



CITY COUNCIL REGULAR MEETING

Monday, January 08, 2024 at 7:00 PM

City Hall

AGENDA

1. Call to Order

2. Flag Salute

3. Roll Call

4. Presentation

A. Life-Saving Award - Officer Dubois and Corporal Phan

B. Oath of Office - City Clerk Dana Parker

C. Oath of Office - Mayor Troy Linnell, Council Member Timothy Fairley, Council Member David White, and Council Member William Thomas

D. Appointment and Oath of Office - Planning Commission Member Jennifer Freeberg

5. Approval of Agenda

6. Consent Agenda

A. Minutes

December 11th. 2023 Council Workshop

December 11th, 2023 Council Meeting

December 18th, 2023 Special Council Meeting

December 28th, 2023 Special Council Meeting

B. Audit of Reports

1. Claims #113364 - #113366 = \$ 24,895.32

December 31, 2023

2. Claims #113367 - #113422 = \$394,729.58

January 8, 2024

2. Payroll # = \$ 79,470.01

January 5, 2024

VOID #

7. Reports

8. Audience Participation

The City Council encourages public participation during meetings of the City Council and welcomes your comments. This time is set-aside for you to speak to the City Council on any issue. The Council ordinarily takes non-agenda matters under advisement before taking action. You are also invited to comment on action items as they are considered during the meeting. Individual speakers will be limited to three (3) minutes each in addressing the City Council. When addressing the Council, please speak clearly and audibly and state your name and address for the record.

9. Discussion

[A.](#) Department of Commerce, Local and Community Projects Grant Agreement

[B.](#) Transportation Improvement Board Grant Agreement

[C.](#) EJ Municipal Land Use Planning Agreement

10. New Business

A. Mayor Pro Tem Appointment

11. Old Business

12. Ordinances & Resolution

[A.](#) Resolution 1268-23, Franchise Fee

13. Closed Session

A. Closed session pursuant RCW 42.30.140 for the purpose of discussing collective bargaining.

14. Next Workshop

15. Adjournment



CITY COUNCIL WORKSHOP MEETING

Monday, December 11, 2023 at 6:00 PM

City Hall

MINUTES

1. Call to Order

Mayor Pro-Tem Franco called the meeting to order at 6:00 p.m.

2. Roll Call

PRESENT

Council Member Brenna Franco
Council Member Gordon Cook
Council Member Timothy Fairley
Council Member Lynda Osborn
Council Member William Thomas

Staff Present: Jessica Griess, City Administrator and Dana Parker, Deputy City Clerk

3. Approval of Agenda

Motion made by Council Member Cook, Seconded by Council Member Fairley.
Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley,
Council Member Osborn, Council Member Thomas

4. Presentations

5. Discussion

A. Algona Business Recognition

It was decided that Taking Care Of Business would be the name for the business's being recognized each month in the monthly newsletter mailed out to each resident. Suggestions were made to send out a questioner or put on the reader boards for business's that are interested.

B. Finance Committee Members

Finance committee members are Councilmember Cook, Councilmember Osborn and City Administrator Jessica Griess.

C. Sewer and Storm Utility Tax Increase

Council agreed to move forward with a Sewer and Storm Tax increase of 5%.

6. Audience Participation

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None.

7. Adjournment

Mayor Pro-Tem Franco Adjourned the meeting at 6:33 p.m.

ATTEST:

Jessica Griess – City Clerk

Brenna Franco, Mayor Pro Tem



CITY COUNCIL REGULAR MEETING

Monday, December 11, 2023 at 7:00 PM

City Hall

MINUTES

1. Call to Order

Mayor Linnell called the meeting to order at 7:00 p.m.

2. Flag Salute

3. Roll Call

PRESENT

Mayor Troy Linnell

Council Member Brenna Franco

Council Member Gordon Cook

Council Member Timothy Fairley

Council Member Lynda Osborn

Council Member William Thomas

Staff Present: Jessica Griess, City Administrator, James Schrimpsheer, Chief of Police, Russ Avery, Public Works Director, Dana Parker, Deputy City Clerk

4. Presentation

Chief Brad Thompson with Valley Regional Fire Authority presented Officer Fajardo and Officer Gerrard with the Life Saving Award for their response to the accident on West Valley Highway on 10/22/2023.

5. Approval of Agenda

Motion made by Council Member Thomas, Seconded by Council Member Fairley.

Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley, Council Member Osborn, Council Member Thomas

6. Consent Agenda

Motion made by Council Member Fairley, Seconded by Council Member Osborn.

Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley, Council Member Osborn, Council Member Thomas

A. Minutes

November 27th, 2023 Council Workshop

November 27th, 2023 Council Meeting

B. Audit of Reports

1. Claims #113319 - #113363 = \$507,259.70

December 11, 2023

2. Payroll = \$ 74,593.66

December 8, 2023

VOID

7. Reports

Councilmember Franco - This is my last meeting. Thank you to Public Works for all of your hard work the last couple of weeks. Thank you to City Staff and the Police Department. So thankful for the opportunity to work and learn from everyone.

Councilmember Cook - Thank you to Public Works and staff for all of their hard work. We had City Council training on Saturday. Thank you Jessica for taking your time and setting this up for us. Went to the tree lighting and had a great time. A lot of effort by public works and city staff.

Councilmember Fairley - I also attended the council training on Saturday. Very informative and I learned alot. I also wanted to thank public works. I drove by eleventh and they were working their tails off. It definately made a difference.

Councilmember Osborn. Sorry I missed the training on Saturday.

Councilmember Thomas - Thank you to public works. It was not easy in the dark. I appreciate the chief getting the sacks brought in. I attended the training on Saturday. and I learned some new things. I also attended the Christmas tree lighting and I think it was the best ever. I appreciate all the hard work that the staff did.

Public Works Director Russ Avery - Flooding issue. Crews put in a lot long hours also working over the weekend. It seems to be holding its level now. Working with Fish and Wildlife and Engineering on long term plans.

Chief Schrimpscher - I am putting my Emergency Management hat on. I might have ruffled a few feathers. I contacted King County Emergency Management and asked to pass on to the state level. State was phenomenal. Never had that kind of response before. They provided us with 600' of Hesco and asked if we needed anything else like gravel. Hats off to the crew. They learned on the fly. Might have ruffled some of our neighbors' feather. I take full responsibility for that. On the Police Department side. Our newest officer Gary starts at the academy on the thirteenth. He will finish at the end of March. The other three are doing good. Thank you to Jessica and her staff for the incredible job they did on the banquet. Thank you to everyone who showed up. First training will be in February. On behalf of the Police department thank you for your support.

City Administrator Jessica Griess - The new website will be up and running at the end of April or first part of May. The phones are back. We are upgrading to fiber lines. Our new public works employee starts on Monday. Thank you to everyone who attended the banquet. Saturday I got a taste of all departments. I started out with Council getting them set up with training. I then helped Lee finish up the Christmas tree and we got soaked. Blue Christmas with the police department was very rewarding watching the kids faces light up and tree lighting was great. Thank you everyone who took part in it. Brenna thank you for your time on the council.

Mayor Linnell - Mayor Linnell presented councilmember Franco with flowers and thanked her for serving on the council. Thank you to everyone who works for the city for everything that happed last week All of the Christmas stuff and Blue Christmas. Got to ride with the chief and watched the kids faces light up. Thank you to Gary Klein. You did a good job organizing and and setting up. Things that I have attended since November 29th. Good Eggs Breakfast with Pete Von Reichbauer. I was on the Public Issues committee and I was on the nominating committee. I attended virtually with Dana the South Cities Association Jurassic Parliament. It was about Council meetings going hay wire.

8. Audience Participation

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None.

9. Discussion

A. Resolution 1268-23, Franchise Fee

Emily Romanenko with the City Attorney's office briefed the council on franchise fees and answered any questions.

B. Department of Commerce, Local and Community Projects Grant Agreement

City Administrator Griess discussed the grant with the council.

10. New Business

A. City Clerk Contract

Motion made by Council Member Fairley, Seconded by Council Member Cook.

Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley, Council Member Osborn, Council Member Thomas

B. Scheduling Second Council Meeting in December 2023

The council voted No to having a second meeting in December

Motion made by Council Member Cook, Seconded by Council Member Osborn.
 Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley,
 Council Member Osborn, Council Member Thomas

11. Old Business

A. 2024 Olympic Environmental Resources Agreement

Motion made by Council Member Fairley, Seconded by Council Member Thomas.
 Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley,
 Council Member Osborn, Council Member Thomas

B. Algona Police Officers Contract Memorandum of Understanding

Motion made by Council Member Cook, Seconded by Council Member Thomas.
 Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley,
 Council Member Osborn, Council Member Thomas

C. WA Department of Commerce Middle Housing Grant Agreement

Motion made by Council Member Franco, Seconded by Council Member Cook.
 Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley,
 Council Member Osborn, Council Member Thomas

12. Ordinances & Resolution

A. Ordinance 1230-23, 2023 Budget Amendment

Motion made by Council Member Cook, Seconded by Council Member Fairley.
 Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley,
 Council Member Osborn, Council Member Thomas

B. Ordinance 1231-23, 2024 Final Budget

Motion made by Council Member Fairley, Seconded by Council Member Thomas.
 Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley,
 Council Member Osborn, Council Member Thomas

C. Resolution 1267-23, WaFed Bank

Motion made by Council Member Thomas, Seconded by Council Member Franco.
 Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley,
 Council Member Osborn, Council Member Thomas

D. Ordinance 1227-23, 2024 Water Rate

Motion made by Council Member Cook, Seconded by Council Member Fairley.
 Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley,
 Council Member Osborn, Council Member Thomas

E. Ordinance 1228-23, Sewer Rate Increase for 2024

Motion made by Council Member Franco, Seconded by Council Member Cook.
Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley,
Council Member Osborn, Council Member Thomas

13. Next Workshop

14. Adjournment

Mayor Linnell adjourned the meeting at 7:40 p.m.

