not reimburse for ancillary expenses charged to the car rental (e.g. GPS unit).
- I. **Miscellaneous Travel** (e.g. parking, rental car gas, taxi, shuttle, toll fees, ferry fees, etc.): Miscellaneous travel expenses will be reimbursed at the actual cost incurred. Receipts are required for each expense of \$10.00 or more.

- J. **Miscellaneous other business expenses** (e.g. printing, photo development, binding): Other miscellaneous business expenses will be reimbursed at the actual cost incurred and may not include a mark up. Receipts are required for all miscellaneous expenses that are billed.

Subconsultant: Subconsultant expenses will be reimbursed at the actual cost incurred. Copies of all Subconsultant invoices that are rebilled to the City are required

6. PAYMENT PROCEDURES.

The Consultant may submit invoices to the City as frequently as once per month during progress of work, for partial payment for work completed to date. Payment shall be made by the City to the Consultant upon the City's receipt of an invoice containing the information listed below.

Invoices shall be submitted to:
CITY OF SPOKANE IT DEPARTMENT 7th Floor – City Hall 808 West Spokane Falls Boulevard Spokane, WA 99201
Invoices under this Contract shall clearly display the following information (sub-consultants' invoices shall also include this information):
<ul style="list-style-type: none">• Invoice Date and Invoice Number• IT DEPARTMENT• Project Coordinator: City Employee Name (Please do not put name in the address portion of the invoice)• Department Contract No. OPR # _____• Contract Title: SOFTWARE SUPPORT SERVICES FOR THE CITY'S RPWRF• Period covered by the invoice• Project Title• Employee's name and classification• Employee's all-inclusive hourly rate excluding fixed fee and # of hours worked• Total labor costs per Project• Itemization of direct, non-salary costs (per Project, if so allocated)• The following Sub-Consultant payment information will be provided <i>[if needed]</i> (attach Sub-Consultant invoices as backup):<ul style="list-style-type: none">○ Amount Paid to all Sub-Consultants for the invoice period (list separate totals for each Sub-Consultant).○ Cumulative To-Date amount paid to all Sub-Consultants (list separate totals for each Sub-Consultant).• Cumulative costs per Project and for the total Agreement

7. TAXES, FEES AND LICENSES.

- A. Consultant shall pay and maintain in current status, all necessary licenses, fees, assessments, permit charges, etc. necessary to conduct the work included under this Agreement. It is the Consultant's sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.
- B. Where required by state statute, ordinance or regulation, Consultant shall pay and maintain in current status all taxes necessary for performance. Consultant shall not charge the City for federal excise taxes. The City will furnish Consultant an exemption certificate where appropriate.

- C. The Director of Finance and Administrative Services may withhold payment pending satisfactory resolution of unpaid taxes and fees due the City.
- D. The cost of any permits, licenses, fees, etc. arising as a result of the projects included in this Agreement shall be included in the project budgets.
- E.

8. CITY OF SPOKANE BUSINESS LICENSE.

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Consultant 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.

9. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

Deliver all official notices under this Agreement to:

If to the City:	If to the Consultant:
IT Department - City of Spokane 7th Floor – City Hall 808 West Spokane Falls Boulevard Spokane, Washington 99201	TRANSOURCE SERVICES CORP. Employee Name: _____ 2405 West Utopia Road Phoenix, Arizona 85027

10. SOCIAL EQUITY REQUIREMENTS.

- A. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. Consultant 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 Consultant. Consultant shall seek inclusion of woman and minority business for subcontracting. A woman or minority business is one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington.

11. INDEMNIFICATION.

The Consultant shall indemnify and hold the City and the State and their officers and employees harmless from all claims, demands, or suits at law or equity, including but not limited to attorney's fees and litigation costs asserted by third parties for bodily injury (including death) and/or property damage which arise from the Consultant's negligence or willful misconduct under this Agreement; provided that nothing herein shall require a Consultant to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the conduct of the City, its agents, officers and employees and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Consultant's agents or employees and (b) the City, its agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to the City of defending such claims and suits, etc.; shall be valid and enforceable only to the extent of the negligence of the Consultant, its agents or employees. The Consultant specifically assumes potential liability for actions brought by the Consultant's own employees against the City and, solely for the purpose of this indemnification and defense, the Consultant specifically waives any immunity under the state industrial insurance law, or Title 51 RCW. The Consultant recognizes that this waiver was specifically entered into

pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnification provided for in this section shall survive any termination or expiration of this Agreement.

The parties agree that the City is fully responsible for its own negligence, including negligent plant operations controlled by the City, and for its material breaches of this Contract. It is not the intent of this Section to limit this understanding.

12. INSURANCE.

The Consultant shall comply with all federal, state and local laws and ordinances applicable to the work to be done under this Agreement. This Agreement shall be interpreted and construed in accord with the laws of Washington.

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

A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;

B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,500,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this agreement. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Consultant's services to be provided under this Agreement; and

C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.

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 Agreement. The coverage must remain in effect for at least two (2) years after the Agreement is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without sixty (60) days written notice from the Consultant or its insurer(s) to the City. As evidence of the insurance coverages required by this Agreement, the Consultant shall furnish acceptable insurance certificates to the City at the time it returns the signed Agreement. The certificate shall specify all of the parties who are additional insureds, and include applicable policy endorsements, the sixty (60) day cancellation clause, and the deduction or retention level. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

13. AUDIT.

Upon request, the Consultant shall permit the City and any other governmental agency ("Agency") involved in the funding of the Work to inspect and audit all pertinent books and records. This includes work of the Consultant, any subconsultant, or any other person or entity that performed connected or related Work. Such books and records shall be made available upon reasonable notice of a request by the City, including up to three (3) years after final payment or release of withheld amounts. Such inspection and audit shall occur in Spokane County, Washington, or other reasonable locations mutually agreed to by the parties. The Consultant shall permit the City to copy such books and records at its own expense. The Consultant shall ensure that inspection, audit and copying rights of the City is a condition

of any subcontract, agreement or other arrangement under which any other persons or entity may perform Work under this Agreement.

14. INDEPENDENT CONSULTANT.

- A. The Consultant is an independent Consultant. This Agreement does not intend the Consultant to act as a City employee. The City has neither direct nor immediate control over the Consultant nor the right to control the manner or means by which the Consultant works. Neither the Consultant nor any Consultant employee shall be an employee of the City. This Agreement prohibits the Consultant to act as an agent or legal representative of the City. The Consultant is not granted express or implied rights or authority to assume or create any obligation or responsibility for or in the name of the City, or to bind the City. The City is not liable for or obligated to pay sick leave, vacation pay, or any other benefit of employment, nor to pay social security or other tax that may arise from employment. The Consultant shall pay all income and other taxes as due. The Consultant may perform work for other parties; the City is not the exclusive user of the services that the Consultant provides.
- B. If the City needs the Consultant to Work on City premises and/or with City equipment, the City may provide the necessary premises and equipment. Such premises and equipment are exclusively for the Work and not to be used for any other purpose.
- C. If the Consultant works on the City premises using City equipment, the Consultant remains an independent Consultant and not a City employee. The Consultant will notify the City Project Manager if s/he or any other Workers are within ninety (90) days of a consecutive 36-month placement on City property. If the City determines using City premises or equipment is unnecessary to complete the Work, the Consultant will be required to work from its own office space or in the field. The City may negotiate a reduction in Consultant fees or charge a rental fee based on the actual costs to the City, for City premises or equipment.

15. KEY PERSONS.

The Consultant shall not transfer or reassign any individual designated in this Agreement as essential to the Work, nor shall those key persons, or employees of Consultant identified as to be involved in the Project Work be replaced, removed or withdrawn from the Work without the express written consent of the City, which shall not be unreasonably withheld. If any such individual leaves the Consultant's employment, the Consultant shall present to the City one or more individuals with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval does not release the Consultant from its obligations under this Agreement.

16. ASSIGNMENT AND SUBCONTRACTING.

The Consultant shall not assign or subcontract its obligations under this Agreement without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by the Consultant shall incorporate by reference this Agreement, except as otherwise provided. The Consultant shall ensure that all subconsultants comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release the consultant from liability or any obligation within this Agreement, whether before or after City consent, assignment or subcontract.

17. CITY ETHICS CODE.

- A. Consultant shall promptly notify the City in writing of any person expected to be a Consultant Worker (including any Consultant employee, subconsultant, principal, or owner) and was a former City officer or employee within the past twelve (12) months.
- B. Consultant shall ensure compliance with the City Ethics Code by any Consultant Worker when the Work or matter related to the Work is performed by a Consultant Worker who has been a City officer or employee within the past two (2) years.
- C. Consultant shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer or official that is intended, or may appear to a reasonable

person to be intended, to obtain or give special consideration to the Consultant. Promotional items worth less than \$25 may be distributed by the Consultant to a City employee if the Consultant uses the items as routine and standard promotional materials. Any violation of this provision may cause termination of this Agreement. Nothing in this Agreement prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

18. NO CONFLICT OF INTEREST.

Consultant confirms that the Consultant or workers have no business interest or a close family relationship with any City officer or employee who was or will be involved in the consultant selection, negotiation, drafting, signing, administration or evaluation of the Consultant's work. As used in this Section, the term Consultant includes any worker of the Consultant who was, is, or will be, involved in negotiation, drafting, signing, administration or performance of the Agreement. The term "close family relationship" refers to: spouse or domestic partner, any dependent parent, parent-in-law, child, son-in-law, daughter-in-law; or any parent, parent-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a City officer or employee described above.

19. ERRORS AND OMISSIONS, CORRECTIONS.

Consultant is responsible for professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Consultant under this Agreement in the delivery of a final work product. The standard of care applicable to Consultant's services will be the degree of skill and diligence normally employed by professional engineers or Consultants performing the same or similar services at the time said services are performed. The Final Work Product is defined as a stamped, signed work product. Consultant, without additional compensation, shall correct or revise errors or mistakes in designs, drawings, specifications, and/or other consultant services immediately upon notification by the City. The obligation provided for in this Section regarding acts or omissions resulting from this Agreement survives Agreement termination or expiration.

20. INTELLECTUAL PROPERTY RIGHTS.

- A. Copyrights. The Consultant shall retain the copyright (including the right of reuse) to all materials and documents prepared by the Consultant for the Work, whether or not the Work is completed. The Consultant grants to the City a non-exclusive, irrevocable, unlimited, royalty-free license to use copy and distribute every document and all the materials prepared by the Consultant for the City under this Agreement. If requested by the City, a copy of all drawings, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs, and other storage facilities), software program or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials) and/or any other related documents or materials developed solely for and paid for by the City to perform the Work, shall be promptly delivered to the City.
- B. Patents: The Consultant assigns to the City all rights in any invention, improvement, or discovery, with all related information, including but not limited to designs, specifications, data, patent rights and findings developed with the performance of the Agreement or any subcontract. Notwithstanding the above, the Consultant does not convey to the City, nor does the City obtain, any right to any document or material utilized by the Consultant created or produced separate from the Agreement or was pre-existing material (not already owned by the City), provided that the Consultant has identified in writing such material as pre-existing prior to commencement of the Work. If pre-existing materials are incorporated in the work, the Consultant grants the City an irrevocable, non-exclusive right and/or license to use, execute, reproduce, display and transfer the pre-existing material, but only as an inseparable part of the work.
- C. The City may make and retain copies of such documents for its information and reference with their use on the project. The Consultant does not represent or warrant that such documents are suitable for reuse by the City or others, on extensions of the project or on any other project, and the City releases the Consultant from liability for any unauthorized reuse of such documents.

21. CONFIDENTIALITY.

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act*) all materials received or created by the City of Spokane are **public records**. These records include but are not limited to bid or proposal submittals, agreement documents, contract work product, or other bid material. Some records or portions of records are legally *exempt from disclosure* and can be redacted or withheld. The Public Records Act (RCW 42.56 and RCW 19.10) describes those exemptions. Consultant must familiarize themselves with the Washington State Public Records Act (PRA) and the City of Spokane's process for managing records.

The City will try to redact anything that seems obvious in the City opinion for redaction. For example, the City will black out (redact) Social Security Numbers, federal tax identifiers, and financial account numbers before records are made viewable by the public. However, this does not replace your own obligations to identify any materials you wish to have redacted or protected, and that you think are so under the Public Records Act (PRA).

Protecting your Materials from Disclosure (Protected, Confidential, or Proprietary): You must determine and declare any materials you want exempted (redacted), and that you also believe are eligible for redaction. This includes but is not limited to your bid submissions, contract materials and work products.

Contract Work Products: If you wish to assert exemptions for your contract work products you must notify the City Project Manager at the time such records are generated.

Please note the City cannot accept a generic marking of materials, such as marking everything with a document header or footer, page stamp, or a generic statement that a document is non-disclosable, exempt, confidential, proprietary, or protected. You may not exempt an entire page unless each sentence is entitled to exemption; instead, identify paragraphs or sentences that meet the RCW exemption criteria you are relying upon.

City's Response to a Public Records Act Requests: The City will prepare two versions of your materials:

Full Redaction: A public copy that redacts (blacks out) both the exemptions (such as social security numbers) identified by the City and also materials or text you identified as exempt. The fully redacted version is made public upon contract execution and will be supplied with no notification to you.

Limited Redaction: A copy that redacts (blacks out) only the exemptions (such as social security numbers) identified by the City. This does not redact (black out) exemptions you identified. The Limited Redaction will be released only after you are provided "third party notice" that allows you the legal right under RCW 42.56.540 to bring a legal action to enjoin the release of any records you believe are not subject to disclosure.

If any requestor seeks the Limited Redacted or original versions, the City will provide you "third party notice", giving ten business days to obtain a temporary restraining order while you pursue a court injunction. A judge will determine the status of your exemptions and the Public Records Act.