ATTEST:

Jessica Griess – City Clerk

Troy Linnell – Mayor



CITY COUNCIL SPECIAL MEETING

Monday, December 18, 2023 at 6:00 PM

City Hall

MINUTES

1. Call to Order

Mayor Linnell called the meeting to order at 6:00 p.m.

2. Flag Salute

3. Roll Call

PRESENT

Mayor Troy Linnell

Council Member Brenna Franco

Council Member Gordon Cook

Council Member Timothy Fairley

Council Member Lynda Osborn

Council Member William Thomas

Steff Present: Jessica Griess, City Administrator; Dana Parker, Deputy City Clerk

4. Approval of Agenda

Motion made by Council Member Fairley, Seconded by Council Member Thomas.

Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley, Council Member Osborn, Council Member Thomas

5. Audience Participation

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None.

6. Ordinances & Resolution

A. Resolution 1269-23, Authorizing Mayor to Execute Property Purchase

City Administrator Griess presented Resolution 1269-23

Motion made by Council Member Thomas, Seconded by Council Member Osborn.
Voting Yea: Council Member Franco, Council Member Cook, Council Member Fairley,
Council Member Osborn, Council Member Thomas

7. Adjournment

Mayor Linnell Adjourned the meeting at 6:03 p.m.

ATTEST:

Jessica Griess – City Clerk

Troy Linnell – Mayor



CITY COUNCIL SPECIAL MEETING

Thursday, December 28, 2023 at 11:00 AM

City Hall

MINUTES

1. Call to Order

Mayor Linnell called the meeting to order at 11:00 a.m.

2. Flag Salute

3. Roll Call

PRESENT

Mayor Troy Linnell
Council Member Gordon Cook
Council Member Lynda Osborn
Council Member William Thomas

ABSENT

Council Member Brenna Franco
Council Member Timothy Fairley

Staff Present: Jessica Griess, City Administrator ; Dana Parker, Deputy City Clerk

4. Approval of Agenda

Motion made by Council Member Cook, Seconded by Council Member Osborn.
Voting Yea: Council Member Cook, Council Member Osborn, Council Member Thomas

5. Audience Participation

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None.

6. Ordinances & Resolution

A. Ordinance 1232-23, Budget Amendment #3

City Administrator Griess briefed the council on Budget amendment #3

Motion made by Council Member Cook to wave the three touch rule, Seconded by Council Member Thomas.
Voting Yea: Council Member Cook, Council Member Osborn, Council Member Thomas

Motion made by Council Member Cook to approve Ordinance 1232-23, Seconded by Council Member Osborn.
Voting Yea: Council Member Cook, Council Member Osborn, Council Member Thomas

7. Adjournment

Mayor Linnell adjourned the meeting at 11:10 a.m.

ATTEST:

Jessica Griess – City Clerk

Troy Linnell – Mayor

**CITY COUNCIL****AGENDA BILL # AB23-0108**

City of Algona
200 Washington Blvd.
Algona, WA 98001

ITEM INFORMATION

SUBJECT: WA Department of Commerce Local and Community Projects Program	Agenda Date: January 8th, 2024		
	Department/Committee/Individual	Created	Reviewed
	Mayor		
	City Administrator		X
	City Attorney		X
	City Clerk		
	Finance Dept		
	PW/Utilities		
	Planning Dept		
	Community Services		
Cost Impact:	Police Dept		
Fund Source:	Finance Committee		
Timeline: 1st review – 12/11/23	Planning Commission		
2nd review – 1/8/24	Civil Service Committee		
Staff Contact: Jessica Griess, City Administrator			
Attachments: Local and Community Projects Agreement			
SUMMARY STATEMENT: The City has been granted \$600,000 from the state (\$582,000 after state administrative costs) for activities that support the final design and construction of the David E. Hill Wetland Preserve.			
COMMITTEE REVIEW AND RECOMMENDATION:			
RECOMMENDED ACTION:			
RECORD OF COUNCIL ACTION			
<i>Meeting Date:</i>	<i>Action:</i>	<i>Vote:</i>	



Grant to

City of Algona

through

The Local and Community Projects Program

For

Algona Wetland Preserve Interpretive Trail (Algona)

Start date: July 1, 2023

Section 9, Item A.

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FACE SHEETGrant Agreement Number: **24-96647-010**Project Name: **Algona Wetland Preserve Interpretive Trail (Alogna)**

**Washington State Department of Commerce
Local Government Division
Community Development Assistance Unit**

1. GRANTEE City of Algona 200 Washington Blvd Algona, WA 98001		2. GRANTEE Doing Business As (optional) N/A	
3. GRANTEE Representative Jessica Griess, City Administrator (253) 833-2897 jessicag@AlgonaWA.gov		4. COMMERCE Representative Mara Isaacson, Grant Manager PO Box 42525, Olympia, WA 98504 (360) 742-7665 mara.isaacson@commerce.wa.gov	
5. Grant Amount \$582,000.00	6. Funding Source Federal: State: X Other: N/A:	7. Start Date July 1, 2023	8. End Date June 30, 2027, contingent on reappropriation; June 30, 2025, if funds are not reappropriated.
9. Federal Funds (as applicable) N/A		Federal Agency N/A	CFDA Number N/A
10. Tax ID # N/A	11. SWV # SWV0028712-00	12. UBI # 600040041	13. DUNS # 022042063
14. Grant Purpose The purpose of this performance-based Grant Agreement is to provide funding for a legislatively approved project that furthers the goals and objectives of the Local and Community Projects Program as described in Attachment A – Scope of Work (the “Project”).			
COMMERCE, defined as the Washington State Department of Commerce, and the GRANTEE, as defined above, acknowledge and accept the terms of this Grant Agreement and attachments and have executed this Grant Agreement on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Grant Agreement are governed by this Grant Agreement and the following other documents incorporated by reference: Grant Agreement Terms and Conditions including Attachment “A” – Scope of Work, Attachment “B” – Certification of Availability of Funds to Complete the Project, Attachment “C” – Certification of the Payment and Reporting of Prevailing Wages, Attachment “D” – Certification of Intent to Enter LEED Process.			
FOR GRANTEE		FOR COMMERCE	
Signature Jessica Greiss		Mark K. Barkley, Assistant Director Local Government Division	
Print Name		Date	
Title		APPROVED AS TO FORM	
Date		Dawn Cortez, Assistant Attorney General 10/3/2023 Date	

DECLARATIONS

GRANTEE INFORMATION

GRANTEE Name:	City of Algona
Grant Agreement Number:	24-96647-010
State Wide Vendor Number:	SWV0028712-00

PROJECT INFORMATION

Project Name:	Algona Wetland Preserve Interpretive Trail (Algona)
Project City:	Algona
Project State:	Washington
Project Zip Code:	98001

GRANT AGREEMENT INFORMATION

Grant Amount:	\$582,000.00
Appropriation Number:	ESSB 5200 SL Section 1025 (2023 Regular Session)
Re-appropriation Number (if applicable):	N/A
Grant Agreement End Date:	June 30, 2027, contingent on reappropriation; June 30, 2025, if funds are not reappropriated.
Biennium:	2023-2025
Biennium Close Date:	June 30, 2025

PROJECT PURPOSE

Rehabilitate wetland, design and construct an interpretive trail in the Algona Wetland Preserve.

ADDITIONAL SPECIAL TERMS AND CONDITIONS GOVERNING THIS AGREEMENT

Grant Agreement End Date: In the event funds for the project are reappropriated, the contract end date will be extended pursuant to the reappropriation and consistent with Special Term and Condition 19. Depending on the reappropriation, a contract amendment may be required.

ADDITIONAL RECITALS

WHEREAS, the GRANTEE previously received funding for preliminary design, permitting, architecture and engineering of this wetland preserve and interpretive trail and COMMERCE administered the funding through Commerce Grant Agreement Number 21-96633-006.

SPECIAL TERMS AND CONDITIONS

GENERAL GRANT STATE FUNDS

THIS GRANT AGREEMENT, entered into by and between the GRANTEE and COMMERCE, as defined on the Face Sheet of this Grant Agreement, WITNESSES THAT:

WHEREAS, COMMERCE has the statutory authority under RCW 43.330.050(5) to cooperate with and provide assistance to local governments, businesses, and community-based organizations; and

WHEREAS, COMMERCE is also given the responsibility to administer state funds and programs which are assigned to COMMERCE by the Governor or the Washington State Legislature; and

WHEREAS, the Washington State Legislature has made an appropriation to support the Local and Community Projects Program, and directed COMMERCE to administer those funds; and

WHEREAS, the enabling legislation also stipulates that the GRANTEE is eligible to receive funding for design, acquisition, construction, or rehabilitation.

NOW, THEREFORE, in consideration of covenants, conditions, performances, and promises hereinafter contained, the parties agree as follows:

1. **GRANT MANAGEMENT**

The Representative for each of the parties is identified on the Face Sheet of this Grant Agreement and shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Grant Agreement.

2. **COMPENSATION**

COMMERCE shall pay an amount not to exceed the awarded Grant Amount as shown on the Face Sheet of this Grant Agreement, for the capital costs necessary for or incidental to the performance of work as set forth in the Scope of Work.

3. **CERTIFICATION OF FUNDS PERFORMANCE MEASURES**

- A. The release of state funds under this Grant Agreement is contingent upon the GRANTEE certifying that it has expended or has access to funds from non-state sources as set forth in ATTACHMENT B (CERTIFICATION OF THE AVAILABILITY OF FUNDS TO COMPLETE THE PROJECT). Such non-state sources may consist of a combination of any of the following:
 - i) Eligible Project expenditures prior to the execution of this Grant Agreement.
 - ii) Cash dedicated to the Project.
 - iii) Funds available through a letter of credit or other binding loan commitment(s).
 - iv) Pledges from foundations or corporations.
 - v) Pledges from individual donors.
 - vi) The value of real property when acquired solely for the purposes of this Project, as established and evidenced by a current market value appraisal performed by a licensed, professional real estate appraiser, or a current property tax statement. COMMERCE will not consider appraisals for prospective values of such property for the purposes of calculating the amount of non-state matching fund credit.
 - vii) In-kind contributions, subject to COMMERCE'S approval.
- B. The GRANTEE shall maintain records sufficient to evidence that it has access to or has expended funds from such non-state sources, and shall make such records available for COMMERCE's review upon reasonable request.

4. **PREVAILING WAGE LAW**

The Project funded under this Grant Agreement may be subject to state prevailing wage law (RCW 39.12). The GRANTEE is advised to consult the Industrial Statistician at the Washington Department of Labor and Industries to determine whether prevailing wages must be paid. COMMERCE is not responsible for determining whether prevailing wage applies to this Project or for any prevailing wage payments that may be required by law.

5. DOCUMENTATION AND SECURITY

The provisions of this section shall apply to capital projects performed by nonprofit organizations and public benefit corporations that involve the expenditure of over \$250,000 in state funds. Additionally, Commerce reserves the right to review all state-funded projects and to require that projects performed by other entity types comply with this section. Projects for which the grant award or legislative intent documents specify that the state funding is to be used for pre-design or design only are exempt from this section.

- A. Deed of Trust. This Grant Agreement shall be evidenced by a promissory note and secured by a deed of trust or other appropriate security instrument in favor of COMMERCE (the "Deed of Trust"). The Deed of Trust shall be recorded in the County where the Project is located, and the original returned to COMMERCE after recordation within ninety (90) days of Grant Agreement execution. The Deed of Trust must be recorded before COMMERCE will reimburse the GRANTEE for any Project costs. The amount secured by the Deed of Trust shall be the amount of the Grant Agreement as set forth on the Face Sheet.
- B. Term of Deed of Trust. The Deed of Trust shall remain in full force and effect for a minimum period of ten (10) years following the later of: (1) final payment of state funds to the GRANTEE under this grant; or (2) the date when the facility improved or acquired with grant funds, or a distinct phase of the project, is made useable to the public for the purpose intended by the Legislature. Upon satisfaction of the ten-year term requirement and all other grant terms and conditions, COMMERCE shall, upon written request of the GRANTEE, take appropriate action to reconvey the Deed of Trust.
- C. Title Insurance. The GRANTEE shall purchase an extended coverage lender's policy of title insurance insuring the lien position of the Deed of Trust in an amount not less than the amount of the grant.
- D. Covenant. If the project will be partially funded by a loan and the term of said loan is less than the commitment period under this Grant Agreement, COMMERCE may require that GRANTEE record or cause to be recorded a covenant in a superior lien position ahead of the lender's security instrument that restricts use of the facility or property for the purpose(s) stated elsewhere in this contract for at least the term of the commitment period.
- E. Subordination. COMMERCE may agree to subordinate its deed of trust upon request from a private or public lender. Any such request shall be submitted to COMMERCE in writing, and COMMERCE shall respond to the request in writing within thirty (30) days of receiving the request.

6. BASIS FOR ESTABLISHING REAL PROPERTY VALUES FOR ACQUISITIONS OF REAL PROPERTY PERFORMANCE MEASURES

When all or part of the grant is used to fund the acquisition of real property, before funds are disbursed, the GRANTEE shall procure and provide to COMMERCE evidence establishing the value of the real property eligible for reimbursement:

- A. GRANTEE purchases of real property from an independent third-party seller shall be evidenced by a current appraisal prepared by a licensed Washington State commercial real estate appraiser, or a current property tax statement.
- B. GRANTEE purchases of real property from a subsidiary organization, such as an affiliated LLC, shall be evidenced by a current appraisal prepared by a licensed Washington State commercial real estate appraiser or the prior purchase price of the property plus holding costs, whichever is less.

7. EXPENDITURES ELIGIBLE FOR REIMBURSEMENT

Payments to the Grantee shall be made on a reimbursement basis only. The GRANTEE may be reimbursed for the following eligible costs related to the activities identified in the SCOPE OF WORK shown on Attachment A.

- A. Real property, and costs directly associated with such purchase, when purchased or acquired solely for the purposes of the Project;
- B. Design, engineering, architectural, and planning;
- C. Construction management and observation (from external sources only);
- D. Construction costs including, but not limited to, the following:
 - Site preparation and improvements;
 - Permits and fees;
 - Labor and materials;
 - Taxes on Project goods and services;
 - Capitalized equipment;
 - Information technology infrastructure; and
 - Landscaping.
- F. Other costs authorized through the legislation.

8. **BILLING PROCEDURES AND PAYMENT**

COMMERCE shall reimburse the GRANTEE for eligible Project expenditures, up to the maximum payable under this Grant Agreement. When requesting reimbursement for expenditures made, the GRANTEE shall submit to COMMERCE a signed and completed Invoice Voucher (Form A-19), that documents capitalized Project activity performed for the billing period. The GRANTEE can submit all Invoice Vouchers and any required documentation electronically through COMMERCE's Contracts Management System (CMS), which is available through the Secure Access Washington (SAW) portal.

The GRANTEE shall evidence the costs claimed on each voucher by including copies of each invoice received from vendors providing Project goods or services covered by the Grant Agreement. The GRANTEE shall also provide COMMERCE with a copy of the cancelled check or electronic funds transfer, as applicable, that confirms that they have paid each expenditure being claimed. The cancelled checks or electronic funds transfers may be submitted to COMMERCE at the time the voucher is initially submitted, or within thirty (30) days.

The voucher must be certified (signed) by an official of the GRANTEE with authority to bind the GRANTEE. The final voucher shall be submitted to COMMERCE within sixty (60) days following the completion of work or other termination of this Grant Agreement, or within fifteen (15) days following the end of the state biennium unless Grant Agreement funds are reappropriated by the Legislature in accordance with Special Terms and Conditions Section 19.

If GRANTEE has or will be submitting any of the invoices attached to a request for payment for partial reimbursement under another grant contract, GRANTEE must clearly identify such grant contracts in the transmittal letter and request for payment.

Each request for payment must be accompanied by a Project Status Report, which describes, in narrative form, the progress made on the Project since the last invoice was submitted, as well as a report of Project status to date. COMMERCE will not release payment for any reimbursement request received unless and until the Project Status Report is received. After approving the Invoice Voucher and Project Status Report, COMMERCE shall promptly remit a warrant to the GRANTEE.

COMMERCE will pay GRANTEE upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE **not more often than monthly**.

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

COMMERCE may, in its sole discretion, terminate the Grant Agreement or withhold payments claimed by the GRANTEE for services rendered if the GRANTEE fails to satisfactorily comply with any term or condition of this Grant Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Duplication of Billed Costs

The GRANTEE shall not bill COMMERCE for services performed under this Grant Agreement, and COMMERCE shall not pay the GRANTEE, if the GRANTEE is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The GRANTEE is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subgrantees.

9. SUBCONTRACTOR DATA COLLECTION

GRANTEE will submit reports, in a form and format to be provided by COMMERCE and at intervals as agreed by the parties, regarding work under this Grant Agreement performed by subcontractors and the portion of grant funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

10. CLOSEOUT CERTIFICATION

The GRANTEE shall complete and submit a Closeout Certification Form when:

- A. All activities identified in the SCOPE OF WORK shown on Attachment A are complete and the project is useable to the public for the purpose intended by the Legislature, or
- B. When final payment is made and Grantee has certified that the whole project will be completed and the public benefit described maintained for the term of the commitment period.
- C. Notwithstanding anything in A. or B. above, the right to recapture funds or seek other remedies for failure to make the project usable to the public shall survive the closeout or termination of this contract.

11. INSURANCE

A. Insurance Requirements for Reimbursable Activities

The GRANTEE will maintain appropriate insurance coverage throughout any period in which reimbursable activities are conducted. The intent of the required insurance is to protect the state of Washington should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the GRANTEE, or Subgrantee, or agents of either, while performing under the terms of this Grant Agreement.

B. Additional Insurance Requirements During the Term of the Grant Agreement

The GRANTEE shall provide proof to COMMERCE of the following insurance coverage as applicable:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability related to this Grant Agreement but no less than

\$1,000,000 per occurrence. Additionally, the GRANTEE is responsible for ensuring that any Subgrantee/subcontractor provide adequate insurance coverage for the activities arising out of subgrants/subcontracts. Commercial General Liability Insurance coverage shall be maintained in full force and effect during the term of this Grant Agreement and throughout the commitment period described in Special Terms and Conditions Section 5, 15, and 16.

Property Insurance. The GRANTEE shall keep the property insured in an amount sufficient to permit such insurance to be written at all times on a replacement cost basis. Such insurance shall cover the following hazards, as applicable:

- Loss or damage by fire and such other risks;
- Loss or damage from leakage or sprinkler systems now or hereafter installed in any building on the premises;
- Loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus now or hereafter installed in a building or building on the premises.

Property Insurance coverage shall be maintained in full force and effect during the term of this Grant Agreement and throughout the commitment period described in Special Terms and Conditions Section 5, 15, and 16.

Professional Liability, Errors and Omissions Insurance. If GRANTEE will be providing any professional services to be reimbursed under this Grant Agreement, the GRANTEE shall maintain Professional Liability or Errors and Omissions Insurance with minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the GRANTEE and licensed staff employed or under contract to the GRANTEE. The state of Washington, its agents, officers, and employees need *not* be named as additional insureds under this policy.

Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the GRANTEE for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

- A. The amount of fidelity coverage secured pursuant to this Grant Agreement shall be \$2,000,000 or the highest of planned reimbursement for the Grant Agreement period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.
- B. Subgrantees/subcontractors that receive \$10,000 or more per year in funding through this Grant Agreement shall secure fidelity insurance as noted above. Fidelity insurance secured by Subgrantees/subcontractors pursuant to this paragraph shall name the GRANTEE and the GRANTEE's fiscal agent as beneficiary.
- C. Fidelity Insurance coverage shall be maintained in full force and effect during the term of this Grant Agreement.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. The insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The GRANTEE shall instruct the insurers to give COMMERCE thirty (30) calendar days advance notice of any insurance cancellation or modification.

The GRANTEE shall provide to COMMERCE copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days advance written notice of cancellation.