22. DISPUTES.

Any dispute or misunderstanding that may arise under this Agreement, concerning the Consultant's performance, shall first be through negotiations, if possible, between the Consultant's Project Manager and the City's Project Manager. It shall be referred to the Director and the Consultant's senior executive(s). If such officials do not agree upon a decision within a reasonable period of time, either party may decline or discontinue such discussions and may then pursue the legal means to resolve such

disputes, including but not limited to mediation, arbitration and/or alternative dispute resolution processes. Nothing in this dispute process shall mitigate the rights of the City to terminate the Agreement. Notwithstanding all of the above, if the City believes in good faith that some portion of the Work has not been completed satisfactorily, the City may require the Consultant to correct such work prior to the City payment. The City will provide to the Consultant an explanation of the concern and the remedy that the City expects. The City may withhold from any payment otherwise due, an amount that the City in good faith finds to be under dispute, or if the Consultant provides no sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correcting or remedying the work not properly completed. Waiver of any of these rights is not deemed a future waiver of any such right or remedy available at law, contract or equity.

23. TERMINATION.

- A. For Cause: The City or Consultant may terminate the Agreement if the other party is in material breach of this Agreement, and such breach has not been corrected to the other party's reasonable satisfaction in a timely manner. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- B. For Reasons Beyond Control of Parties: Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as, but not limited to, an act of nature, war or warlike operation, civil commotion, riot, labor dispute including strike, walkout or lockout, except labor disputes involving the Consultant's own employees, sabotage, or superior governmental regulation or control. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- C. For City's Convenience: The City may terminate this Agreement without cause and including the City's convenience, upon written notice to the Consultant. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than ninety (90) business days prior to the effective date of termination.
- D. Actions upon Termination: if termination occurs not the fault of the Consultant, the Consultant shall be paid for the services properly performed prior to the actual termination date, with any reimbursable expenses then due, but such compensation shall not exceed the maximum compensation to be paid under the Agreement. The Consultant agrees this payment shall fully and adequately compensate the Consultant and all subconsultants for all profits, costs, expenses, losses, liabilities, damages, taxes and charges of any kind (whether foreseen or unforeseen) attributable to the termination of this Agreement.
- E. Upon termination, the Consultant shall provide the City with the most current design documents, contract documents, writings and other products the Consultant has produced to termination, along with copies of all project-related correspondence and similar items. The City shall have the same rights to use these materials as if termination had not occurred; provided however, that the City shall indemnify and hold the Consultant harmless from any claims, losses, or damages to the extent caused by modifications made by the City to the Consultant's work product.

24. EXPANSION FOR NEW WORK.

This Agreement scope may be expanded for new work. Any expansion for New Work (work not specified within the original Scope of Work Section of this Agreement, and/or not specified in the original RFP as intended work for the Agreement) must comply with all the following limitations and requirements: (a) the New Work is not reasonable to solicit separately; (b) the New Work is for reasonable purpose; (c) the New Work was not reasonably known either the City or Consultant at time of contract or else was mentioned as a possibility in the solicitation (such as future phases of work, or a change in law); (d) the New Work is not significant enough to be reasonably regarded as an independent body of work; (e) the New Work would not have attracted a different field of competition; and (f) the change does not vary the essential identified or main purposes of the Agreement. The City may make exceptions for immaterial changes, emergency or sole source conditions, or other situations required in City opinion. Certain

changes are not New Work subject to these limitations, such as additional phases of Work anticipated at the time of solicitation, time extensions, Work Orders issued on an On-Call contract, and similar. New Work must be mutually agreed and issued by the City through written Addenda. New Work performed before an authorizing Amendment may not be eligible for payment.

25. MISCELLANEOUS PROVISIONS.

- A. Amendments: No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- B. Binding Agreement: This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.
- C. Americans with Disabilities Act (ADA): Specific attention by the designer is required in association with the Americans with Disabilities Act (ADA) 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611, its requirements, regulations, standards and guidelines, which were updated in 2010 and are effective and mandatory for all State and local government facilities and places of public accommodation for construction projects including alteration of existing facilities, as of March 15, 2012. The City advises that the requirements for accessibility under the ADA, may contain provisions that differ substantively from accessibility provisions in applicable State and City codes, and if the provisions of the ADA impose a greater or equal protection for the rights of individuals with disabilities or individuals associated with them than the adopted local codes, the ADA prevail unless approval for an exception is obtained by a formal documented process. Where local codes provide exceptions from accessibility requirements that differ from the ADA Standards; such exceptions may not be permitted for publicly owned facilities subject to Title II requirements unless the same exception exists in the Title II regulations. It is the responsibility of the designer to determine the code provisions.
- D. The Consultant, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, the Consultant shall comply with the requirements of this Section.
- E. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in the Superior Court of Spokane County.
- F. Remedies Cumulative: Rights under this Agreement are cumulative and nonexclusive of any other remedy of law or in equity.
- G. Captions: The titles of sections or subsections are for convenience only and do not define or limit the contents.
- H. Severability: If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- I. Waiver: No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Consultant after the time the same shall have become due nor payment to the Consultant for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- J. Additional Provisions: This Agreement may be modified by additional terms and conditions ("Special Conditions") which shall be attached to this Agreement as Exhibit D. The parties agree that the Special Conditions shall supplement the terms and conditions of the Agreement, and in the event of ambiguity or conflict with the terms and conditions of the Agreement, these Special Conditions shall govern.
- K. Entire Agreement: This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Consultant. If conflict occurs between contract documents and applicable laws, codes, ordinances or regulations, the most

stringent or legally binding requirement shall govern and be considered a part of this contract to afford the City the maximum benefits.

- L. **Negotiated Agreement:** The parties acknowledge this is a negotiated agreement, that they have had this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship.
- M. **No personal liability:** No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

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

TRANSOURCE SERVICES CORP.

By _____
Signature Date

Type or Print Name

Title

Attest:

City Clerk

CITY OF SPOKANE

By _____
Signature Date

Type or Print Name

Title

Approved as to form:

Assistant City Attorney

Attachments: Exhibit A – Consultant's Sales Quotation # 265729, dated January 6, 2017

17-413

**Transource Services Corp**2405 West Utopia Road
Phoenix AZ 85027**SALES
QUOTATION**

Original

Quotation No.: 265729
Quotation Date: 01/06/17
Due Date: 02/06/17
Customer No.: C889625
Customer Ref. No.:
Page No.:

Page 1 of 2

BILL TO

CITY OF SPOKANE
FL. 7
808 W. Spokane Falls Blvd
Spokane WA 99201-3333

SHIP TO

CITY OF SPOKANE
4401 N. Aubrey L White Pkwy
Spokane WA 99205

Account Rep: Curtis Wescott
Contact Name: Bruce Brurud
Terms: Net 30

Ship Via:
FOB: FOB Destination

Line	Item No.	Description	Qty	Unit Price	Total
1	NVP	NASPO ValuePoint MPA# MNWNC-130	1		
2	NVP-WA	State of Washington PA# 05815-016	1		
3	TSC-ITEM MFR# NX-1365-G5-01020	NUTANIX SOFTWARE FOUNDATION -HYPERVISOR AGNOSTIC INSTALLER CONTROLLER VM PRISM MANAGEMENT STARTER LICENSE ENTITLEMENT NUTANIX HARDWARE PLATFORM 6 X INTEL XEON PROCESSOR 2.1GHZ 8-CORE BROADWELL E5-2620 V4 20M CACHE 24 X 16GB DDR4 MEMORY MODULE 6 X 2TB 3.	2	\$ 29,378.84	\$ 58,757.68
4	TSC-ITEM MFR# C-CPU-2620V4	INTEL XEON PROCESSOR 2.1GHZ 8-CORE BROADWELL E5-2620 V4 20M CACHE	12		
5	TSC-ITEM MFR# CMEM16GBDDR42400	16GB DDR4 MEMORY MODULE	48		
6	TSC-ITEM MFR# C-HDD-2TB-3.5	2TB 3.5" HDD	12		
7	TSC-ITEM MFR# C-SSD-960GB-3.5-C	960GB 3.5" SSD	6		
8	TSC-ITEM MFR# C-NIC-10G-2-SI	10GBE DUAL SFP+ NETWORK ADAPTER	6		
9	TSC-ITEM MFR# CCBL-3M-SFP+-SFP+	CABLE 3M SFP+ TO SFP+	12	\$ 69.41	\$ 832.92

**Transource Services Corp**

2405 West Utopia Road
Phoenix AZ 85027

**SALES
QUOTATION** Original**Quotation No.:** 265729**Quotation Date:** 01/06/17**Due Date:** 02/06/17**Customer No.:** C889625**Customer Ref. No.:****Page No.:** Page 2 of 2

Line	Item No.	Description	Qty	Unit Price	Total
10	TSC-ITEM MFR# S-PRD-1065-G5-3YR	3YR PRODUCTION 24/7 SYSTEM SUPPORT FOR NUTANIX 1065-G5	1	\$ 26,176.54	\$ 26,176.54

SBA certified "American Small Manufacturer"

Subtotal \$ 85,767.14

Shipping
Tax \$ 7,461.74**Total Order Value** \$ 93,228.88

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

01/23/2017

Date Rec'd

1/11/2017

Clerk's File #

CPR 1981-0271

Renews #Submitting Dept

MAYOR

Cross Ref #Contact Name/Phone

BRANDY COTE 625-6774

Project #Contact E-Mail

BCOTE@SPOKANECITY.ORG

Bid #Agenda Item TypeBoards and Commissions
AppointmentsRequisition #Agenda Item Name

0520 APPOINTMENT OF PAM DECOUNTER TO THE CIVIL SERVICE COMMISSION

Agenda Wording

Appointment of Pam DeCounter to a four year term on the Civil Service Commission, expiring on December 31, 2020.

Summary (Background)

Appointment of Pam DeCounter to a four year term on the Civil Service Commission, expiring on December 31, 2020.

Fiscal ImpactBudget Account

Select \$

#

Select \$

#

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

COTE, BRANDY

Study SessionDivision DirectorOtherFinanceDistribution ListLegal

bcote@spokanecity.org

For the Mayor

SANDERS, THERESA

ggeorge-hatcher@spokanecity.org

Additional ApprovalsPurchasing

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

01/23/2017

Date Rec'd

1/11/2017

Clerk's File #

CPR 1981-0122

Renews #Cross Ref #Submitting Dept

MAYOR

Contact Name/Phone

GINA NUNES 509-625-6779

Project #Contact E-Mail

GNUNES@SPOKANECITY.ORG

Bid #Agenda Item TypeBoards and Commissions
AppointmentsRequisition #Agenda Item Name

0520 - APPOINTMENT OF BETSY BRADLEY

Agenda Wording

Appointment of Betsy Bradley for the Historic Landmarks Commission (Citizen at Large) for the term of 1-1-17 to 12-31-19.

Summary (Background)

Appointment of Betsy Bradley for the Historic Landmarks Commission (Citizen at Large) for the term of 1-1-17 to 12-31-19.

Fiscal ImpactBudget Account

Select \$

#

Select \$

#

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

COTE, BRANDY

Study SessionDivision DirectorOtherFinanceDistribution ListLegal

gnunes@spokanecity.org

For the Mayor

SANDERS, THERESA

bcote@spokanecity.org

Additional Approvals

jmallahan@spokanecity.org

Purchasing

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

01/30/2017

<u>Date Rec'd</u>	1/17/2017
<u>Clerk's File #</u>	RES 2017-0009
<u>Renews #</u>	

<u>Submitting Dept</u>	NEIGHBORHOOD SERVICES & CODE	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	ALICIA AYARS 625-6780	<u>Project #</u>	
<u>Contact E-Mail</u>	AAYARS@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Resolutions	<u>Requisition #</u>	
<u>Agenda Item Name</u>	1200 - RESOLUTION REGARDING MAYOR'S HOUSING QUALITY TASK FORCE		

Agenda Wording

A Resolution recognizing the Mayor's Housing quality Task Force Final Report and Recommendations as a guide for future policy development and potential regulatory implementation measures.

Summary (Background)

Mayor Condon initiated the Mayor's Housing Quality Task Force requesting they address housing equality and affordability in Spokane. They convened meetings from May 2, 2016 through September 21, 2016, with a final list of priority recommendations presented to Mayor Condon on September 21, 2016.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	TRAUTMAN, HEATHER	<u>Study Session</u>	
<u>Division Director</u>	MALLAHAN, JONATHAN	<u>Other</u>	PC 1/11/17 PED 1/23/17
<u>Finance</u>	DOVAL, MATTHEW	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	Engineering Admin	
<u>For the Mayor</u>	SANDERS, THERESA	aayars@spokanecity.org	
<u>Additional Approvals</u>		htrautman@spokanecity.org	
<u>Purchasing</u>		lkey@spokanecity.org	
		jrichman@spokanecity.org	

BRIEFING PAPER
Plan Commission
Neighborhood & Business Services
January 11, 2017

Subject

The Mayor's Housing Quality Task Force was established to address housing quality and affordability in Spokane through six key areas of housing. The Task Force's objective was to align City investments, resources and policies to support safe, quality and affordable housing. The result of this effort has concluded by identifying a list of priority recommendations.

Background

Housing is a necessity to creating diverse, equitable neighborhoods and is a major contributor of a well-functioning city. The City of Spokane recognizes that in order to drive economic and social benefits for the city and its residents, quality and affordable housing is essential.

For this reason Mayor David Condon initiated a group of stakeholders to address housing quality and affordability in Spokane through a process called the Mayor's Housing Quality Task Force (HQT). The Task Force examined the two principal categories through a scope of six key areas of housing, which included;

- Abandoned Homes
- Homes in Foreclosure
- Chronic Nuisance Properties
- Substandard Properties
- Vacant Residential Lots
- Housing Affordability

The outcome of this process is a list of priority recommendations that address housing quality and affordability in Spokane while increasing the mix of housing option and incomes in neighborhoods. Attached you will find the list of priority recommendations.

The Task Force met for nine months, from May through September. There were 39 Task Force members. The members included City Councilwoman Waldref, City Councilwoman Stratton, City staff and various local agencies such as; the Washington Tenants Union, Landlord Association of the Inland Northwest, Umpqua Bank, Spokane Community Land Trust, Spokane Mortgage Lenders Association, Spokane Housing Ventures, Spokane Regional Health District, SNAP, and Spokane Low Income Housing Consortium to name a few. The full list Task Force members are located on the Mayor's Housing Quality Task Force project page. (<https://my.spokanecity.org/projects/mayors-housing-quality-task-force/>)

The Task Force meetings were held from May through September 2016. Initial meetings in May and June included background information provided by City of Spokane staff on various programs, policies and cost associated with addressing each of the six key areas of housing.

Three roundtable focus group meetings were held in June and July where local bankers/financial institutions and developers/real estate agencies were invited to participate in the HQT process by providing their industry specific knowledge in addressing housing. The two focus groups also meet with the Task Force members to provide feedback and input on the recommendations before they were finalized.

The process included a community forum with approximately 60 participants followed up with online surveys. At the community forum background information pertaining to the six key areas of housing was shared and community input/feedback was gathered. The community forum was followed up with two community survey's that were published on the cities website. All information from the three roundtable meetings, the community forum and the surveys is included in the final report, as well as, all recommendations that came forward during this process.

Next steps include establishing a steering committee(s) of approximately 7-9 people that would work on further developing policies and/or programs from the recommendations. The committee would be made up of city staff and local agencies. They would work to further define the program/policy, identify cost for implementation and partnerships from local agencies.

An all convene meeting with the entire Task Force group will occur between March and May in 2017. The purpose of the all convene meeting is to update the Task Force on the progress made on the development and/or implementation of recommendations and provide an update on the steering committees work.

Action

A City Council resolution is proposed to accept the Mayor's Housing Quality Task Force's Final Report and Recommendations. The item would be placed on the advance agenda and briefed on January 30, 2017 with first reading and public comment taken as part of the legislative meeting on February 6, 2017.

RESOLUTION NO. 2017-0009

A Resolution recognizing the Mayor's Housing Quality Task Force Final Report and Recommendations as a guide for future policy development and potential regulatory implementation measures.

WHEREAS, Mayor David Condon initiated a Task Force called, Mayor's Housing Quality Task Force and convened meetings from May 2, 2016 through September 21, 2016, requesting that the task force address housing quality and affordability in Spokane with specific focus on six key housing areas which include substandard properties, abandoned homes, vacant residential lots, chronic nuisance properties, homes in foreclosure and housing affordability; and,

WHEREAS, Task Force members represented a wide variety of stakeholders in the Spokane community from local housing agencies and service providers, Spokane City Council, City staff, realtors, lending institutions, landlord and tenant groups, and citizen representation; and,

WHEREAS, Roundtable meetings were held which invited representatives from the developer/real estate agencies and financial institutions to solicit input and feedback; and,

WHEREAS, additional input was gathered through a community forum held on June 14, 2016, through two an online survey's, and, through individual presentations upon request to two working groups of the Downtown Spokane Partnership; and,

WHEREAS, A final list of priority recommendations was finalized and presented to Mayor David Condon on September 21, 2016; and,

WHEREAS, The final report and recommendations were prepared by the project staff, based on the review of housing quality and affordability in Spokane currently, review of related policies and programs, and input from stakeholders and the public; and,

WHEREAS, the final report contains the background information pertaining to the six key housing areas and a list of priority recommendations that the City of Spokane and others may pursue to further the objectives of the Task Force and improve the quality and affordability of housing in Spokane; and,

NOW THEREFORE, BE IT RESOLVED BY THE PLAN COMMISSION that the Mayor's Housing Quality Task Force final report and recommendations be recognized as a guide for future policy development and potential implementation measures that may be included in the implementation chapter of the City of Spokane 2017 Comprehensive Plan Update

BE IT ALSO RESOLVED, that each recommendation is advanced for further consideration, while further internal and interdepartmental review will be required for identifying the scope, budget, and probable timeframes for each; and,

ADOPTED by the Plan Commission this _____ day of _____, 2017.

Approved as to form:

Assistant City Attorney

**CITY OF SPOKANE PLAN COMMISSION
FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS
REGARDING THE MAYOR'S HOUSING QUALITY TASK FORCE**

A recommendation of the City of Spokane Plan Commission to the City Council accepting the final report and recommendations of the Mayor's Housing Quality Task Force as a guide for future programmatic and regulatory implementation measures.

FINDINGS OF FACT:

- A. Mayor David Condon initiated a Task Force called, Mayor's Housing Quality Task Force and convened meetings from May 2, 2016 through September 21, 2016, requesting that the task force address housing quality and affordability in Spokane with specific focus on six key housing areas which include substandard properties, abandoned homes, vacant residential lots, chronic nuisance properties, homes in foreclosure and housing affordability.
- B. Task Force members represented a wide variety of stakeholders in the Spokane community from local housing agencies and service providers, Spokane City Council, City staff, realtors, lending institutions, landlord and tenant groups, and citizen representation.
- C. Roundtable meetings were held which invited representatives from the developer/real estate agencies and financial institutions to solicit input and feedback.
- D. Additional input was gathered through a community forum held on June 14, 2016, through two an online survey's, and, through individual presentations upon request to two working groups of the Downtown Spokane Partnership.
- E. A final list of priority recommendations was finalized and presented to Mayor David Condon on September 21, 2016.
- F. The final report and recommendations were prepared by the project staff, based on the review of housing quality and affordability in Spokane currently, review of related policies and programs, and input from stakeholders and the public.
- G. The recommendations are consistent with the following provisions of the City of Spokane's Comprehensive Plan:
 - H 3.1 Housing Rehabilitation: Provide assistance for housing rehabilitation beyond housing maintenance code requirements if the assistance is supportive of general community development activity and is on a voluntary basis.
Discussion: Codes and standards that allow for "as safe as" or "equal to" conditions when affordable housing development or rehabilitation is involved improves the level of safety while keeping the structure redevelopment cost down.
 - H 3.2 Property Responsibility and Maintenance: Provide assistance for housing rehabilitation beyond housing maintenance code.

Discussion: Recognition of "good" property owners can help set the standard for others to follow. The City should lead by example and maintain its property at least at the community standard.

Additionally, the city should continue to support and fund the repair and rehabilitation of single-family and multifamily housing using federal, state, and local funding sources. Emergency code compliance loans are another method of maintaining standards.

When other methods of maintaining minimum community standards fail, a strong code enforcement program is needed to protect surrounding property owners. Enforcement of city codes should not depend solely on complaints filed by neighbors but should be driven by the city's awareness of a violation.

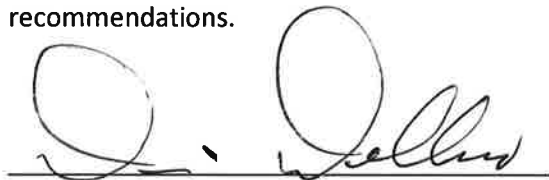
- H 1.10 Low-Income Housing Funding Source: Support the development of low-income housing development funding sources.

Discussion: Low-income housing development funding sources may include but are not limited to a community land trust, trust fund, mortgage revenue bonds, levies, or low-income tax credits.

- H. The final report contains the background information pertaining to the six key housing areas and a list of priority recommendations that the City of Spokane and others may pursue to further the objectives of the Task Force and improve the quality and affordability of housing in Spokane.

CONCLUSION AND RECOMMENDATION:

In the matter of the final report and recommendations of the Mayor's Housing Quality Task Force the Plan Commission recommends by a vote of 8 to 0 the Spokane City Council Agreed the Resolution recognizing the plan as a record of the Mayor's Housing Quality Task Force's final report and recommendations.



Dennis Dellwo, President
Spokane Plan Commission

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

01/30/2017

<u>Date Rec'd</u>	1/17/2017
<u>Clerk's File #</u>	RES 2017-0010
<u>Renews #</u>	

<u>Submitting Dept</u>	INTEGRATED CAPITAL	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	MARK PAPICH 625-6310	<u>Project #</u>	MULTIPLE
<u>Contact E-Mail</u>	MPAPICH@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Resolutions	<u>Requisition #</u>	
<u>Agenda Item Name</u>	4250 - RESOLUTION FOR DEPARTMENT OF ECOLOGY LOAN AGREEMENTS		

Agenda Wording

A resolution authorizing the loan and grant agreements between the City of Spokane and State of Washington Department of Ecology for High Drive Stormwater (2015127 - \$967,000), Riverside Interceptor Protection (I07-2014096 - \$4,200,000), Spokane

Summary (Background)

The Department of Ecology annually awards funding for grants and loans based on a competitive process and legislature approval. The loans have an interest rate of 2% and a repayment period of 20 years. The grant has a 25% match. Funding from the Department of Ecology will be used to reduce the untreated sewage and stormwater discharging to the Spokane River. These revenues and expenses are budgeted and consistent with the 6 Year Capital Plan.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 967,000.00	#	4250-43101-94000-56501-99999
Expense	\$ 4,200,000.00	#	4340-43416-94000-56501-10100
Expense	\$ 2,393,870.00	#	4340-43416-94000-56501-10041
Expense	\$ 1,200,859.00	#	4340-43317-94000-56501-99999
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MILLER, KATHERINE E	<u>Study Session</u>	
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	Public Works 1/9/17
<u>Finance</u>	DOVAL, MATTHEW	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	Engineering Admin	
<u>For the Mayor</u>	SANDERS, THERESA	mpapich@spokanecity.org	
<u>Additional Approvals</u>		kschmitt@spokanecity.org	
<u>Purchasing</u>		mhughes@spokanecity.org	
		kkeck@spokanecity.org	
		jlargent@spokanecity.org	
		htrautman@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

River Infiltration Reduction (2015153 - \$1,200,859) and Rebecca Control Facility (CSO 41-2010102 - \$2,393,870). The grant for the High Drive Stormwater Project is \$241,500. (Multiple Neighborhood Councils)

Fiscal Impact		Budget Account	
Revenue	\$ 241,500.00	#	4250-43101-94000-56501-99999
Select	\$	#	

Distribution List

BRIEFING PAPER
Public Works Committee
Integrated Capital Management
January 9, 2017

Subject

Washington State Department of Ecology Loan and Grant Agreements

Background

The Department of Ecology annually awards funding for grants and loans based on a competitive process and legislature approval. This year (FY 2017), the City was awarded 1 Stormwater Financial Assistance Program (SFAP) grant and 4 Water Quality State Revolving Fund (WQSRF) Loans for the following projects:

- High Drive Stormwater (\$241,500 SFAP, \$967,000 WQSRF)
- Riverside Interceptor Protection (I-07) (\$4,200,000 WQSRF)
- Spokane River Infiltration Reduction (\$1,200,859 WQSRF)
- Rebecca Control Facility (CSO 41) (\$2,393,870 WQSRF)

Impact

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

Action

Council approval to accept the Department of Ecology Grant and Loan Agreements by resolution.

Funding

Grant amount total is \$241,500. Loan amount total is \$8,761,729

Resolution No. 2017-0010

A resolution authorizing the loan and grant agreements between the City of Spokane and State of Washington Department of Ecology for High Drive Stormwater, Riverside Interceptor Protection (I-07), Spokane River Infiltration Reduction and the Rebecca Control Facility (CSO 41).

WHEREAS, the State of Washington Department of Ecology has awarded four (4) loans and one grant to the City of Spokane for a total amount of \$9,003,229 (\$8,761,729 loan/\$241,500 grant) to be used for High Drive Stormwater, Riverside Interceptor Protection (I-07), Spokane River Infiltration Reduction and the Rebecca Control Facility (CSO 41): and

WHEREAS, of the \$8,761,729 loan, \$967,000 shall be used for the High Drive Stormwater project, \$4,200,000 shall be used for the Riverside Interceptor Protection (I-07) Project, and \$1,200,859 shall be used for the Spokane River Infiltration Reduction and \$2,393,870 shall be used for the Rebecca Control Facility (CSO 41) project; and

WHEREAS, of the \$241,500 grant, \$241,500 shall be used for the High Drive Stormwater Project; and

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

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

ADOPTED by the City Council this _____ day of _____, 20____

City Clerk

Approved as to form:

Assistant City Attorney



Agreement No. WQC-2017-Spokane-00020

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:	Rebecca Control Facility for CSO Basin 41
Total Cost:	\$2,393,870.00
Total Eligible Cost:	\$2,393,870.00
Ecology Share:	\$2,393,870.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	09/01/2016
The Expiration Date of this Agreement is no later than:	12/29/2017
Project Type:	Wastewater Facility

Project Short Description:

This project includes the design and construction of a 60-inch and 72-inch in-line control facility with flow control to the treatment plant and overflow regulator in Rebecca Street in CSO Basin 41. The Rebecca Control Facility will control overflows from CSO Basin 41 to the Spokane River to less than one overflow per year over a 20 year average.

Project Long Description:

This project includes the design and construction of a 60-inch and 72-inch in-line control facility with flow control to the treatment plant and overflow regulator in Rebecca Street in CSO Basin 41. The Rebecca Control Facility will control overflows from CSO Basin 41 to the Spokane River to less than one overflow per year over a 20 year average.

CSO Basin 41 covers approximately 89 acres of stormwater runoff area located in the northeast portion of Spokane. The existing land use is primarily low density residential. Over the past 10 years, this basin has

Agreement No: WQC-2017-Spokane-00020
Project Title: Rebecca Control Facility for CSO Basin 41
Recipient Name: CITY OF SPOKANE

overflowed to the river 131 times, discharging over 3.88 million gallons of sewage combined with untreated stormwater.

The concrete box culvert configuration located in Rebecca Street north of Upriver Drive will provide a storage volume of 10,500 gallon. The control facility will fill and drain by gravity. The control facility is proposed to use a 4.5 ft tall and 8 fet wide (inside dimensions) box culvert, approximately 70 feet long. The box culvert is wider than it is tall in order to achieve the required volume while maintaining the existing system hydraulics.