During the term of the Grant Agreement, the GRANTEE shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

Professional Liability, Errors and Omissions Insurance. The GRANTEE shall require that any contractors providing professional services that are reimbursable under this Grant Agreement maintain Professional Liability or Errors and Omissions Insurance. The GRANTEE shall require such contractors to maintain minimum limits of no less than \$1,000,000 per occurrence. The state of Washington, its agents, officers, and employees need *not* be named as additional insureds under these policies.

GRANTEES and Local Governments that Participate in a Self-Insurance Program.

Self-Insured/Liability Pool or Self-Insured Risk Management Program – With prior approval from COMMERCE, the GRANTEE may provide the coverage above under a self-insured/liability pool or self-insured risk management program. In order to obtain permission from COMMERCE, the GRANTEE shall provide: (1) a description of its self-insurance program, and (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards promulgated by: 1) Governmental Accounting Standards Board (GASB), 2) Financial Accounting Standards Board (FASB), and 3) the Washington State Auditor's annual instructions for financial reporting. GRANTEE's participating in joint risk pools shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. The state of Washington, its agents, and employees need not be named as additional insured under a self-insured property/liability pool, if the pool is prohibited from naming third parties as additional insured.

GRANTEE shall provide annually to COMMERCE a summary of coverages and a letter of self insurance, evidencing continued coverage under GRANTEE's self-insured/liability pool or self-insured risk management program. Such annual summary of coverage and letter of self insurance will be provided on the anniversary of the start date of this Agreement.

12. ORDER OF PRECEDENCE

In the event of an inconsistency in this Grant Agreement, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Declarations page of this Grant Agreement
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Certification of the Availability of Funds to Complete the Project
- Attachment C – Certification of the Payment and Reporting of Prevailing Wages
- Attachment D – Certification of Intent to Enter the Leadership in Energy and Environmental Design (LEED) Certification Process

13. REDUCTION IN FUNDS

In the event state funds appropriated for the work contemplated under this Grant Agreement are withdrawn, reduced, or limited in any way by the Governor or the Washington State Legislature, or other funding source, during the Grant Agreement period, Commerce may suspend, amend, or terminate the contract.

14. OWNERSHIP OF PROJECT/CAPITAL FACILITIES

COMMERCE makes no claim to any real property improved or constructed with funds awarded under this Grant Agreement and does not assert and will not acquire any ownership interest in or title to the capital facilities and/or equipment constructed or purchased with state funds under this Grant Agreement; provided, however, that COMMERCE may be granted a security interest in real property, to secure funds awarded under this Grant Agreement. This provision does not extend to claims that

COMMERCE may bring against the GRANTEE in recapturing funds expended in violation of this Grant Agreement.

15. CHANGE OF OWNERSHIP OR USE FOR GRANTEE-OWNED PROPERTY

- A. The GRANTEE understands and agrees that any and all real property or facilities owned by the GRANTEE that are acquired, constructed, or otherwise improved by the GRANTEE using state funds under this Grant Agreement, shall be held and used by the GRANTEE for the purpose or purposes stated elsewhere in this Grant Agreement for a period of at least ten (10) years from the later of: (1) the date the final payment is made hereunder; or (2) the date when the facility improved or acquired with grant funds, or a distinct phase of the project, is made useable to the public for the purpose intended by the Legislature.
- B. This provision shall not be construed to prohibit the GRANTEE from selling any property or properties described in this section; **Provided that**, any such sale shall be subject to prior review and approval by COMMERCE, and that all proceeds from such sale shall be applied to the purchase price of a different facility or facilities of equal or greater value than the original facility and that any such new facility or facilities will be used for the purpose or purposes stated elsewhere in this Grant Agreement.
- C. In the event the GRANTEE is found to be out of compliance with this section, the GRANTEE shall repay to the state general fund the principal amount of the grant as stated on the Face Sheet, hereof, plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the effective date of the legislation in which the subject facility was authorized. Repayment shall be made pursuant to General Terms and Conditions Section 27 (Recapture provision).

16. CHANGE OF USE FOR LEASED PROPERTY PERFORMANCE MEASURE

- A. The GRANTEE understands and agrees that any facility leased by the GRANTEE that is constructed, renovated, or otherwise improved using state funds under this Grant Agreement shall be used by the GRANTEE for the purpose or purposes stated elsewhere in this Grant Agreement for a period of at least ten (10) years from the later of: (1) the date the final payment is made; or (2) the date when the facility improved or acquired with grant funds, or a distinct phase of the project, is made useable to the public for the purpose intended by the Legislature.
- B. In the event the GRANTEE is found to be out of compliance with this section, the GRANTEE shall repay to the state general fund the principal amount of the grant as stated on the Face Sheet,, plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the effective date of the legislation in which the subject facility was authorized. Repayment shall be made pursuant to General Terms and Conditions Section 27 (Recapture Provision).

17. SIGNAGE, MARKERS AND PUBLICATIONS

If, during the period covered by this Grant Agreement, the GRANTEE displays or circulates any communication, publication, or donor recognition identifying the financial participants in the Project, any such communication or publication must identify "The Taxpayers of Washington State" as a participant.

18. HISTORICAL AND CULTURAL ARTIFACTS

Prior to approval and disbursement of any funds awarded under this Contract, GRANTEE shall cooperate with COMMERCE to complete the requirements of Governor's Executive Order 21-02 or GRANTEE shall complete a review under Section 106 of the National Historic Preservation Act, if applicable. GRANTEE agrees that the GRANTEE is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural resources and agrees to hold harmless COMMERCE and the state of Washington in relation to any claim related to such historical or cultural resources discovered, disturbed, or damaged as a result of the project funded by this Contract.

In addition to the requirements set forth in this Contract, GRANTEE shall, in accordance with Governor's Executive Order 21-02 as applicable, coordinate with Commerce and the Washington State Department of Archaeology and Historic Preservation ("DAHP"), including any recommended consultation with any affected tribe(s), during Project design and prior to construction to determine the existence of any tribal cultural resources affected by Project. GRANTEE agrees to avoid, minimize, or mitigate impacts to the cultural resource as a continuing prerequisite to receipt of funds under this Contract.

The GRANTEE agrees that, unless the GRANTEE is proceeding under an approved historical and cultural monitoring plan or other memorandum of agreement, if historical or cultural artifacts are discovered during construction, the GRANTEE shall immediately stop construction and notify the local historical preservation officer and the state's historical preservation officer at DAHP, and the Commerce Representative identified on the Face Sheet. If human remains are uncovered, the GRANTEE shall report the presence and location of the remains to the coroner and local enforcement immediately, then contact DAHP and the concerned tribe's cultural staff or committee.

The GRANTEE shall require this provision to be contained in all subcontracts for work or services related to the Scope of Work attached hereto.

In addition to the requirements set forth in this Contract, GRANTEE agrees to comply with RCW 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and WAC 25-48 regarding Archaeological Excavation and Removal Permits.

Completion of the requirements of Section 106 of the National Historic Preservation Act shall substitute for completion of Governor's Executive Order 21-02.

In the event that the GRANTEE finds it necessary to amend the Scope of Work the GRANTEE may be required to re-comply with Governor's Executive Order 21-02, or Section 106 of the National Historic Preservation Act.

19. REAPPROPRIATION

- A. The parties hereto understand and agree that any state funds not expended by the BIENNIUM CLOSE DATE listed on the Declarations page will lapse on that date unless specifically reappropriated by the Washington State Legislature. If funds are so reappropriated, the state's obligation under the terms of this Grant Agreement shall be contingent upon the terms of such reappropriation.
- B. In the event any funds awarded under this Grant Agreement are reappropriated for use in a future biennium, COMMERCE reserves the right to assign a reasonable share of any such reappropriation for administrative costs.

20. TERMINATION FOR FRAUD OR MISREPRESENTATION

In the event the GRANTEE commits fraud or makes any misrepresentation in connection with the Grant application or during the performance of this Grant Agreement, COMMERCE reserves the right to terminate or amend this Grant Agreement accordingly, including the right to recapture all funds disbursed to the GRANTEE under the Grant Agreement.

21. APPLICABILITY OF COPYRIGHT PROVISIONS TO ARCHITECTURAL/ENGINEERING DESIGN WORK

The "Copyright Provisions", General Terms and Conditions Section 13, are not intended to apply to any architectural and engineering design work funded by this grant.

22. FRAUD AND OTHER LOSS REPORTING

Contractor/Grantee shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable to the Commerce Representative identified on the Face Sheet.

23. PUBLIC RECORDS ACT

Notwithstanding General Terms and Conditions Section 11 (Confidentiality/Safeguarding of Information, COMMERCE is a public agency subject to the Public Records Act, RCW 42.56 (the PRA). Under the PRA, all materials relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by COMMERCE or its functional equivalents are considered public records. The PRA requires that public records responsive to a public records request be promptly produced unless the PRA or an "other statute" exempts such records from production. This Agreement is not intended to alter COMMERCE's obligations under the PRA. The parties agree that if COMMERCE receives a public records request for files that may include confidential information under General Terms and Conditions Section 11, COMMERCE will notify the other party of the request and of the date that the records will be released to the requester unless GRANTEE obtains a court order enjoining disclosure. If the GRANTEE fails to obtain the court order enjoining disclosure, COMMERCE may release the requested information on the date specified. If the GRANTEE obtains a court order from a court of competent jurisdiction enjoining disclosure pursuant to the PRA, COMMERCE shall maintain the confidentiality of the information per the court order.

GENERAL TERMS AND CONDITIONS

GENERAL GRANT STATE FUNDS

1. **DEFINITIONS**

As used throughout this Grant Agreement, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "COMMERCE" shall mean the Department of Commerce.
- C. "GRANTEE" shall mean the entity identified on the Face Sheet performing service(s) under this Grant Agreement, and shall include all employees and agents of the GRANTEE.
- D. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- E. "State" shall mean the state of Washington.
- F. "Subgrantee/subcontractor" shall mean one not in the employment of the GRANTEE, who is performing all or part of those services under this Grant Agreement under a separate Grant Agreement with the GRANTEE. The terms "subgrantee/subcontractor" refers to any tier.
- G. "Subrecipient" shall mean a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. It also excludes vendors that receive federal funds in exchange for goods and/or services in the course of normal trade or commerce.
- H. "Vendor" shall mean an entity that agrees to provide the amount and kind of services requested by COMMERCE; provides services under the grant only to those beneficiaries individually determined to be eligible by COMMERCE and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards.
- I. "Grant Agreement" and "Agreement" shall mean the entire written agreement between COMMERCE and the GRANTEE, including any attachments, exhibits, documents, or materials incorporated by reference, and any amendments executed by the parties.