Overall Goal:

The overall goal of the project is to remove the pollutants from combined sewer to the Spokane River. This project will help achieve the City's larger goal of a cleaner river faster.

Agreement No: WQC-2017-Spokane-00020
Project Title: Rebecca Control Facility for CSO Basin 41
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

Agreement No: WQC-2017-Spokane-00020
Project Title: Rebecca Control Facility for CSO Basin 41
Recipient Name: CITY OF SPOKANE

ECOLOGY INFORMATION

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

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

Contacts

Project Manager	Cynthia Wall 4601 N Monroe Street Spokane, Washington 99205-1295 Email: cywa461@ecy.wa.gov Phone: (509) 329-3537
Financial Manager	Bill Hashim PO Box 47600 Olympia, Washington 98504-7600 Email: bhas461@ecy.wa.gov Phone: (360) 407-6549
Technical Advisor	Ellie Key PO Box 47600 Olympia, Washington 98504-7600 Email: EKEY461@ecy.wa.gov Phone: (360) 407-6433

Agreement No: WQC-2017-Spokane-00020
Project Title: Rebecca Control Facility for CSO Basin 41
Recipient Name: CITY OF SPOKANE

AUTHORIZING SIGNATURES

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 this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within 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.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

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 and bind their respective organizations to this Agreement.

IN WITNESS WHEREOF: the parties hereto, having read this Agreement in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Washington State
Department of Ecology

CITY OF SPOKANE

By: _____

By: _____

Heather R. Bartlett
Water Quality
Program Manager
Date

David A Condon
Mayor
Date

Template Approved to Form by
Attorney General's Office

Agreement No: WQC-2017-Spokane-00020
Project Title: Rebecca Control Facility for CSO Basin 41
Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 1 **Task Cost: \$5,000.00**

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	Quarterly Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

Agreement No: WQC-2017-Spokane-00020
Project Title: Rebecca Control Facility for CSO Basin 41
Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 2

Task Cost: \$80,000.00

Task Title: Design

Task Description:

A. The RECIPIENT will utilize in-house engineering services in accordance with state and federal law.

B. The RECIPIENT will design the Rebecca Control Facility which will limit combined sewer overflows to the Spokane River. Plans and specifications developed by the RECIPIENT must be consistent with the requirements of Chapter 173-240 WAC. Elements of the design will include:

1 Design a 60-inch and 72-inch in-line CSO control facility with flow control to the treatment plant and overflow regulator in Rebecca Street.

C. The plans and specifications, construction contract documents, and addenda must be approved by the RECIPIENT and a letter confirming the review sent to the ECOLOGY project manager. Any construction plans submitted to ECOLOGY for review and approval will be reduced to no larger than 11" x 17" in size. All reduced drawings must be completely legible. The project manager may request plans be submitted in either PDF or AutoCAD electronic format, and specifications in a searchable PDF or Microsoft Word electronic file. A current construction cost estimate will be submitted along with each plan/specification submittal. The project manager may request a spreadsheet in electronic file format.

D. The RECIPIENT will complete the facility designs within one year after the execution of this AGREEMENT.

E. Investment Grade Efficiency Audit. The RECIPIENT will procure a third party analysis of potential energy and water efficiency measures for incorporation into the design of any wastewater facilities. The analysis will identify potential efficiency measures, provide cost estimates, and evaluate their cost effectiveness.

F. The RECIPIENT will comply with federal cross cutting requirements, and assist ECOLOGY with any consultation required by federal resource protection agencies. The RECIPIENT will submit a final Cross Cutter Report to ECOLOGY for review and final determination of impacts for each of the required federal cross cutters. Costs incurred for construction activities that occur before federal cross cutter approval will not be eligible for reimbursement.

G. The RECIPIENT will also submit documentation to ECOLOGY to facilitate cultural resources review. Costs incurred for construction activities that occur before SERP approval and cultural resources review will not be eligible for reimbursement.

Task Goal Statement:

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Task Expected Outcome:

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Agreement No: WQC-2017-Spokane-00020

Project Title: Rebecca Control Facility for CSO Basin 41

Recipient Name: CITY OF SPOKANE

Design**Deliverables**

Number	Description	Due Date
2.1	Executed contracts for engineering services and documentation of the RECIPIENT's process for procuring engineering services.	
2.2	Two copies of the draft and final design.	
2.3	Investment Grade Efficiency Audit documentation.	
2.4	Two copies of final Cross Cutter Report.	

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Project Title: Rebecca Control Facility for CSO Basin 41
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SCOPE OF WORK

Task Number: 3

Task Cost: \$1,898,924.00

Task Title: Facility Construction

Task Description:

A. The RECIPIENT will include ECOLOGY's specification insert in the bid documents. The RECIPIENT will execute a contract with the low responsive responsible bidder to construct the PROJECT. The RECIPIENT must submit Bid Tabs, the Notice of Award, and a copy of the executed contract before ECOLOGY will provide reimbursement for work performed under this task.

B. The RECIPIENT will complete the construction in accordance with the approved Plans and Specifications. The construction project will include:

1. Construct a 60-inch and 72-inch in-line CSO control facility with flow control to the treatment plant and overflow regulator in Rebecca Street.

C. The RECIPIENT will conduct a pre-construction conference and invite ECOLOGY staff.

D. As a condition of receiving this funding, the RECIPIENT will prepare a fiscal sustainability plan. The RECIPIENT will certify that a plan that contains at least the minimum required elements listed above has been developed and is being implemented. The plan must include the following elements

1. An inventory of critical assets that belong to the utility.
2. An evaluation of the condition and performance of the critical assets.
3. A plan to maintain, repair, and replace the critical assets and to fund those activities.
4. A process to evaluate and implement water and energy conservation efforts as part of the plan.

Task Goal Statement:

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Task Expected Outcome:

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Project Title: Rebecca Control Facility for CSO Basin 41

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Facility Construction**Deliverables**

Number	Description	Due Date
3.1	Copy of the advertisement for bids and the affidavit of publication.	
3.2	Bid Tabs, the Notice of Award, and a copy of the executed construction contract.	
3.3	Copy of the notice to proceed.	
3.4	Minutes of the pre-construction meeting.	
3.5	Certification that the Financial Sustainability Plan has been developed and is being implemented.	

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SCOPE OF WORK

Task Number: 4 **Task Cost:** \$315,000.00

Task Title: Construction Management

Task Description:

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

Task Goal Statement:

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Task Expected Outcome:

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Construction Management**Deliverables**

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

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Project Title: Rebecca Control Facility for CSO Basin 41
Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 5

Task Cost: \$94,946.00

Task Title: Change Orders

Task Description:

A. The RECIPIENT will negotiate all change orders to the construction contract necessary for successful completion of the project.

B. The RECIPIENT will submit the change orders to ECOLOGY for approval. Change orders that are a significant deviation from the approved plans/specifications must be submitted for approval, prior to execution. All other change orders must be submitted within 30 days after execution.

Task Goal Statement:

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Task Expected Outcome:

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Change Orders

Deliverables

Number	Description	Due Date
5.1	A copy of all change orders	

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Project Title: Rebecca Control Facility for CSO Basin 41
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BUDGET

Funding Distribution EL170019

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

Funding Title:	SRF Loan	Funding Type:	Loan
Funding Effective Date:	09/01/2016	Funding Expiration Date:	12/29/2017

Funding Source:

Title: CWSRF - SFY17

Type: Federal

Funding Source %: 100%

Description: Clean Water State Revolving Fund-This grant will provide additional capital for Washington's Water Pollution Control Revolving Fund. This capital will be used to offer low interest loans to projects that will address the state's high priority water quality needs. The projects receiving financial assistance will generally protect and restore water quality and aquatic habitat.

Federal Awarding Agency:	U.S. Environmental Protection Agency
Federal Awarding Agency Contact:	Edward H. Chu
Federal Awarding Agency Phone:	206-553-0850
Federal Awarding Agency Email:	Chu.Ed@epa.gov
Federal Awarding Agency Address:	EPA Region 10, Mail Code: OMP-173, 1200 Sixth Avenue, Suite 900, Seattle WA 98101

CFDA Catalog Name: Capitalization Grants for State Revolving Fund

CFDA Number:	66.458
FAIN:	53000116
Research Grant:	No
Federal Award Date:	08/12/2014
Total Federal Award Amount:	\$27,882,000.00

Federal Funds Obligated To Recipient: \$2,393,870.00

Approved Indirect Costs Rate:	De Minimis Rate per CFR §200.414
Recipient Match %:	0%
InKind Interlocal Allowed:	No
InKind Other Allowed:	No
Is this Funding Distribution used to match a federal grant?	No

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Project Title: Rebecca Control Facility for CSO Basin 41
Recipient Name: CITY OF SPOKANE

Effective Interest Rate: 2% Interest Rate: 1% Admin Charge: 1%

Terms: 20 years

Project Start Date: 09/01/2016

Project Completion Date: 12/29/2017

Estimated Initiation of Operation date: 12/29/2017

Loan Security: Revenue Secure Lien Obligation of the Recipient

Final Accrued Interest: \$

Final Loan Amount: \$

Repayment Schedule Number: 2304

SRF Loan	Task Total
Project Administration/Management	\$ 5,000.00
Design	\$ 80,000.00
Facility Construction	\$ 1,898,924.00
Construction Management	\$ 315,000.00
Change Orders	\$ 94,946.00

Total: \$ 2,393,870.00

Agreement No: WQC-2017-Spokane-00020
 Project Title: Rebecca Control Facility for CSO Basin 41
 Recipient Name: CITY OF SPOKANE

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
SRF Loan	0.00 %	\$ 0.00	\$ 2,393,870.00	\$ 2,393,870.00
Total		\$ 0.00	\$ 2,393,870.00	\$ 2,393,870.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

This project has been identified as an Equivalency project and is subject to all federal requirements EPA applies to Clean Water State Revolving Funds. In addition to the federal requirements outlined in Section 4 of agreement terms and conditions, the RECIPIENT must maintain documentation of compliance with all federal cross cutters and federal procurement requirements for architectural and engineering services (Chapter 11 of Title 40, U.S.C)."

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.

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“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

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(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.

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“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 and are available on ECOLOGY’s Water Quality Program website.

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

B. 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 Resources: 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

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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 upon request by any party. The IDP must be readily available and be implemented to address any discovery. The RECIPIENT shall 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 ground disturbing activities. 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 allows the RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If the RECIPIENT has questions about the vendor registration process or setting up direct deposit payments contact DES Payee Help Desk at (360) 664-7779 or payeehelpdesk@des.wa.gov.

E. Equipment Purchase: Equipment not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3.B for Section 319 funded or Section 5.E for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

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

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

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

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

K. Project Status Evaluation: ECOLOGY may evaluate the status 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

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spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

L. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State. 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. Data Reporting: The RECIPIENT must complete the "Section 319 Initial Data Reporting" form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project.

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

D. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA's assistance agreement. In the event a time extension

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is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date.

SECTION 4: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

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

B. 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/>.

C. 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).

D. Consultant Cap: The RECIPIENT shall ensure that loan or grant 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. The Executive Schedule can be found at: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>. 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 Subpart D of 2 CFR 200 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 2 CFR 1500.9 for additional information.

E. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that 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.

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

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

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1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.

2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.

3) Consider in the contracting process whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, and State and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.

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

5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request.

Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

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

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

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

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

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given a reasonable time in which to cure this noncompliance.

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

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

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

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

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

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

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

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

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

1. Opinion of RECIPIENT's Legal Council

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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. Funding Recognition and Outreach: In addition to Section 2.F of these Terms and Conditions, the RECIPIENT agrees to comply with the EPA SRF Signage Guidance in order to enhance public awareness of EPA assistance agreements nationwide. The signage guidance can be found at:
<http://www.ecy.wa.gov/programs/wq/funding/FundPrgms/CWSRF/SignageGuidanceJune2015.pdf>.

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.

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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

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(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

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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.

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

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

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

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

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

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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

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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 shall 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.

R. Termination and Default:

Termination and Default Events

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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

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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.

WATER QUALITY COMBINED FINANCIAL ASSISTANCE TERMS AND CONDITIONS LAST UPDATED ON 10/04/2016

GENERAL FEDERAL CONDITIONS

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

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.

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2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

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

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

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

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

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required 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>.

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GENERAL TERMS AND CONDITIONS

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

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 and historic resources. The RECIPIENT must agree to hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - For capital construction projects or land acquisitions for capital construction projects, if required, comply with Governor Executive Order 05-05, Archaeology and Cultural Resources.
 - For projects with any federal involvement, if required, comply with the National Historic Preservation Act.
 - Any cultural resources federal or state requirements must be completed prior to the start of any work on the project site.
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
- Make the IDP readily available to anyone working at the project site.
- Discuss the IDP with staff and contractors working at the project site.
- Implement the IDP when cultural resources or human remains are found at the project site.
- c) If any archeological or historic resources are found while conducting work under this Agreement:
 - Immediately stop work and notify the ECOLOGY Program, the Department of Archaeology and Historic Preservation at (360) 586-3064, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement:
 - Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then the ECOLOGY Program.

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e) Comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.

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 require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State 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 applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

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

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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 Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

11. ENVIRONMENTAL DATA STANDARDS

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

- Use ECOLOGY's QAPP Template provided by the ECOLOGY Program.

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- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.
- b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The data must be successfully loaded into EIM, find instructions at: <http://www.ecy.wa.gov/eim>.
- c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

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.

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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) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (f) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS

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

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

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

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

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

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 under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.

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

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.

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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

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mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement. Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

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

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

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

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authorized representative of ECOLOGY.

GENERAL TERMS AND CONDITIONS LAST UPDATED 12/27/2016



Agreement No. WQC-2017-Spokane-00154

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:	High Drive Stormwater Improvements
Total Cost:	\$1,289,000.00
Total Eligible Cost:	\$1,289,000.00
Ecology Share:	\$1,289,000.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	09/01/2016
The Expiration Date of this Agreement is no later than:	12/28/2018
Project Type:	Stormwater Facility

Project Short Description:

This project will design and construct replacement of an undersized sewer pipeline, increasing capacity for combined sewer flows to the treatment plant. Stormwater will also be captured, treated and infiltrated in bioretention facilities along High Drive from CSO Basin 24 instead of being conveyed to the combined sewer. This project will reduce combined sewer overflows to Hangman Creek in the city of Spokane.

Project Long Description:

This project will design and construct replacement of an undersized sewer pipeline, increasing capacity for combined sewer flows to the treatment plant. Stormwater will also be captured, treated and infiltrated in bioretention facilities along High Drive from CSO Basin 24 instead of being conveyed to the combined sewer. This project will reduce combined sewer overflows to Hangman Creek from CSO Basin 20.

High Drive Sewer Replacement is an upgrade for the CSO program. CSO Basin 20 is interconnected with CSO Basin 24; one basin over flows into the other during storm events at several locations in the adjoining portions

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of the basins. Normal flows (dry weather and small storms) from CSO Basin 20 join the CSO Basin 24 sewer as they are conveyed in or along High Drive to the treatment plant.

The existing combined sewer main down High Drive is 42" up to 29th Ave intersection, at which point it connects into a separate 18" combined sewer main. This 18" line continues north to 20th Ave., and fluctuates between 18" and 24". At 20th Ave, it increases to 27". During high flows, the system backs up at the 29th Ave. restriction, which results in overflows draining to Latah Creek southeast of the High Drive/33rd Ave. intersection.

The 10 year storm event flow may cause pipe over-pressurization, flooding, or basement backups where the 42-inch pipe from CSO Basin 20 enters the 18-inch pipe for CSO Basin 24. Based on evaluation of the pipe system from in High Drive from 29th Avenue to 20th Avenue, the City determined the best course of action was to replace the existing pipe with a larger pipe. Although the risk is small, it is too great to abandon the outfall before this pipe is replaced. The High Drive Sewer project will install approximately 3000 feet of 36-inch pipe to replace the 18-inch and 21-inch VCP installed in 1933. The outfall will be abandoned with the pipe replacement.

In addition to replacing the pipe, the RECIPIENT will design and construct bio-retention facilities to separate stormwater from the CSO and mitigate runoff from 2086 acres of pollution generating impervious surfaces.

Overall Goal:

The overall goal of the project is to remove the pollutants from the Spokane River and its tributary, Hangman Creek.

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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

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Project Title: High Drive Stormwater Improvements

Recipient Name: CITY OF SPOKANE

ECOLOGY INFORMATION

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

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

Contacts

Project Manager	Cynthia Wall 4601 N Monroe Street Spokane, Washington 99205-1295 Email: cywa461@ecy.wa.gov Phone: (509) 329-3537
Financial Manager	Bill Hashim PO Box 47600 Olympia, Washington 98504-7600 Email: bhas461@ecy.wa.gov Phone: (360) 407-6549

Agreement No: WQC-2017-Spokane-00154
Project Title: High Drive Stormwater Improvements
Recipient Name: CITY OF SPOKANE

AUTHORIZING SIGNATURES

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 this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within 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.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

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 and bind their respective organizations to this Agreement.

IN WITNESS WHEREOF: the parties hereto, having read this Agreement in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Washington State
Department of Ecology

CITY OF SPOKANE

By: _____

By: _____

Heather R. Bartlett
Water Quality
Program Manager
Date

David A Condon
Mayor
Date

Template Approved to Form by
Attorney General's Office

Agreement No: WQC-2017-Spokane-00154

Project Title: High Drive Stormwater Improvements

Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 1

Task Cost: \$4,500.00

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	Quarterly Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

Agreement No: WQC-2017-Spokane-00154
Project Title: High Drive Stormwater Improvements
Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 2

Task Cost: \$77,000.00

Task Title: Sewer Pipeline Design

Task Description:

- A. The RECIPIENT will utilize in-house engineering services in accordance with state and federal law.
- B. The RECIPIENT will design the sewer pipeline project. Plans and specifications developed by the RECIPIENT must be consistent with the requirements of Chapter 173-240 WAC. Elements of the design will include:
1. Plans and specification for approximately 3000 feet of 36-inch pipe to replace the 18-inch and 21-inch VCP
- C. The plans and specifications, construction contract documents, and addenda must be approved by the RECIPIENT and a letter confirming the review sent to the ECOLOGY project manager. Any construction plans submitted to ECOLOGY for review and approval will be reduced to no larger than 11" x 17" in size. All reduced drawings must be completely legible. The project manager may request plans be submitted in either PDF or AutoCAD electronic format, and specifications in a searchable PDF or Microsoft Word electronic file. A current construction cost estimate will be submitted along with each plan/specification submittal. The project manager may request a spreadsheet in electronic file format.
- D. The RECIPIENT will complete the facility designs within one year after the execution of this AGREEMENT.

Task Goal Statement:

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Task Expected Outcome:

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Sewer Pipeline Design

Deliverables

Number	Description	Due Date
2.1	Executed contracts for engineering services and documentation of the RECIPIENT's process for procuring engineering services.	
2.2	Two copies of the draft and final design.	
2.3	Two copies of the SERP packet and the cost effectiveness analysis.	

Agreement No: WQC-2017-Spokane-00154

Project Title: High Drive Stormwater Improvements

Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 3

Task Cost: \$770,000.00

Task Title: Project Construction (low bid) - Sewer Pipeline

Task Description:

A. The RECIPIENT will include ECOLOGY's specification insert in the bid documents. The RECIPIENT will execute a contract with the low responsive responsible bidder to construct the PROJECT. The RECIPIENT must submit Bid Tabs, the Notice of Award, and a copy of the executed contract before ECOLOGY will provide reimbursement for work performed under this task.

B. The RECIPIENT will complete the construction in accordance with the approved Plans and Specifications. The construction project will include:

1. Construct approximately 3000 feet of 36-inch pipe to replace the 18-inch and 21-inch VCP

C. The RECIPIENT will conduct a pre-construction conference and invite ECOLOGY staff.

D. As a condition of receiving this funding, the RECIPIENT will prepare a fiscal sustainability plan. The RECIPIENT will certify that a plan that contains at least the minimum required elements listed above has been developed and is being implemented. The plan must include the following elements

1. An inventory of critical assets that belong to the utility.
2. An evaluation of the condition and performance of the critical assets.
3. A plan to maintain, repair, and replace the critical assets and to fund those activities.
4. A process to evaluate and implement water and energy conservation efforts as part of the plan.

Task Goal Statement:

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Task Expected Outcome:

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Agreement No: WQC-2017-Spokane-00154

Project Title: High Drive Stormwater Improvements

Recipient Name: CITY OF SPOKANE

Project Construction (low bid) - Sewer Pipeline**Deliverables**

Number	Description	Due Date
3.1	Copy of the advertisement for bids and the affidavit of publication.	
3.2	Bid Tabs, the Notice of Award, and a copy of the executed construction contract.	
3.3	Copy of the notice to proceed.	
3.4	Minutes of the pre-construction meeting.	
3.5	Certification that the Financial Sustainability Plan has been developed and is being implemented.	

Agreement No: WQC-2017-Spokane-00154

Project Title: High Drive Stormwater Improvements

Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 4

Task Cost: \$115,500.00

Task Title: Sewer Pipeline Construction Management

Task Description:

A. The RECIPIENT will provide adequate and competent construction management and inspection for the Project. This may involve procuring the professional services. If professional services are procured, the RECIPIENT will procure them in accordance with state and federal law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT must submit all contracts for construction management services before ECOLOGY will provide reimbursement for work performed under this task.

B. The RECIPIENT will develop a detailed Construction Quality Assurance Plan (WAC 173-240-075) and submit it to ECOLOGY for approval. This plan must describe the activities which the RECIPIENT will undertake to achieve adequate and competent oversight of all construction work.

C. The RECIPIENT will provide a plan of interim operation for the facility while under construction.

D. The RECIPIENT will ensure construction progresses according to a timely schedule developed to meet completion dates indicated in the construction contract. The RECIPIENT will revise or update the schedule whenever major changes occur and resubmit to ECOLOGY. In the absence of any major changes, the RECIPIENT will describe progress of the construction in the quarterly progress reports.

E. Upon completion of construction, the RECIPIENT will provide ECOLOGY's Project Manager with a set of "as-built" plans (i.e., record construction drawings which reflect changes, modifications, or other significant revisions made to the project during construction).

F. Upon project completion, the RECIPIENT will submit the Declaration of Construction Completion form to ECOLOGY in accordance with WAC 173-240-090. The form, when signed by a professional engineer, indicates that the project was completed in accordance with the plans and specifications and major change orders approved by ECOLOGY, and is accurately shown on the as-built plans.

Task Goal Statement:

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Task Expected Outcome:

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Agreement No: WQC-2017-Spokane-00154

Project Title: High Drive Stormwater Improvements

Recipient Name: CITY OF SPOKANE

Sewer Pipeline Construction Management**Deliverables**

Number	Description	Due Date
4.1	Executed contract for construction management services.	
4.2	Documentation of the RECIPIENT's process for procuring engineering services.	
4.3	Plan of interim operation of the facility while under construction.	
4.4	Construction Quality Assurance Plan.	
4.5	"As-built" plans.	
4.6	Declaration of Construction completion.	

Agreement No: WQC-2017-Spokane-00154
Project Title: High Drive Stormwater Improvements
Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 5 **Task Cost:** \$26,000.00

Task Title: Stormwater Design and Environmental Review

Task Description:

The RECIPIENT shall 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 an ECOLOGY 05-05/106 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. Reduce design figures to 11x17 inches in size and ensure they are 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>

Agreement No: WQC-2017-Spokane-00154

Project Title: High Drive Stormwater Improvements

Recipient Name: CITY OF SPOKANE

For the current bid specification clause refer to:

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

F. The RECIPIENT agrees to respond to ECOLOGY comments.

1. The RECIPIENT must receive an Ecology Design Report Acceptance Letter prior to proceeding to 90 Percent design.

2. The RECIPIENT must receive an Ecology 90 Percent Design Acceptance Letter prior to proceeding to project advertisement for 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. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

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:

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Task Expected Outcome:

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Agreement No: WQC-2017-Spokane-00154

Project Title: High Drive Stormwater Improvements

Recipient Name: CITY OF SPOKANE

Stormwater Design and Environmental Review**Deliverables**

Number	Description	Due Date
5.1	Copy of SEPA determination documentation. Upload to EAGL and notify ECOLOGY when upload is complete.	
5.2	Complete ECOLOGY 05-05/106 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.	
5.3	Inadvertent Discovery Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
5.4	Design Report. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of Design Report to ECOLOGY Project Manager. ECOLOGY Project Manager will forward to ECOLOGY Engineer for review.	
5.5	Responses to ECOLOGY Design Report comments. Upload to EAGL and notify ECOLOGY when upload is complete. This may take several exchanges and may require revision of the Design Report. Submit one hard copy of required revisions of the Design Report to ECOLOGY Project Manager. ECOLOGY Project Manager will forward the Design Report to ECOLOGY Engineer for review.	
5.6	Ecology Design Report Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
5.7	90 Percent Design Package. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of 90 Percent Design Package to ECOLOGY Project Manager. ECOLOGY Project Manager will forward the 90 Percent Design Package to ECOLOGY Engineer for review.	
5.8	Responses to ECOLOGY 90 Percent Design Plan comments. Upload to EAGL and notify ECOLOGY when upload is complete. This may take several exchanges and may require revision of the 90 Percent Design Package. Submit one hard copy of revisions of the 90 Percent Design Package to ECOLOGY Project Manager. ECOLOGY Project Manager will forward the 90 Percent Design Package to ECOLOGY Engineer for review.	
5.9	Ecology 90 Percent Design Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
5.10	List of permits acquired, and environmental review documents. Upload to EAGL and notify ECOLOGY when upload is complete.	

Agreement No: WQC-2017-Spokane-00154

Project Title: High Drive Stormwater Improvements

Recipient Name: CITY OF SPOKANE

5.11	Final Bid Package. Upload to EAGL and notify ECOLOGY when upload is complete.	
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Agreement No: WQC-2017-Spokane-00154

Project Title: High Drive Stormwater Improvements

Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 6

Task Cost: \$39,000.00

Task Title: Stormwater 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 the RECIPIENT will perform adequate and competent construction oversight.
- 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 RECIPIENT will revise and/or update the project schedule 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, The RECIPIENT must submit revised cash flow projections 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. Ecology must review all other change orders 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:

.

Agreement No: WQC-2017-Spokane-00154

Project Title: High Drive Stormwater Improvements

Recipient Name: CITY OF SPOKANE

Task Expected Outcome:

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Stormwater Construction Management**Deliverables**

Number	Description	Due Date
6.1	Construction Quality Assurance Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
6.2	Pre-construction conference meeting minutes. Upload to EAGL and notify ECOLOGY when upload is complete.	
6.3	Project Schedule. Upload to EAGL using naming convention D3.3 SCHEDULE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
6.4	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.	
6.5	Change Order(s). Upload to EAGL and notify ECOLOGY when upload is complete.	
6.6	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.	
6.7	Stormwater Construction Completion Form. Upload to EAGL using naming convention D3.7 SWCONSTRUCTIONCOMPLETIONFORM and notify ECOLOGY when upload is complete.	
6.8	Project Area Shapefile or ECOLOGY-Approved Equivalent. Upload to EAGL and notify ECOLOGY when upload is complete.	

Agreement No: WQC-2017-Spokane-00154

Project Title: High Drive Stormwater Improvements

Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 7

Task Cost: \$257,000.00

Task Title: Stormwater 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 bio-retention facilities to mitigate runoff from 2086 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 Design Deliverables for Stormwater Projects with Ecology Funding or other ECOLOGY-approved method.