2. **ACCESS TO DATA**

In compliance with RCW 39.26.180, the GRANTEE shall provide access to data generated under this Grant Agreement to COMMERCE, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the GRANTEE's reports, including computer models and the methodology for those models.

3. **ADVANCE PAYMENTS PROHIBITED**

No payments in advance of or in anticipation of goods or services to be provided under this Grant Agreement shall be made by COMMERCE.

4. **ALL WRITINGS CONTAINED HEREIN**

This Grant Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant Agreement shall be deemed to exist or to bind any of the parties hereto.

5. **AMENDMENTS**

This Grant Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

6. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, ALSO REFERRED TO AS THE "ADA" 28 CFR PART 35

The GRANTEE 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.

7. ASSIGNMENT

Neither this Grant Agreement, nor any claim arising under this Grant Agreement, shall be transferred or assigned by the GRANTEE without prior written consent of COMMERCE.

8. ATTORNEYS' FEES

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

9. AUDIT

A. General Requirements

COMMERCE reserves the right to require an audit. If required, GRANTEES are to procure audit services based on the following guidelines.

The GRANTEE shall maintain its records and accounts so as to facilitate audits and shall ensure that subgrantees also maintain auditable records.

The GRANTEE is responsible for any audit exceptions incurred by its own organization or that of its subgrantees.

COMMERCE reserves the right to recover from the GRANTEE all disallowed costs resulting from the audit.

Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The GRANTEE must respond to COMMERCE requests for information or corrective action concerning audit issues within thirty (30) days of the date of request.

B. State Funds Requirements

In the event an audit is required, if the GRANTEE is a state or local government entity, the Office of the State Auditor shall conduct the audit. Audits of non-profit organizations are to be conducted by a certified public accountant selected by the GRANTEE.

The GRANTEE shall include the above audit requirements in any subcontracts.

In any case, the GRANTEE's records must be available for review by COMMERCE.

C. Documentation Requirements

The GRANTEE must send a copy of the audit report described above no later than nine (9) months after the end of the GRANTEE's fiscal year(s) by sending a scanned copy to comacctoffice@commerce.wa.gov or a hard copy to:

Department of Commerce
ATTN: Audit Review and Resolution Office
1011 Plum Street SE
PO Box 42525
Olympia WA 98504-2525

In addition to sending a copy of the audit, when applicable, the GRANTEE must include:

- Corrective action plan for audit findings within three (3) months of the audit being received by COMMERCE.
- Copy of the Management Letter.

If the GRANTEE is required to obtain a Single Audit consistent with Circular A-133 requirements, a copy must be provided to COMMERCE; no other report is required.

10. BREACHES OF OTHER STATE CONTRACTS

GRANTEE is expected to comply with all other contracts executed between GRANTEE and the State of Washington. A breach of any other agreement entered into between GRANTEE and the State of Washington may, in COMMERCE's discretion, be deemed a breach of this Agreement.

11. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

- A. "Confidential Information" as used in this section includes:
1. All material provided to the GRANTEE by COMMERCE that is designated as "confidential" by COMMERCE;
 2. All material produced by the GRANTEE that is designated as "confidential" by COMMERCE; and
 3. All personal information in the possession of the GRANTEE that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- B. The GRANTEE shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The GRANTEE shall use Confidential Information solely for the purposes of this Grant Agreement and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The GRANTEE shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the GRANTEE shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant Agreement whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The GRANTEE shall make the changes within the time period specified by COMMERCE. Upon request, the GRANTEE shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the GRANTEE against unauthorized disclosure.
- C. Unauthorized Use or Disclosure. The GRANTEE shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

12. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, COMMERCE may, in its sole discretion, by written notice to the GRANTEE terminate this Grant Agreement if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, RCW 42.52 and RCW 42.23; or any similar statute involving the GRANTEE in the procurement of, or performance under this Grant Agreement.

Specific restrictions apply to contracting with current or former state employees pursuant to RCW 42.52. The GRANTEE and their subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked on this Grant Agreement, or any matter related to the project funded under this Grant Agreement or any other state funded project, including but not limited to

formulating or drafting legislation, participating in grant procurement, planning and execution, awarding grants, or monitoring grants, during the 24 month period preceding the start date of this Grant Agreement. Any person identified by the GRANTEE and their subcontractors(s) must be identified individually by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by COMMERCE that a conflict of interest exists, the GRANTEE may be disqualified from further consideration for the award of a Grant Agreement.

In the event this Grant Agreement is terminated as provided above, COMMERCE shall be entitled to pursue the same remedies against the GRANTEE as it could pursue in the event of a breach of the Grant Agreement by the GRANTEE. The rights and remedies of COMMERCE provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which COMMERCE makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Grant Agreement.

13. COPYRIGHT PROVISIONS

Unless otherwise provided, all Materials produced under this Grant Agreement shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the GRANTEE hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant Agreement, but that incorporate pre-existing materials not produced under the Grant Agreement, the GRANTEE hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The GRANTEE warrants and represents that the GRANTEE has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The GRANTEE shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Grant Agreement, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant Agreement. The GRANTEE shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the GRANTEE with respect to any Materials delivered under this Grant Agreement. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the GRANTEE.

14. DISPUTES

Except as otherwise provided in this Grant Agreement, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the GRANTEE's name, address, and Grant Agreement number; and
- be mailed to the Director and the other party's (respondent's) Grant Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

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

Nothing in this Grant Agreement shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

15. DUPLICATE PAYMENT

COMMERCE shall not pay the GRANTEE, if the GRANTEE has charged or will charge the State of Washington or any other party under any other grant, subgrant/subcontract, or agreement, for the same services or expenses. The GRANTEE certifies that work to be performed under this contract does not duplicate any work to be charged against any other grant, subgrant/subcontract, or agreement.

16. GOVERNING LAW AND VENUE

This Grant Agreement shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

17. INDEMNIFICATION

To the fullest extent permitted by law, the GRANTEE shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. "Claim" as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The GRANTEE'S obligation to indemnify, defend, and hold harmless includes any claim by GRANTEE'S agents, employees, representatives, or any subcontractor or its employees.

The GRANTEE'S obligation shall not include such claims that may be caused by the sole negligence of the State and its agencies, officials, agents, and employees. If the claims or damages are caused by or result from the concurrent negligence of (a) the State, its agents or employees and (b) the GRANTEE, its subcontractors, agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the GRANTEE or its subcontractors, agents, or employees.

The GRANTEE waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

18. INDEPENDENT CAPACITY OF THE GRANTEE

The parties intend that an independent contractor relationship will be created by this Grant Agreement. The GRANTEE and its employees or agents performing under this Grant Agreement are not employees or agents of the state of Washington or COMMERCE. The GRANTEE will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the GRANTEE make any claim of right, privilege or benefit which would accrue

to such officer or employee under law. Conduct and control of the work will be solely with the GRANTEE.

19. INDUSTRIAL INSURANCE COVERAGE

The GRANTEE shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the GRANTEE fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the GRANTEE the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the GRANTEE to the accident fund from the amount payable to the GRANTEE by COMMERCE under this Grant Agreement, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the GRANTEE.

20. LAWS

The GRANTEE shall comply with all applicable laws, ordinances, codes, regulations and policies of local and state and federal governments, as now or hereafter amended.

21. LICENSING, ACCREDITATION AND REGISTRATION

The GRANTEE shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Grant Agreement.

22. LIMITATION OF AUTHORITY

Only the Authorized Representative or Authorized Representative's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Grant Agreement. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Grant Agreement is not effective or binding unless made in writing and signed by the Authorized Representative.

23. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Grant Agreement, the GRANTEE shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the GRANTEE's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Grant Agreement may be rescinded, canceled or terminated in whole or in part, and the GRANTEE may be declared ineligible for further Grants with COMMERCE. The GRANTEE shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein. The funds provided under this contract may not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this grant.

24. PAY EQUITY

The GRANTEE agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- a. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- b. GRANTEE may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
 - (i) A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
 - (ii) A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.

(iii) A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Grant Agreement may be terminated by COMMERCE, if COMMERCE or the Department of Enterprise services determines that the GRANTEE is not in compliance with this provision.

25. POLITICAL ACTIVITIES

Political activity of GRANTEE employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17a RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

26. PUBLICITY

The GRANTEE agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

27. RECAPTURE

In the event that the GRANTEE fails to perform this Grant Agreement in accordance with state laws, federal laws, and/or the provisions of this Grant Agreement, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the GRANTEE of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Grant Agreement.

28. RECORDS MAINTENANCE

The GRANTEE shall maintain books, records, documents, data and other evidence relating to this Grant Agreement and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Grant Agreement.

GRANTEE shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Grant Agreement, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

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 resolved.

29. REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the GRANTEE shall complete registration with the Washington State Department of Revenue.

30. RIGHT OF INSPECTION

At no additional cost, the GRANTEE shall provide right of access to its facilities to COMMERCE, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Grant Agreement.

31. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant Agreement and prior to normal completion, COMMERCE may terminate the Grant Agreement under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Grant Agreement may be amended to reflect the new funding limitations and conditions.

32. SEVERABILITY

The provisions of this Grant Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Grant Agreement.

33. SITE SECURITY

While on COMMERCE premises, GRANTEE, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

34. SUBGRANTING/SUBCONTRACTING

Neither the GRANTEE nor any subgrantee/subcontractor shall enter into subgrants/subcontracts for any of the work contemplated under this Grant Agreement without obtaining prior written approval of COMMERCE. In no event shall the existence of the subgrant/subcontract operate to release or reduce the liability of the GRANTEE to COMMERCE for any breach in the performance of the GRANTEE's duties. This clause does not include Grants of employment between the GRANTEE and personnel assigned to work under this Grant Agreement.

Additionally, the GRANTEE is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subgrants/subcontracts. Every subgrant/subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a subgrantee's/subcontractor's performance of the subgrant/subcontract. GRANTEE and its subgrantees/subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of COMMERCE or as provided by law.

35. SURVIVAL

The terms, conditions, and warranties contained in this Grant that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Grant shall so survive.

36. TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the GRANTEE's income or gross receipts, any other taxes, insurance or expenses for the GRANTEE or its staff shall be the sole responsibility of the GRANTEE.

37. TERMINATION FOR CAUSE

In the event COMMERCE determines the GRANTEE has failed to comply with the conditions of this Grant in a timely manner, COMMERCE has the right to suspend or terminate this Grant. Before suspending or terminating the Grant Agreement, COMMERCE shall notify the GRANTEE in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the Grant Agreement may be terminated or suspended.

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

COMMERCE reserves the right to suspend all or part of the Grant Agreement, withhold further payments, or prohibit the GRANTEE from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the GRANTEE or a decision by COMMERCE to terminate the Grant Agreement. A termination shall be deemed a "Termination for Convenience" if it is determined that the GRANTEE: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this Grant Agreement are not exclusive and are, in addition to any other rights and remedies, provided by law.

38. TERMINATION FOR CONVENIENCE

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

39. TERMINATION PROCEDURES

Upon termination of this Grant Agreement, COMMERCE, in addition to any other rights provided in this Grant Agreement, may require the GRANTEE to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this Grant Agreement as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the GRANTEE the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the GRANTEE and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the AUTHORIZED REPRESENTATIVE shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Grant Agreement. COMMERCE may withhold from any amounts due the GRANTEE such sum as the AUTHORIZED REPRESENTATIVE determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Grant Agreement.

After receipt of a notice of termination, and except as otherwise directed by the AUTHORIZED REPRESENTATIVE, the GRANTEE shall:

1. Stop work under the Grant Agreement on the date, and to the extent specified, in the notice;
2. Place no further orders or subgrants/subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Grant Agreement that is not terminated;
3. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the AUTHORIZED REPRESENTATIVE, all of the rights, title, and interest of the GRANTEE under the orders and subgrants/subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subgrants/subcontracts;
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the AUTHORIZED REPRESENTATIVE to the extent AUTHORIZED REPRESENTATIVE may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the AUTHORIZED REPRESENTATIVE any property which, if the Grant Agreement had been completed, would have been required to be furnished to COMMERCE;

6. Complete performance of such part of the work as shall not have been terminated by the AUTHORIZED REPRESENTATIVE; and
7. Take such action as may be necessary, or as the AUTHORIZED REPRESENTATIVE may direct, for the protection and preservation of the property related to this Grant Agreement, which is in the possession of the GRANTEE and in which COMMERCE has or may acquire an interest.

40. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the GRANTEE, for the cost of which the GRANTEE is entitled to be reimbursed as a direct item of cost under this Grant Agreement, shall pass to and vest in COMMERCE upon delivery of such property by the GRANTEE. Title to other property, the cost of which is reimbursable to the GRANTEE under this Grant Agreement, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this Grant Agreement, or (ii) commencement of use of such property in the performance of this Grant Agreement, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

- A. Any property of COMMERCE furnished to the GRANTEE shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this Grant Agreement.
- B. The GRANTEE shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the GRANTEE or which results from the failure on the part of the GRANTEE to maintain and administer that property in accordance with sound management practices.
- C. If any COMMERCE property is lost, destroyed or damaged, the GRANTEE shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.
- D. The GRANTEE shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this Grant Agreement

All reference to the GRANTEE under this clause shall also include GRANTEE'S employees, agents or subgrantees/subcontractors.

41. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant Agreement unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

ATTACHMENT A - SCOPE OF WORK

Funds awarded under this grant will be used for capital expenditures to rehabilitate wetland and to design and construct an interpretive trail in the Algona Wetland Preserve located in the Southwest corner of Ellingson Road and Pacific Avenue N, Algona WA 98101.

Activities eligible for reimbursement will include and not be limited to design, demolition and site preparation, landscaping, and construction.

Project will enhance and rehabilitate a degraded portion of an otherwise functional wetland, bringing over half an acre back to life by removing invasive reed canary grass and blackberries, and replanting disturbed areas with native wetland trees, shrubs, and groundcovers; as well as grading to create a flow path and connection to the site’s stream. Project will design and install a system of at-grade trails and an elevated accessible boardwalk with two observation platforms which will provide year-round access not limited by season or mobility. Educational exhibits and signage will be incorporated, which will explain the use of wetland plants for food and medicine by ancestral and contemporary peoples and reflect on the functions and values of wetlands for improving water quality, reducing flooding, and nurturing fish and wildlife. Trails will enable residents, visitors, and school children the opportunity to interact with nature within their urban surrounds and afford outdoor education and community building opportunities with improved public open space, educational opportunities, wetland functions and habitats.

This project began in October 2023 and to be complete by October 2024.

Costs related to the work will only be reimbursed to the extent the work is determined by Commerce to be within the scope of the legislative appropriation.

CERTIFICATION PERFORMANCE MEASURE

The GRANTEE, by its signature, certifies that the declaration set forth above has been reviewed and approved by the GRANTEE’s governing body as of the date and year written below.

GRANTEE

TITLE

DATE

Section 9, Item A.

ATTACHMENT B - CERTIFICATION OF THE AVAILABILITY OF FUNDS TO COMPLETE THE PROJECT

Type of Funding	Source Description	Amount
Grant	Washington State Department of Commerce	\$582,000.00
Other Grants		
Grant #1	King County Council Parks Levy Grant	\$1,000,000.00
Total Other Grants		\$1,000,000.00
Other Loans		
Loan #1		\$
Total Loans		\$0.00
Other Local Revenue		
Source #1		\$
Total Local Revenue		\$0.00
Other Funds		
Source #1		\$
Total Other Funds		\$0.00
Total Project Funding		\$1,582,000.00

CERTIFICATION PERFORMANCE MEASURE

The GRANTEE, by its signature, certifies that project funding from sources other than those provided by this Grant Agreement and identified above has been reviewed and approved by the GRANTEE's governing body or board of directors, as applicable, and has either been expended for eligible Project expenses, or is committed in writing and available and will remain committed and available solely and specifically for carrying out the purposes of this Project as described in elsewhere in this Grant Agreement, as of the date and year written below. The GRANTEE shall maintain records sufficient to evidence that it has expended or has access to the funds needed to complete the Project, and shall make such records available for COMMERCE's review upon reasonable request.

GRANTEE

TITLE

DATE

Section 9, Item A.

ATTACHMENT C - CERTIFICATION OF THE PAYMENT AND REPORTING OF PREVAILING WAGES**CERTIFICATION PERFORMANCE MEASURE**

The GRANTEE, by its signature, certifies that all contractors and subcontractors performing work on the Project shall comply with prevailing wage laws set forth in Chapter 39.12 RCW, as applicable on the date the appropriation becomes effective, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The GRANTEE shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for COMMERCE's review upon request.

If any state funds are used by the GRANTEE for the purpose of construction, applicable State Prevailing Wages must be paid.

The GRANTEE, by its signature, certifies that the declaration set forth above has been reviewed and approved by the GRANTEE's governing body as of the date and year written below.

GRANTEE

TITLE

DATE

Section 9, Item A.

ATTACHMENT D - CERTIFICATION OF INTENT TO ENTER THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) CERTIFICATION PROCESS

CERTIFICATION PERFORMANCE MEASURE

The GRANTEE, by its signature, certifies that it will enter into the Leadership in Energy and Environmental Design certification process, as stipulated in RCW 39.35D, as applicable to the Project funded by this Grant Agreement. The GRANTEE shall, upon receipt of LEED certification by the United States Green Building Council, provide documentation of such certification to COMMERCE.

The GRANTEE, by its signature, certifies that the declaration set forth above has been reviewed and approved by the GRANTEE's governing body or board of directors, as applicable, as of the date and year written below.

GRANTEE

TITLE

DATE

NOT APPLICABLE



Budget Authorization Geoffrey Bracken	<div><div>DS</div><div></div></div>	11/28/2023 10:40 AM PST
Grant Manager Mara Isaacson	<div><div>DS</div><div></div></div>	11/28/2023 10:45 AM PST
Grant Manager		
Managing Director		
Deputy Assistant Director		
Assistant Director		

Certificate Of Completion

Envelope Id: CC6FA355C92646C5B25781C71E7E6EDE
 Subject: Complete with DocuSign: Contract_24-96647-010
 Division:

Status: Sent

Local Government
 Program: CDA LCP

ContractNumber: 24-96647-010

DocumentType: Contract

Source Envelope:

Document Pages: 33

Signatures: 0

Envelope Originator:

Certificate Pages: 5

Initials: 2

Mara Isaacson

AutoNav: Enabled

1011 Plum Street SE

Envelopeld Stamping: Enabled

MS 42525

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Olympia, WA 98504-2525

mara.isaacson@commerce.wa.gov

IP Address: 147.55.149.246

Record Tracking

Status: Original
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Holder: Mara Isaacson
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Location: DocuSign

Security Appliance Status: Connected

Pool: StateLocal

Storage Appliance Status: Connected

Pool: Washington State Department of Commerce

Location: DocuSign

Signer Events**Signature****Timestamp**

Geoffrey Bracken
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 Security Level: Email, Account Authentication
 (None)



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Signature Adoption: Pre-selected Style
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Electronic Record and Signature Disclosure:
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 (None)



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 Signed: 11/28/2023 10:45:04 AM

Signature Adoption: Pre-selected Style
 Using IP Address: 147.55.149.191

Electronic Record and Signature Disclosure:
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 Accepted: 11/28/2023 10:46:27 AM
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Signer Events**Signature****Timestamp**

Section 9, Item A.