Task Goal Statement:

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Task Expected Outcome:

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Stormwater Construction**Deliverables**

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

Agreement No: WQC-2017-Spokane-00154
Project Title: High Drive Stormwater Improvements
Recipient Name: CITY OF SPOKANE

BUDGET

Funding Distribution EG170071

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

Funding Title:	Stormwater Grant	Funding Type:	Grant
Funding Effective Date:	09/01/2016	Funding Expiration Date:	12/28/2018

Funding Source:

Title:	SFAP - SFY17
Type:	State
Funding Source %:	100%
Description:	Environmental Legacy Stewardship Account (ELSA) - State

Approved Indirect Costs Rate:	Approved Rate Negotiated Between ECOLOGY and RECIPIENT: 0%	
Recipient Match %:	0%	
InKind Interlocal Allowed:	No	
InKind Other Allowed:	No	
Is this Funding Distribution used to match a federal grant?	No	

Stormwater Grant	Task Total
Project Administration/Management	\$ 500.00
Sewer Pipeline Design	\$ 0.00
Project Construction (low bid) - Sewer Pipeline	\$ 0.00
Sewer Pipeline Construction Management	\$ 0.00
Stormwater Design and Environmental Review	\$ 19,500.00
Stormwater Construction	\$ 192,750.00
Stormwater Construction Management	\$ 29,250.00

Total: \$ 242,000.00

Agreement No: WQC-2017-Spokane-00154
Project Title: High Drive Stormwater Improvements
Recipient Name: CITY OF SPOKANE

BUDGET

Funding Distribution EL170070

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

Funding Title:	Standard Loan	Funding Type:	Loan
Funding Effective Date:	09/01/2016	Funding Expiration Date:	12/28/2018

Funding Source:

Title: CWSRF - SFY17

Type: Federal

Funding Source %: 100%

Description: Clean Water State Revolving Fund-This grant will provide additional capital for Washington's Water Pollution Control Revolving Fund. This capital will be used to offer low interest loans to projects that will address the state's high priority water quality needs. The projects receiving financial assistance will generally protect and restore water quality and aquatic habitat.

Federal Awarding Agency:	U.S. Environmental Protection Agency
Federal Awarding Agency Contact:	Edward H. Chu
Federal Awarding Agency Phone:	206-553-0850
Federal Awarding Agency Email:	Chu.Ed@epa.gov
Federal Awarding Agency Address:	EPA Region 10, Mail Code: OMP-173, 1200 Sixth Avenue, Suite 900, Seattle WA 98101
CFDA Catalog Name:	Capitalization Grants for State Revolving Fund

CFDA Number:	66.458
FAIN:	53000116
Research Grant:	No
Federal Award Date:	08/12/2014
Total Federal Award Amount:	\$27,882,000.00

Federal Funds Obligated To Recipient: \$1,047,000.00

Approved Indirect Costs Rate:	Approved Rate Negotiated Between ECOLOGY and RECIPIENT: 0%
Recipient Match %:	0%
InKind Interlocal Allowed:	No
InKind Other Allowed:	No
Is this Funding Distribution used to match a federal grant?	No

Agreement No: WQC-2017-Spokane-00154
 Project Title: High Drive Stormwater Improvements
 Recipient Name: CITY OF SPOKANE

Effective Interest Rate: 2% Interest Rate: 1% Admin Charge: 1%

Terms: 20 years

Project Start Date: 09/01/2016

Project Completion Date: 12/28/2018

Estimated Initiation of Operation date: 09/01/2018

Loan Security: Revenue Secure Lien Obligation of the Recipient

Final Accrued Interest: \$

Final Loan Amount: \$

Repayment Schedule Number: 2342

Standard Loan	Task Total
Project Administration/Management	\$ 4,000.00
Sewer Pipeline Design	\$ 77,000.00
Project Construction (low bid) - Sewer Pipeline	\$ 770,000.00
Sewer Pipeline Construction Management	\$ 115,500.00
Stormwater Design and Environmental Review	\$ 6,500.00
Stormwater Construction	\$ 64,250.00
Stormwater Construction Management	\$ 9,750.00

Total: \$ 1,047,000.00

Agreement No: WQC-2017-Spokane-00154

Project Title: High Drive Stormwater Improvements

Recipient Name: CITY OF SPOKANE

Funding Distribution Summary**Recipient / Ecology Share**

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Standard Loan	0.00 %	\$ 0.00	\$ 1,047,000.00	\$ 1,047,000.00
Stormwater Grant	0.00 %	\$ 0.00	\$ 242,000.00	\$ 242,000.00
Total		\$ 0.00	\$ 1,289,000.00	\$ 1,289,000.00

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.

Agreement No: WQC-2017-Spokane-00154
Project Title: High Drive Stormwater Improvements
Recipient Name: CITY OF SPOKANE

“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.

Agreement No: WQC-2017-Spokane-00154
Project Title: High Drive Stormwater Improvements
Recipient Name: CITY OF SPOKANE

“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.

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“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 and are available on ECOLOGY’s Water Quality Program website.

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

B. 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 Resources: 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

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Inadvertent Discovery Plan (IDP). The IDP must be immediately available upon request by any party. The IDP must be readily available and be implemented to address any discovery. The RECIPIENT shall 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 ground disturbing activities. 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 allows the RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If the RECIPIENT has questions about the vendor registration process or setting up direct deposit payments contact DES Payee Help Desk at (360) 664-7779 or payeehelpdesk@des.wa.gov.

E. Equipment Purchase: Equipment not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3.B for Section 319 funded or Section 5.E for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

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

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

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

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

K. Project Status Evaluation: ECOLOGY may evaluate the status 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

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RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

L. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service (“NRCS”) Field Office Technical Guide for Washington State. 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. Data Reporting: The RECIPIENT must complete the “Section 319 Initial Data Reporting” form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project.

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

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

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agreement by the expiration date.

SECTION 4: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

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

B. 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/>.

C. 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).

D. Consultant Cap: The RECIPIENT shall ensure that loan or grant 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. The Executive Schedule can be found at: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>. 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 Subpart D of 2 CFR 200 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 2 CFR 1500.9 for additional information.

E. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that 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.

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

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

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1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.

2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.

3) Consider in the contracting process whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, and State and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.

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

5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request.

Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Opinion of RECIPIENT's Legal Council
2. Authorizing Ordinance or Resolution

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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. Funding Recognition and Outreach: In addition to Section 2.F of these Terms and Conditions, the RECIPIENT agrees to comply with the EPA SRF Signage Guidance in order to enhance public awareness of EPA assistance agreements nationwide. The signage guidance can be found at:
<http://www.ecy.wa.gov/programs/wq/funding/FundPrgms/CWSRF/SignageGuidanceJune2015.pdf>.

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

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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

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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

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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.

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

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

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

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

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.

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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.

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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 shall 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.

R. Termination and Default:

Termination and Default Events

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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

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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.

WATER QUALITY COMBINED FINANCIAL ASSISTANCE TERMS AND CONDITIONS LAST UPDATED ON 10/04/2016

GENERAL FEDERAL CONDITIONS

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

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the

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RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

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

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

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

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

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required 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>.

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GENERAL TERMS AND CONDITIONS

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

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 and historic resources. The RECIPIENT must agree to hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - For capital construction projects or land acquisitions for capital construction projects, if required, comply with Governor Executive Order 05-05, Archaeology and Cultural Resources.
 - For projects with any federal involvement, if required, comply with the National Historic Preservation Act.
 - Any cultural resources federal or state requirements must be completed prior to the start of any work on the project site.
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
- Make the IDP readily available to anyone working at the project site.
- Discuss the IDP with staff and contractors working at the project site.
- Implement the IDP when cultural resources or human remains are found at the project site.
- c) If any archeological or historic resources are found while conducting work under this Agreement:
 - Immediately stop work and notify the ECOLOGY Program, the Department of Archaeology and Historic Preservation at (360) 586-3064, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement:
 - Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then the ECOLOGY Program.

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e) Comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.

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 require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State 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 applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

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

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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 Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

11. ENVIRONMENTAL DATA STANDARDS

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

- Use ECOLOGY's QAPP Template provided by the ECOLOGY Program.

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- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.
- b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The data must be successfully loaded into EIM, find instructions at: <http://www.ecy.wa.gov/eim>.
- c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

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.

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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) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (f) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS

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

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

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

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

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

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 under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.

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

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.

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Project Title: High Drive Stormwater Improvements

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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

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mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement. Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

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

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

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

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authorized representative of ECOLOGY.

GENERAL TERMS AND CONDITIONS LAST UPDATED 12/27/2016



Agreement No. WQC-2017-Spokane-00018

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 Interceptor Protection
Total Cost:	\$4,200,000.00
Total Eligible Cost:	\$4,200,000.00
Ecology Share:	\$4,200,000.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	07/01/2016
The Expiration Date of this Agreement is no later than:	06/30/2018
Project Type:	Wastewater Facility

Project Short Description:

This project includes the design and construction of an 180,000 gallon underground control facility on Riverside Avenue in the I07-Basin. This project will store flow from the I07 basin and free up capacity in the interceptor system. This project is one part of the RECIPIENT’s Combined Sewer Overflow (CSO) Management Plan.

Project Long Description:

This project includes the design and construction of an 180,000 gallon underground control facility on Riverside Avenue in the I07-Basin. This project will store flow from the I07 basin and free up capacity in the interceptor system. This project is one part of the RECIPIENT’s Combined Sewer Overflow (CSO) Management Plan.

The Riverside property was chosen because of the location to existing piping would allow gravity fill. Riverside Interceptor Protection for I07 Basin is sized to contain a 10 year design storm event, the same standards as the piping system, to protect the interceptor because it has no relief regulator. Modeling using the past 20-years of precipitation verified the storage volume would not be exceeded.

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Project Title: Riverside Interceptor Protection
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The I07c Basin Riverside Interceptor Protection is located on two parcels near intersection of Riverside Avenue and Napa Street. The 180,000 gallon control facility has interior dimensions of approximately 65-feet long x 51-feet wide x 7-feet deep (average liquid depth). The control facility includes pumps to empty the control facility into the proposed flow control chamber. A gravity draining system is not possible. A new flow control device set at 3.0 mgd will limit flows to the interceptor. Flows diverted to the control facility would first fill the flush chambers sequentially from the west before filling the rest of the proposed control facility.

When wet weather flows subside, the proposed facility empties via a wet pit/dry pit pump station. A proposed 12-foot wide sharp-crested transverse relief weir will divert runoff events greater than the proposed control facility volume into the existing I07 interceptor.

Overall Goal:

The overall goal of the project is to provide capacity in the interceptor system to allow more combined sewer to be sent to the City's treatment plant. This project will help remove pollutants from the Spokane River and achieve the City's larger goal of a cleaner river faster.

Agreement No: WQC-2017-Spokane-00018
Project Title: Riverside Interceptor Protection
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

Agreement No: WQC-2017-Spokane-00018
Project Title: Riverside Interceptor Protection
Recipient Name: CITY OF SPOKANE

ECOLOGY INFORMATION

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

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

Contacts

Project Manager	Cynthia Wall 4601 N Monroe Street Spokane, Washington 99205-1295 Email: cywa461@ecy.wa.gov Phone: (509) 329-3537
Financial Manager	Bill Hashim PO Box 47600 Olympia, Washington 98504-7600 Email: bhas461@ecy.wa.gov Phone: (360) 407-6549
Technical Advisor	Ellie Key PO Box 47600 Olympia, Washington 98504-7600 Email: EKEY461@ecy.wa.gov Phone: (360) 407-6433

AUTHORIZING SIGNATURES

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 this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within 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.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

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 and bind their respective organizations to this Agreement.

IN WITNESS WHEREOF: the parties hereto, having read this Agreement in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Washington State
Department of Ecology

CITY OF SPOKANE

By: _____

By: _____

Heather R. Bartlett
Water Quality
Program Manager
Date

David A Condon
Mayor
Date

Template Approved to Form by
Attorney General's Office

Agreement No: WQC-2017-Spokane-00018
Project Title: Riverside Interceptor Protection
Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 1 **Task Cost: \$5,000.00**

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	Quarterly Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

Agreement No: WQC-2017-Spokane-00018
Project Title: Riverside Interceptor Protection
Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 2 **Task Cost: \$335,000.00**

Task Title: Design

Task Description:

A. The RECIPIENT will utilize in-house engineering services in accordance with state and federal law.

B. The RECIPIENT will design the Riverside Interceptor project which will be constructed to maximize capacity in the existing collection system for combined sewer. Plans and specifications developed by the RECIPIENT must be consistent with the requirements of Chapter 173-240 WAC. Elements of the design will include:

1. Design a 180,000 gallon control facility along Riverside Avenue..

C. The plans and specifications, construction contract documents, and addenda must be approved by the RECIPIENT and a letter confirming the review sent to the ECOLOGY project manager. Any construction plans submitted to ECOLOGY for review and approval will be reduced to no larger than 11" x 17" in size. All reduced drawings must be completely legible. The project manager may request plans be submitted in either PDF or AutoCAD electronic format, and specifications in a searchable PDF or Microsoft Word electronic file. A current construction cost estimate will be submitted along with each plan/specification submittal. The project manager may request a spreadsheet in electronic file format.

D. The RECIPIENT will complete the facility designs within one year after the execution of this AGREEMENT.

E. Investment Grade Efficiency Audit. The RECIPIENT will procure a third party analysis of potential energy and water efficiency measures for incorporation into the design of any wastewater facilities. The analysis will identify potential efficiency measures, provide cost estimates, and evaluate their cost effectiveness.

F. The RECIPIENT will comply with federal cross cutting requirements, and assist ECOLOGY with any consultation required by federal resource protection agencies. The RECIPIENT will submit a final Cross Cutter Report to ECOLOGY for review and final determination of impacts for each of the required federal cross cutters. Costs incurred for construction activities that occur before federal cross cutter approval will not be eligible for reimbursement.