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Tony Hanson

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(None)**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Mark Barkley

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Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp****Intermediary Delivery Events****Status****Timestamp****Certified Delivery Events****Status****Timestamp****Carbon Copy Events****Status****Timestamp**

Sheila Lee

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Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

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Witness Events**Signature****Timestamp****Notary Events****Signature****Timestamp****Envelope Summary Events****Status****Timestamps**

Envelope Sent

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11/27/2023 3:54:00 PM

Payment Events**Status****Timestamps****Electronic Record and Signature Disclosure**

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Washington State Department of Commerce (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.15 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Washington State Department of Commerce:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: docusign@commerce.wa.gov

To advise Washington State Department of Commerce of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at docusign@commerce.wa.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Washington State Department of Commerce

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to docusign@commerce.wa.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Washington State Department of Commerce

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to docusign@commerce.wa.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Washington State Department of Commerce as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Washington State Department of Commerce during the course of your relationship with Washington State Department of Commerce.

**CITY COUNCIL****AGENDA BILL # AB24-0111**

City of Algona
200 Washington Blvd.
Algona, WA 98001

ITEM INFORMATION

SUBJECT: Transportation Improvement Board (TIB) Grant Agreement	Agenda Date: January 8, 2024		
	Department/Committee/Individual	Created	Reviewed
	Mayor		
	City Administrator	x	x
	City Attorney		x
	City Clerk		
	Finance Dept		
	PW/Utilities		
	Planning Dept		
		Community Services	
Cost Impact:	Police Dept		
Fund Source:	Finance Committee		
Timeline: 1 st review – 1/8/24	Planning Commission		
	Civil Service Committee		
Staff Contact: Public Works Director Russ Avery			
Attachments: TIB Grant Agreement			
SUMMARY STATEMENT: The City has been awarded \$678,600 to cover 90% of an overlay project on Ellingson from Pacific Ave to Union Pacific Railroad.			
COMMITTEE REVIEW AND RECOMMENDATION:			
RECOMMENDED ACTION:			
RECORD OF COUNCIL ACTION			
<i>Meeting Date:</i>	<i>Action:</i>	<i>Vote:</i>	



Washington State Transportation Improvement Board

TIB Members

Chair
Mayor Glenn Johnson
City of Pullman

Vice Chair
Councilmember Sam Low
Snohomish County

Amy Asher
Mason Transit Authority

Aaron Butters, PE
HW Lochner Inc.

Susan Carter
Hopelink

Kent Cash, PE
Port of Vancouver

Barbara Chamberlain
WSDOT

Elizabeth Chamberlain
City of Walla Walla

Dongho Chang, PE
WSDOT

Scott Chesney
Spokane County

Vicky Clarke
Cascade Bicycle Club/Washington Bikes

Mike Dahlem, PE
City of Sumner

Commissioner Al French
Spokane County

Councilmember Hilda González
City of Granger

Commissioner Scott Hutsell
Lincoln County

Les Reardanz
Whatcom Transportation Authority

Peter Rogalsky, PE
City of Richland

Mayor Kim Roscoe
City of Fife

Maria Thomas
Office of Financial Management

Jennifer Walker
Thurston County

Jane Wall
County Road Administration Board

Ashley Probart
Executive Director

P.O. Box 40901
Olympia, WA 98504-0901
Phone: 360-586-1140
Fax: 360-586-1165
www.tib.wa.gov

December 1, 2023

The Honorable Troy Linnell
Mayor
City of Algona
402 Warde Street
Algona, WA 98001-8505

Dear Mayor Linnell:

Congratulations! We are pleased to announce the selection of your project, Ellingson Road Overlay, Pacific Ave to UPRR, TIB project number 2-P-119(007)-1.

TIB is awarding 90.0000% of approved eligible project costs with a maximum grant of \$678,600.

Before any work is permitted on this project, you must complete and email the following items to your TIB engineer:

- Verify the information on the attached Project Funding Status Form and, revise if necessary. Sign and email a copy.
- Sign and email one copy of the Fuel Tax Grant Distribution Agreement.

You may only incur reimbursable expenses after you receive approval from TIB.

In accordance with RCW 47.26.084, you must certify full funding by December 2, 2024 or the grant may be terminated. Grants may also be rescinded due to unreasonable project delay as described in WAC 479-05-211.

If you have questions, please contact Greg Armstrong, TIB Project Engineer, at GregA@TIB.wa.gov.

Sincerely,

Ashley Probart
Executive Director

Enclosures



City of Algona
2-P-119(007)-1
Ellingson Road Overlay
Pacific Ave to UPRR

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
City of Algona
AGREEMENT

THIS GRANT AGREEMENT (hereinafter "Agreement") for the Ellingson Road Overlay, Pacific Ave to UPRR (hereinafter "Project") is entered into by the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (hereinafter "TIB") and City of Algona, a political subdivision of the State of Washington (hereinafter "RECIPIENT").

1.0 PURPOSE

For the project specified above, TIB shall pay 90.0000 percent of approved eligible project costs up to the amount of \$678,600, pursuant to terms contained in the RECIPIENT'S Grant Application, supporting documentation, chapter 47.26 RCW, title 479 WAC, and the terms and conditions listed below.

2.0 SCOPE AND BUDGET

The Project Scope and Budget are initially described in RECIPIENT's Grant Application and incorporated by reference into this Agreement. Scope and Budget will be further developed and refined, but not substantially altered during the Design, Bid Authorization and Construction Phases. Any material alterations to the original Project Scope or Budget as initially described in the Grant Application must be authorized by TIB in advance by written amendment.

3.0 PROJECT DOCUMENTATION

TIB requires RECIPIENT to make reasonable progress and submit timely Project documentation as applicable throughout the Project. Upon RECIPIENT's submission of each Project document to TIB, the terms contained in the document will be incorporated by reference into the Agreement. Required documents include, but are not limited to the following:

- a) Project Funding Status Form
- b) Bid Authorization Form with plans and engineers estimate
- c) Award Updated Cost Estimate
- d) Bid Tabulations
- e) Contract Completion Updated Cost Estimate with final summary of quantities
- f) Project Accounting History

4.0 BILLING AND PAYMENT

The local agency shall submit progress billings as project costs are incurred to enable TIB to maintain accurate budgeting and fund management. Payment requests may be submitted as



often as the RECIPIENT deems necessary, but shall be submitted at least quarterly if billable amounts are greater than \$50,000. If progress billings are not submitted, large payments may be delayed or scheduled in a payment plan.

5.0 TERM OF AGREEMENT

This Agreement shall be effective upon execution by TIB and shall continue through closeout of the grant or until terminated as provided herein, but shall not exceed 10 years unless amended by the Parties.

6.0 AMENDMENTS

This Agreement may be amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

7.0 ASSIGNMENT

The RECIPIENT shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The RECIPIENT is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the RECIPIENT's other rights under this Agreement.

8.0 GOVERNANCE & VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington and venue of any action brought hereunder shall be in the Superior Court for Thurston County.

9.0 DEFAULT AND TERMINATION

9.1 NON-COMPLIANCE

- a) In the event TIB determines, in its sole discretion, the RECIPIENT has failed to comply with the terms and conditions of this Agreement, TIB shall notify the RECIPIENT, in writing, of the non-compliance.
- b) In response to the notice, RECIPIENT shall provide a written response within 10 business days of receipt of TIB's notice of non-compliance, which should include either a detailed plan to correct the non-compliance, a request to amend the Project, or a denial accompanied by supporting details.
- c) TIB will provide 30 days for RECIPIENT to make reasonable progress toward compliance pursuant to its plan to correct or implement its amendment to the Project.
- d) Should RECIPIENT dispute non-compliance, TIB will investigate the dispute and may withhold further payments or prohibit the RECIPIENT from incurring additional reimbursable costs during the investigation.

9.2 DEFAULT

RECIPIENT may be considered in default if TIB determines, in its sole discretion, that:



- a) RECIPIENT is not making reasonable progress toward correction and compliance.
- b) TIB denies the RECIPIENT's request to amend the Project.
- c) After investigation TIB confirms RECIPIENT'S non-compliance.

TIB reserves the right to order RECIPIENT to immediately stop work on the Project and TIB may stop Project payments until the requested corrections have been made or the Agreement has been terminated.

9.3 TERMINATION

- a) In the event of default by the RECIPIENT as determined pursuant to Section 9.2, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which shall be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop work and/or take such action as may be directed by TIB.
- b) In the event of default and/or termination by either PARTY, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of grant funds.
- c) The rights and remedies of TIB provided in the AGREEMENT are not exclusive and are in addition to any other rights and remedies provided by law.

9.4 TERMINATION FOR NECESSITY

TIB may, with ten (10) days written notice, terminate this Agreement, in whole or in part, because funds are no longer available for the purpose of meeting TIB's obligations. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for performance rendered or costs incurred prior to the effective date of termination.

10.0 USE OF TIB GRANT FUNDS

TIB grant funds come from Motor Vehicle Fuel Tax revenue. Any use of these funds for anything other than highway or roadway system improvements is prohibited and shall subject the RECIPIENT to the terms, conditions and remedies set forth in Section 9. If Right of Way is purchased using TIB funds, and some or all of the Right of Way is subsequently sold, proceeds from the sale must be deposited into the RECIPIENT's motor vehicle fund and used for a motor vehicle purpose.

11.0 INCREASE OR DECREASE IN TIB GRANT FUNDS

At Bid Award and Contract Completion, RECIPIENT may request an increase in the maximum payable TIB funds for the specific project. Requests must be made in writing and will be considered by TIB and awarded at the sole discretion of TIB. All increase requests must be made pursuant to WAC 479-05-202 and/or WAC 479-01-060. If an increase is denied, the recipient shall be liable for all costs incurred in excess of the maximum amount payable by TIB. In the event that final costs related to the specific project are less than the initial grant award, TIB funds will be decreased and/or refunded to TIB in a manner that maintains the intended ratio between TIB funds and total project costs, as described in Section 1.0 of this Agreement.