G. The RECIPIENT will also submit documentation to ECOLOGY to facilitate cultural resources review. Costs incurred for construction activities that occur before SERP approval and cultural resources review will not be eligible for reimbursement.

Task Goal Statement:

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Task Expected Outcome:

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Agreement No: WQC-2017-Spokane-00018
Project Title: Riverside Interceptor Protection
Recipient Name: CITY OF SPOKANE

Design**Deliverables**

Number	Description	Due Date
2.1	Executed contracts for engineering services and documentation of the RECIPIENT's process for procuring engineering services.	
2.2	Two copies of the draft and final design.	
2.3	Investment Grade Efficiency Audit documentation.	
2.4	Two copies of final Cross Cutter Report.	

Agreement No: WQC-2017-Spokane-00018
Project Title: Riverside Interceptor Protection
Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 3

Task Cost: \$500,000.00

Task Title: Construction Management

Task Description:

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

Task Goal Statement:

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Task Expected Outcome:

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Agreement No: WQC-2017-Spokane-00018
Project Title: Riverside Interceptor Protection
Recipient Name: CITY OF SPOKANE

Construction Management

Deliverables

Number	Description	Due Date
3.1	Executed contract for construction management services.	
3.2	Documentation of the RECIPIENT's process for procuring engineering services	
3.3	Construction Quality Assurance Plan.	
3.4	"As-built" plans.	
3.5	Declaration of Construction completion.	

Agreement No: WQC-2017-Spokane-00018
Project Title: Riverside Interceptor Protection
Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 4

Task Cost: \$3,360,000.00

Task Title: Facility Construction

Task Description:

A. The RECIPIENT will include ECOLOGY's specification insert in the bid documents. The RECIPIENT will execute a contract with the low responsive responsible bidder to construct the PROJECT. The RECIPIENT must submit Bid Tabs, the Notice of Award, and a copy of the executed contract before ECOLOGY will provide reimbursement for work performed under this task.

B. The RECIPIENT will complete the construction in accordance with the approved Plans and Specifications. The construction project will include:

1. Construct a 180,000 gallon underground control facility on Riverside Avenue.

C. The RECIPIENT will conduct a pre-construction conference and invite ECOLOGY staff.

D. As a condition of receiving this funding, the RECIPIENT will prepare a fiscal sustainability plan. The RECIPIENT will certify that a plan that contains at least the minimum required elements listed above has been developed and is being implemented. The plan must include the following elements

1. An inventory of critical assets that belong to the utility.
2. An evaluation of the condition and performance of the critical assets.
3. A plan to maintain, repair, and replace the critical assets and to fund those activities.
4. A process to evaluate and implement water and energy conservation efforts as part of the plan.

Task Goal Statement:

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Task Expected Outcome:

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Agreement No: WQC-2017-Spokane-00018
Project Title: Riverside Interceptor Protection
Recipient Name: CITY OF SPOKANE

Facility Construction**Deliverables**

Number	Description	Due Date
4.1	Copy of the advertisement for bids and the affidavit of publication.	
4.2	Bid Tabs, the Notice of Award, and a copy of the executed construction contract.	
4.3	Copy of the notice to proceed.	
4.4	Minutes of the pre-construction meeting.	
4.5	Certification that the Financial Sustainability Plan has been developed and is being implemented.	

BUDGET

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

Funding Source:

Description: Clean Water State Revolving Fund-This grant will provide additional capital for Washington's Water Pollution Control Revolving Fund. This capital will be used to offer low interest loans to projects that will address the state's high priority water quality needs. The projects receiving financial assistance will generally protect and restore water quality and aquatic habitat.

CFDA Number:	66.458
FAIN:	53000116
Research Grant:	No
Federal Award Date:	08/12/2014
Total Federal Award Amount:	\$27,882,000.00

Approved Indirect Costs Rate:	Approved Rate Negotiated Between ECOLOGY and RECIPIENT: 0%
Recipient Match %:	0%
InKind Interlocal Allowed:	No
InKind Other Allowed:	No
Is this Funding Distribution used to match a federal grant?	No

Agreement No: WQC-2017-Spokane-00018
Project Title: Riverside Interceptor Protection
Recipient Name: CITY OF SPOKANE

Effective Interest Rate: 2% Interest Rate: 1% Admin Charge: 1%

Terms: 20 years

Project Start Date: 07/01/2016

Project Completion Date: 06/30/2018

Estimated Initiation of Operation date: 12/30/2017

Loan Security: Revenue Secure Lien Obligation of the Recipient

Final Accrued Interest: \$

Final Loan Amount: \$

Repayment Schedule Number: 2302

SRF Loan	Task Total
Project Administration/Management	\$ 5,000.00
Design	\$ 335,000.00
Construction Management	\$ 500,000.00
Facility Construction	\$ 3,360,000.00

Total: \$ 4,200,000.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
SRF Loan	0.00 %	\$ 0.00	\$ 4,200,000.00	\$ 4,200,000.00
Total		\$ 0.00	\$ 4,200,000.00	\$ 4,200,000.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

This project has been identified as an Equivalency project and is subject to all federal requirements EPA applies to Clean Water State Revolving Funds. In addition to the federal requirements outlined in Section 4 of agreement terms and conditions, the RECIPIENT must maintain documentation of compliance with all federal cross cutters and federal procurement requirements for architectural and engineering services (Chapter 11 of Title 40, U.S.C)."

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.

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“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

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(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.

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“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 and are available on ECOLOGY’s Water Quality Program website.

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

B. 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 Resources: 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

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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 upon request by any party. The IDP must be readily available and be implemented to address any discovery. The RECIPIENT shall 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 ground disturbing activities. 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 allows the RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If the RECIPIENT has questions about the vendor registration process or setting up direct deposit payments contact DES Payee Help Desk at (360) 664-7779 or payeehelpdesk@des.wa.gov.

E. Equipment Purchase: Equipment not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3.B for Section 319 funded or Section 5.E for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

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

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

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

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

K. Project Status Evaluation: ECOLOGY may evaluate the status 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

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spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

L. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State. 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. Data Reporting: The RECIPIENT must complete the "Section 319 Initial Data Reporting" form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project.

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

D. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA's assistance agreement. In the event a time extension

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is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date.

SECTION 4: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

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

B. 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/>.

C. 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).

D. Consultant Cap: The RECIPIENT shall ensure that loan or grant 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. The Executive Schedule can be found at: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>. 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 Subpart D of 2 CFR 200 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 2 CFR 1500.9 for additional information.

E. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that 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.

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

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

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1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.

2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.

3) Consider in the contracting process whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, and State and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.

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

5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request.

Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

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

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

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

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

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given a reasonable time in which to cure this noncompliance.

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

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

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

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

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

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

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

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

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

1. Opinion of RECIPIENT's Legal Council

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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. Funding Recognition and Outreach: In addition to Section 2.F of these Terms and Conditions, the RECIPIENT agrees to comply with the EPA SRF Signage Guidance in order to enhance public awareness of EPA assistance agreements nationwide. The signage guidance can be found at:
<http://www.ecy.wa.gov/programs/wq/funding/FundPrgms/CWSRF/SignageGuidanceJune2015.pdf>.

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.

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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

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(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

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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.

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

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

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

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

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

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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

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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 shall 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.

R. Termination and Default:

Termination and Default Events

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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

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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.

WATER QUALITY COMBINED FINANCIAL ASSISTANCE TERMS AND CONDITIONS LAST UPDATED ON 10/04/2016

GENERAL FEDERAL CONDITIONS

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

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.

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2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

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

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

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

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

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required 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>.

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GENERAL TERMS AND CONDITIONS

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

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 and historic resources. The RECIPIENT must agree to hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - For capital construction projects or land acquisitions for capital construction projects, if required, comply with Governor Executive Order 05-05, Archaeology and Cultural Resources.
 - For projects with any federal involvement, if required, comply with the National Historic Preservation Act.
 - Any cultural resources federal or state requirements must be completed prior to the start of any work on the project site.
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
- Make the IDP readily available to anyone working at the project site.
- Discuss the IDP with staff and contractors working at the project site.
- Implement the IDP when cultural resources or human remains are found at the project site.
- c) If any archeological or historic resources are found while conducting work under this Agreement:
 - Immediately stop work and notify the ECOLOGY Program, the Department of Archaeology and Historic Preservation at (360) 586-3064, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement:
 - Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then the ECOLOGY Program.

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e) Comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.

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 require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State 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 applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

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

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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 Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

11. ENVIRONMENTAL DATA STANDARDS

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

- Use ECOLOGY's QAPP Template provided by the ECOLOGY Program.

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- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.
- b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The data must be successfully loaded into EIM, find instructions at: <http://www.ecy.wa.gov/eim>.
- c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

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.

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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) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (f) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS

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

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

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

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

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

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 under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.

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

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.

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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

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mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement. Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

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

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

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

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authorized representative of ECOLOGY.

GENERAL TERMS AND CONDITIONS LAST UPDATED 12/27/2016



Agreement No. WQC-2017-Spokane-00021

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:	River Infiltration Reduction
Total Cost:	\$1,200,859.00
Total Eligible Cost:	\$1,200,859.00
Ecology Share:	\$1,200,859.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	01/21/2016
The Expiration Date of this Agreement is no later than:	06/30/2020
Project Type:	Wastewater Facility

Project Short Description:

This project includes the design and construction of a sewer line located along the west edge of the Chief Garry residential neighborhood, and generally parallels the Spokane River between Mallon Avenue (south end) and Mission Avenue (north end). This project will cause a substantial reduction in infiltration flows, free up capacity at the Riverside Park Water Reclamation Facility RPWRF and protect the Spokane River.

Project Long Description:

This project includes the design and construction of a sewer line located along the west edge of the Chief Garry residential neighborhood, and generally parallels the Spokane River between Mallon Avenue (south end) and Mission Avenue (north end). This project will cause a substantial reduction in infiltration flows, free up capacity at the Riverside Park Water Reclamation Facility RPWRF and protect the Spokane River.

The City of Spokane first installed sewer lines over a hundred years ago. In the beginning, sewage was routed

Agreement No: WQC-2017-Spokane-00021
Project Title: River Infiltration Reduction
Recipient Name: CITY OF SPOKANE

directly to outfalls discharging directly to the Spokane River. With that being the case, many pipes were installed with little regard to water tightness at the joints. As such, the system is prone to groundwater infiltrating into the joints.

This project focuses on a 24 inch concrete line that was installed in 1937. The line is located along the west edge of the Chief Garry residential neighborhood, and generally parallels the Spokane River between Mallon Avenue (south end) and Mission Avenue (north end). When the Spokane River exceeds flows of approximately 20,000 CFS, (generally after snowmelt and spring runoff conditions), this line becomes submerged in groundwater which heavily infiltrates into the system.

These extraneous infiltration flows not only use up valuable sewer line capacity, they are needlessly transported and treated at the RECIPIENT'S Riverside Park Water Reclamation Facility (RPWRF). Lining the pipes in this area with Cast In Place Pipe (CIPP) will cause a substantial reduction in infiltration flows and free up capacity at the RPWRF.

Overall Goal:

The goal of this project is to remove unnecessary flows from the RECIPIENT'S combined sewer system, which in turn creates additional capacity for actual sewage flows. It also creates additional capacity at the RPWRF for treatment. Overall, this project helps achieve the RECIPIENT's goal of a cleaner river faster.

Agreement No: WQC-2017-Spokane-00021
Project Title: River Infiltration Reduction
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

Agreement No: WQC-2017-Spokane-00021
Project Title: River Infiltration Reduction
Recipient Name: CITY OF SPOKANE

ECOLOGY INFORMATION

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

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

Contacts

Project Manager	Cynthia Wall 4601 N Monroe Street Spokane, Washington 99205-1295 Email: cywa461@ecy.wa.gov Phone: (509) 329-3537
Financial Manager	Bill Hashim PO Box 47600 Olympia, Washington 98504-7600 Email: bhas461@ecy.wa.gov Phone: (360) 407-6549
Technical Advisor	Ellie Key PO Box 47600 Olympia, Washington 98504-7600 Email: EKEY461@ecy.wa.gov Phone: (360) 407-6433

AUTHORIZING SIGNATURES

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 this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within 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.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

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 and bind their respective organizations to this Agreement.

IN WITNESS WHEREOF: the parties hereto, having read this Agreement in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Washington State
Department of Ecology

CITY OF SPOKANE

By: _____

By: _____

Heather R. Bartlett
Water Quality
Program Manager
Date

David A Condon
Mayor
Date

Template Approved to Form by
Attorney General's Office

Agreement No: WQC-2017-Spokane-00021
Project Title: River Infiltration Reduction
Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 1 **Task Cost: \$5,000.00**

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	Quarterly Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

SCOPE OF WORK

Task Number: 2

Task Cost: \$96,069.00

Task Title: Project Design

Task Description:

A. The RECIPIENT will utilize in-house engineering services in accordance with state and federal law.

B. The RECIPIENT will design the Riverside Interceptor project which will be constructed to maximize capacity in the existing collection system for combined sewer. Plans and specifications developed by the RECIPIENT must be consistent with the requirements of Chapter 173-240 WAC. Elements of the design will include:

1. Construction of a 24-inch sewer line between River between Mallon Avenue and Mission Avenue.

C. The plans and specifications, construction contract documents, and addenda must be approved by the RECIPIENT and a letter confirming the review sent to the ECOLOGY project manager. Any construction plans submitted to ECOLOGY for review and approval will be reduced to no larger than 11" x 17" in size. All reduced drawings must be completely legible. The project manager may request plans be submitted in either PDF or AutoCAD electronic format, and specifications in a searchable PDF or Microsoft Word electronic file. A current construction cost estimate will be submitted along with each plan/specification submittal. The project manager may request a spreadsheet in electronic file format.

D. The RECIPIENT will complete the facility designs within one year after the execution of this AGREEMENT.

E. Investment Grade Efficiency Audit. The RECIPIENT will procure a third party analysis of potential energy and water efficiency measures for incorporation into the design of any wastewater facilities. The analysis will identify potential efficiency measures, provide cost estimates, and evaluate their cost effectiveness.

F. The RECIPIENT will comply with federal cross cutting requirements, and assist ECOLOGY with any consultation required by federal resource protection agencies. The RECIPIENT will submit a final Cross Cutter Report to ECOLOGY for review and final determination of impacts for each of the required federal cross cutters. Costs incurred for construction activities that occur before federal cross cutter approval will not be eligible for reimbursement.

G. The RECIPIENT will also submit documentation to ECOLOGY to facilitate cultural resources review. Costs incurred for construction activities that occur before SERP approval and cultural resources review will not be eligible for reimbursement.

Task Goal Statement:

Task Expected Outcome:

Agreement No: WQC-2017-Spokane-00021
Project Title: River Infiltration Reduction
Recipient Name: CITY OF SPOKANE

Project Design

Deliverables

Number	Description	Due Date
2.1	Two copies of the contract documents.	
2.2	Investment Grade Efficiency Audit documentation.	
2.3	Two copies of the draft and final design.	
2.4	Two copies of final Cross Cutter Report.	

Agreement No: WQC-2017-Spokane-00021
Project Title: River Infiltration Reduction
Recipient Name: CITY OF SPOKANE

SCOPE OF WORK

Task Number: 3

Task Cost: \$960,687.00

Task Title: Project Construction (low bid)

Task Description:

A. The RECIPIENT will include ECOLOGY's specification insert in the bid documents. The RECIPIENT will execute a contract with the low responsive responsible bidder to construct the PROJECT. The RECIPIENT must submit Bid Tabs, the Notice of Award, and a copy of the executed contract before ECOLOGY will provide reimbursement for work performed under this task.

B. The RECIPIENT will complete the construction in accordance with the approved Plans and Specifications. The construction project will include:

1. Construction of a 24-inch sewer line between River between Mallon Avenue and Mission Avenue.

C. The RECIPIENT will conduct a pre-construction conference and invite ECOLOGY staff.

D. As a condition of receiving this funding, the RECIPIENT will prepare a fiscal sustainability plan. The RECIPIENT will certify that a plan that contains at least the minimum required elements listed above has been developed and is being implemented. The plan must include the following elements

1. An inventory of critical assets that belong to the utility.
2. An evaluation of the condition and performance of the critical assets.
3. A plan to maintain, repair, and replace the critical assets and to fund those activities.
4. A process to evaluate and implement water and energy conservation efforts as part of the plan.

Task Goal Statement:

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Task Expected Outcome:

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Agreement No: WQC-2017-Spokane-00021
Project Title: River Infiltration Reduction
Recipient Name: CITY OF SPOKANE

Project Construction (low bid)**Deliverables**

Number	Description	Due Date
3.1	Copy of the advertisement for bids and the affidavit of publication.	
3.2	Bid Tabs, the Notice of Award, and a copy of the executed construction contract.	
3.3	Copy of the notice to proceed.	
3.4	Minutes of the pre-construction meeting.	
3.5	Certification that the Financial Sustainability Plan has been developed and is being implemented.	

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Project Title: River Infiltration Reduction
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SCOPE OF WORK

Task Number: 4

Task Cost: \$139,103.00

Task Title: Construction Management

Task Description:

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

Task Goal Statement:

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Task Expected Outcome:

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Agreement No: WQC-2017-Spokane-00021
Project Title: River Infiltration Reduction
Recipient Name: CITY OF SPOKANE

Construction Management

Deliverables

Number	Description	Due Date
4.1	Executed contract for construction management services.	
4.2	Construction Quality Assurance Plan.	
4.3	“As-built” plans.	
4.4	Declaration of Construction completion.	

BUDGET

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

Funding Source:

Description:	Clean Water State Revolving Fund-This grant will provide additional capital for Washington's Water Pollution Control Revolving Fund. This capital will be used to offer low interest loans to projects that will address the state's high priority water quality needs. The projects receiving financial assistance will generally protect and restore water quality and aquatic habitat.
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CFDA Number:	66.458
FAIN:	53000116
Research Grant:	No
Federal Award Date:	08/12/2014
Total Federal Award Amount:	\$27,882,000.00

Approved Indirect Costs Rate:	Approved Rate Negotiated Between ECOLOGY and RECIPIENT: 0%
Recipient Match %:	0%
InKind Interlocal Allowed:	No
InKind Other Allowed:	No
Is this Funding Distribution used to match a federal grant?	No

Agreement No: WQC-2017-Spokane-00021
Project Title: River Infiltration Reduction
Recipient Name: CITY OF SPOKANE

Effective Interest Rate: 2% Interest Rate: 1% Admin Charge: 1%

Terms: 20 years

Project Start Date: 10/03/2016

Project Completion Date: 06/30/2020

Estimated Initiation of Operation date: 12/31/2019

Loan Security: Revenue Secure Lien Obligation of the Recipient

Final Accrued Interest: \$

Final Loan Amount: \$

Repayment Schedule Number: 2305

SRF Loan	Task Total
Project Administration/Management	\$ 5,000.00
Project Design	\$ 96,069.00
Project Construction (low bid)	\$ 960,687.00
Construction Management	\$ 139,103.00

Total: \$ 1,200,859.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
SRF Loan	0.00 %	\$ 0.00	\$ 1,200,859.00	\$ 1,200,859.00
Total		\$ 0.00	\$ 1,200,859.00	\$ 1,200,859.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

This project has been identified as an Equivalency project and is subject to all federal requirements EPA applies to Clean Water State Revolving Funds. In addition to the federal requirements outlined in Section 4 of agreement terms and conditions, the RECIPIENT must maintain documentation of compliance with all federal cross cutters and federal procurement requirements for architectural and engineering services (Chapter 11 of Title 40, U.S.C.).”

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.

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“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 and are available on ECOLOGY’s Water Quality Program website.

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

B. 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 Resources: 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

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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 upon request by any party. The IDP must be readily available and be implemented to address any discovery. The RECIPIENT shall 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 ground disturbing activities. 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 allows the RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If the RECIPIENT has questions about the vendor registration process or setting up direct deposit payments contact DES Payee Help Desk at (360) 664-7779 or payeehelpdesk@des.wa.gov.

E. Equipment Purchase: Equipment not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3.B for Section 319 funded or Section 5.E for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

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

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

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

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

K. Project Status Evaluation: ECOLOGY may evaluate the status 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

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spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

L. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service (“NRCS”) Field Office Technical Guide for Washington State. 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. Data Reporting: The RECIPIENT must complete the “Section 319 Initial Data Reporting” form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project.

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

D. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA’s assistance agreement. In the event a time extension

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is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date.

SECTION 4: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

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

B. 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/>.

C. 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).

D. Consultant Cap: The RECIPIENT shall ensure that loan or grant 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. The Executive Schedule can be found at: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>. 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 Subpart D of 2 CFR 200 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 2 CFR 1500.9 for additional information.

E. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that 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.

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

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

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1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.

2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.

3) Consider in the contracting process whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, and State and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.

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

5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request.

Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

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

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

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

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

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given a reasonable time in which to cure this noncompliance.

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

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

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

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

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

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

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

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

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

1. Opinion of RECIPIENT's Legal Council

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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. Funding Recognition and Outreach: In addition to Section 2.F of these Terms and Conditions, the RECIPIENT agrees to comply with the EPA SRF Signage Guidance in order to enhance public awareness of EPA assistance agreements nationwide. The signage guidance can be found at:
<http://www.ecy.wa.gov/programs/wq/funding/FundPrgms/CWSRF/SignageGuidanceJune2015.pdf>.

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.

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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

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(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

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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.

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

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

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

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

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

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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 shall 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.

R. Termination and Default:

Termination and Default Events

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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.

WATER QUALITY COMBINED FINANCIAL ASSISTANCE TERMS AND CONDITIONS LAST UPDATED ON 10/04/2016

GENERAL FEDERAL CONDITIONS

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

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.

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2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

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

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

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

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

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required 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

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

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 and historic resources. The RECIPIENT must agree to hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - For capital construction projects or land acquisitions for capital construction projects, if required, comply with Governor Executive Order 05-05, Archaeology and Cultural Resources.
 - For projects with any federal involvement, if required, comply with the National Historic Preservation Act.
 - Any cultural resources federal or state requirements must be completed prior to the start of any work on the project site.
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
- Make the IDP readily available to anyone working at the project site.
- Discuss the IDP with staff and contractors working at the project site.
- Implement the IDP when cultural resources or human remains are found at the project site.
- c) If any archeological or historic resources are found while conducting work under this Agreement:
 - Immediately stop work and notify the ECOLOGY Program, the Department of Archaeology and Historic Preservation at (360) 586-3064, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement:
 - Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then the ECOLOGY Program.

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e) Comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.

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 require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State 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 applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

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

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

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 Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

11. ENVIRONMENTAL DATA STANDARDS

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

- Use ECOLOGY's QAPP Template provided by the ECOLOGY Program.

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- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.
- b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The data must be successfully loaded into EIM, find instructions at: <http://www.ecy.wa.gov/eim>.
- c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

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) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (f) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS

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

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

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

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

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

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 under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.

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Project Title: River Infiltration Reduction
Recipient Name: CITY OF SPOKANE

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

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, except as noted below. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

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

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

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Project Title: River Infiltration Reduction
Recipient Name: CITY OF SPOKANE

authorized representative of ECOLOGY.

GENERAL TERMS AND CONDITIONS LAST UPDATED 12/27/2016

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

01/30/2017

Date Rec'd

1/17/2017

Clerk's File #

RES 2017-0011

Renews #Submitting Dept

PLANNING

Cross Ref #Contact Name/Phone

MELISSA OWEN 625-6063

Project #Contact E-Mail

MOWEN@SPOKANECITY.ORG

Bid #Agenda Item Type

Resolutions

Requisition #Agenda Item Name

0650 - RESOLUTION FOR ASSESSMENT ROLL HEARING

Agenda Wording

A Resolution setting the Assessment Roll Hearing for the East Sprague Parking and Business Improvement Area (Business Improvement District - BID) and providing notice of the 2017 assessments to business and property owners.

Summary (Background)

The City Council passed Ordinance C-35377, codified in Chapter 4.31C SMC, on April 18, 2016 establishing the East Sprague Parking and Business Improvement Area. This resolution will set a date of February 27, 2017 for a 2017 assessment roll hearing. All ratepayers will be provided notice of assessments and the hearing date and be given an opportunity to make comments and/or objections.

Fiscal ImpactBudget Account

Neutral \$

#

Select \$

#

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

KEY, LISA

Study SessionDivision Director

MALLAHAN, JONATHAN

Other

PED 1/23/17

Finance

DOVAL, MATTHEW

Distribution ListLegal

DALTON, PAT

Engineering AdminFor the Mayor

SANDERS, THERESA

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Additional Approvals

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aworlock@spokanecity.org

bborisov@spokanecity.org

lmeuler@spokanecity.org



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

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laverne@accessunified.net

ierr811@omnicast.net

RESOLUTION NO. 2017-0011

A RESOLUTION SETTING THE ASSESSMENT ROLL HEARING FOR THE EAST SPRAGUE PARKING AND BUSINESS IMPROVEMENT AREA (BUSINESS IMPROVEMENT DISTRICT – BID) AND PROVIDING NOTICE OF THE 2017 ASSESSMENTS TO BUSINESS AND PROPERTY OWNERS.

WHEREAS, pursuant to the laws of Washington State and City Ordinance C-35377, as codified and amended in Chapter 4.31C SMC, the City Council intends to hold a hearing on the assessments levied upon businesses and properties within the East Sprague Parking and Business Improvement Area (PBIA); and

WHEREAS, through this Resolution, the City Council intends to provide notice that there will be a hearing upon the assessment roll prepared under the above-identified Ordinance.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE SPOKANE CITY COUNCIL:

1. Notice is hereby given that the assessment rolls for businesses and properties prepared under Ordinance C-35377, as codified and amended in Chapter 4.31C SMC, will be on file in the Office of the City Clerk on the 30th day of January 2017, and are open for public inspection.
2. The City Council has fixed the 27th day of February of 2017 at 6:00 p.m., or as soon thereafter as practicable in the City Council Chambers of the Municipal Building, W. 808 Spokane Falls Blvd., Spokane, Washington, as the time and place for hearing upon said rolls.
3. The City Council declares its intent to impose special assessment in a manner that measures special benefits from each of the purposes set forth in Ordinance C-35377, as codified and amended in Chapter 4.31C SMC. The special assessments will finance the PBIA (BID) budgets and programs approved by the City Council.
4. All persons who may desire to object to the assessment roll shall make their objections in writing and file them with the City Clerk at or prior to the date fixed for hearing.

At the time and place fixed, and at such other times as the hearing may be continued to, the City Council will consider the assessment roll as a board of equalization for the purpose of considering objections or comments made thereto, or any part thereof, and may correct, revise, raise, lower, change or modify such roll, or any part thereof, or set aside such roll and order that such assessment be made de

novo, or take such other action as the circumstances may warrant, including confirmation of the assessment rolls.

This is the only hearing held on the assessment roll, and it will be final unless appealed according to City Ordinance C-35377, as codified and amended in Chapter 4.31C SMC.

5. Business & Developer Services is directed to mail, at least fifteen days before the date fixed for hearing, a notice to the business and property owners identified in the assessment rolls setting forth the date and time of public hearing, including the amount of special assessment.
6. The City clerk is directed to publish notice of the hearing on the assessment rolls in the Official Gazette for two consecutive weeks, the last publication being one week before the date fixed for public hearing

ADOPTED by the City Council this _____ day of January, 2017.

City Clerk

Approved as to form:

Assistant City Attorney