12.0 INDEPENDENT CAPACITY

The RECIPIENT shall be deemed an independent contractor for all purposes and the employees of the RECIPIENT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TIB.

13.0 INDEMNIFICATION AND HOLD HARMLESS

The PARTIES agree to the following:

Each of the PARTIES, shall protect, defend, indemnify, and save harmless the other PARTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, that PARTY's own negligent acts or omissions which may arise in connection with its performance under this Agreement. No PARTY will be required to indemnify, defend, or save harmless the other PARTY if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other PARTY. Where such claims, suits, or actions result from the concurrent negligence of the PARTIES, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a PARTY's own negligence. Each of the PARTIES agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the PARTIES, by mutual negotiation, hereby waives, with respect to the other PARTY only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provision of Title 51 RCW. In any action to enforce the provisions of the Section, the prevailing PARTY shall be entitled to recover its reasonable attorney's fees and costs incurred from the other PARTY. The obligations of this Section shall survive termination of this Agreement.

14.0 DISPUTE RESOLUTION

- a) The PARTIES shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this AGREEMENT. The dispute resolution process outlined in this Section applies to disputes arising under or in connection with the terms of this AGREEMENT.
- b) Informal Resolution. The PARTIES shall use their best efforts to resolve disputes promptly and at the lowest organizational level.
- c) In the event that the PARTIES are unable to resolve the dispute, the PARTIES shall submit the matter to non-binding mediation facilitated by a mutually agreed upon mediator. The PARTIES shall share equally in the cost of the mediator.
- d) Each PARTY agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays or additional incurred cost to the Project.
- e) The PARTIES agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.



15.0 ENTIRE AGREEMENT

This Agreement, together with the RECIPIENT'S Grant Application, the provisions of chapter 47.26 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the PARTIES and supersedes all previous written or oral agreements between the PARTIES.

16.0 RECORDS MAINTENANCE

The RECIPIENT shall maintain 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. RECIPIENT shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement shall be subject at all reasonable times to inspection, review or audit by TIB personnel duly authorized by TIB, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

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 resolved.

Approved as to Form
Attorney General

By:

Signature on file

Guy Bowman
Assistant Attorney General

Lead Agency

Transportation Improvement Board

Chief Executive Officer

Date

Executive Director

Date

Print Name

Print Name

Small City Preservation Program (SCPP)
Approved Segment Listing
FY 2025 Overlay Program

Street	Termini	Pavement Length	Pavement Width
Ellingson Road	Pacific Ave to UPRR	3,400 feet	44 feet



Project Funding Status Form

Agency Name: **ALGONA**
Project Name: **Ellingson Road Overlay**
Pacific Ave to UPRR

TIB Project Number: **2-P-119(007)-1**

Verify the information below and revise if necessary. Email to: Your TIB Engineer

PROJECT SCHEDULE

Target Dates		
Construction Approval	Contract Bid Award	Contract Completion

PROJECT FUNDING PARTNERS

List additional funding partners and amount.

Funding Partners	Amount	Revised Funding
ALGONA	75,400	
WSDOT	0	
Federal Funds	0	
TOTAL LOCAL FUNDS	75,400	

Signatures are required from two different agency officials. Return the originally signed form to your TIB Engineer.

Mayor or Public Works Director

Signature

Date

Printed or Typed Name

Title

Financial Officer

Signature

Date

Printed or Typed Name

Title

**CITY COUNCIL****AGENDA BILL # AB24-0112**

City of Algona
200 Washington Blvd.
Algona, WA 98001

ITEM INFORMATION			
SUBJECT: EJ Municipal Land Use Planning Services	Agenda Date: January 8, 2024		
	Department/Committee/Individual	Created	Reviewed
	Mayor		X
	City Administrator	X	X
	City Attorney		X
	City Clerk		
	Finance Dept		
	PW/Utilities		
	Planning Dept		
	Community Services		
Cost Impact:	Police Dept		
Fund Source:	Finance Committee		
Timeline: 1 st review – 1/8/24	Planning Commission		
	Civil Service Committee		
Staff Contact: Jessica Griess, City Administrator			
Attachments: Draft Planning Services Contract			
SUMMARY STATEMENT: <p>In December, the City put out a RFP for on call planning services. We received four proposals and after reviewing all four, Mayor Linnell and City Administrator Griess is presenting a contract for EJ Municipal Planning as they seem to be the best fit. Eric is already familiar with ongoing projects and our vision for the future of the City. He has experience with small cities, has a proven track record for project and grant management, and the background in planning services.</p> <p>The contract is for two years with a budget of \$100,000 per year. Zach is still reviewing the contract and this is strictly a draft.</p>			
COMMITTEE REVIEW AND RECOMMENDATION:			
RECOMMENDED ACTION:			
RECORD OF COUNCIL ACTION			
<i>Meeting Date:</i>		<i>Action:</i>	<i>Vote:</i>

CONSULTANT AGREEMENT	
PROJECT TITLE AND IDENTIFICATION NUMBER	WORK DESCRIPTION Municipal Planning Services
CONSULTANT EJ Municipal Land Use Planning	CONSULTANT CONTACT NAME, ADDRESS AND TELEPHONE NO. Eric Jensen PO Box 2056 Kirkland, WA 98083 (206) 898-1843
FEDERAL I.D. NO.	BUDGET OR FUNDING SOURCE
PROJECT ADMINISTRATOR NAME, ADDRESS AND TELEPHONE NO.	MAXIMUM AMOUNT PAYABLE, IF ANY \$100,000 annually
COMPLETION DATE December 31 st , 2025	<input type="checkbox"/> Lump Sum <input type="checkbox"/> Cost Plus a Fixed Fee <input type="checkbox"/> Schedule Rate/Time and Materials <input checked="" type="checkbox"/> Time and Materials/Not to Exceed

THIS AGREEMENT is entered into on _____, 2024, between the City of Algona, Washington, hereinafter called "the CITY", and the above person, firm or organization, hereinafter called "the CONSULTANT".

WHEREAS, the CITY desires to accomplish the above-referenced project; and

WHEREAS, the CITY does not have sufficient staff or expertise to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary services for the project; and

WHEREAS, the CONSULTANT has represented to the CITY that the CONSULTANT is in compliance with the professional registration statutes of the State of Washington, if applicable, and has signified a willingness to furnish consulting services to the CITY, now, therefore,

IN CONSIDERATION OF the terms and conditions set forth below, or attached and incorporated and made a part hereof, the parties agree as follows:

1. Retention of Consultant - Scope of Work. The CITY hereby retains the CONSULTANT to provide professional services as defined in this agreement and as necessary to

accomplish the scope of work attached hereto as Attachment A and incorporated herein by this reference as if set forth in full. The CONSULTANT shall furnish all services, labor and related equipment necessary to conduct and complete the work, except as specifically noted otherwise in this agreement.

2. Completion of Work. The CONSULTANT shall not begin any work under the terms of this agreement until authorized in writing by the CITY. The CONSULTANT shall complete all work required by this agreement according to the schedule attached as Attachment B and incorporated herein by this reference as if set forth in full. A failure to complete the work according to the attached schedule, except where such failure is due to circumstances beyond the control of the CONSULTANT, shall be deemed a breach of this agreement. The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the CITY, in the event of a delay attributable to the CITY, or because of unavoidable delays caused by circumstances beyond the control of the CONSULTANT. All such extensions shall be in writing and shall be executed by both parties.

3. Payment. The CONSULTANT shall be paid by the CITY for satisfactorily completed work and services satisfactorily rendered under this agreement as provided in Attachment A, attached hereto and incorporated herein by this reference as if set forth in full. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in the Scope of Work attached. The CONSULTANT shall be entitled to invoice the CITY no more frequently than once per month during the course of the completion of work and services by the CONSULTANT. Invoices shall detail the work performed or services rendered, the time involved (if compensation is based on an hourly rate) and the amount to be paid. The CITY shall pay all such invoices within 45 days of submittal, unless the CITY gives notice that the invoice is in dispute. In no event shall the total of all invoices paid exceed the maximum amount payable set forth above, if any, and the CONSULTANT agrees to perform all services contemplated by this agreement for no more than said maximum amount.

4. Changes in Work. The CONSULTANT shall make such changes and revisions in the complete work provided by this agreement as may be necessary to correct errors made by the CONSULTANT and appearing therein when required to do so by the CITY. The CONSULTANT shall make such corrective changes and revisions without additional compensation from the CITY. Should the CITY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the CITY. This work shall be considered as Extra Work and will be paid for as provided in Section 5.

5. Extra Work.

A. The CITY may, at any time, by written order, make changes within the general scope of the agreement in the services to be performed. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work or services under this agreement, whether or not changed by the order, or otherwise affects any other terms or conditions of the agreement, the CITY shall make an equitable

adjustment in the (1) maximum amount payable; (2) delivery or completion schedule or both; and (3) other affected terms, and shall modify the agreement accordingly.

B. The CONSULTANT must submit any "proposal for adjustment" under this clause within 30 days from the date of receipt of the written order to make changes. However, if the CITY decides that the facts justify it, the CITY may receive and act upon a proposal submitted before final payment of the agreement.

C. Failure to agree to any adjustment shall be a dispute under the Disputes clause of this agreement, as provided in Section 13. Notwithstanding any such dispute, the CONSULTANT shall proceed with the agreement as changed.

D. Notwithstanding any other provision in this section, the maximum amount payable for this agreement shall not be increased or considered to be increased except by specific written amendment of this agreement.

6. Ownership of Work Product. Any and all documents, drawings, reports, and other work product produced by the CONSULTANT under this agreement shall become the property of the CITY upon payment of the CONSULTANT'S fees and charges therefore. The CITY shall have the complete right to use and re-use such work product in any manner deemed appropriate by the CITY, provided, that use on any project other than that for which the work product is prepared shall be at the CITY'S risk unless such use is agreed to by the CONSULTANT.

7. Independent Contractor. The CONSULTANT is an independent contractor for the performance of services under this agreement. The CITY shall not be liable for, nor obligated to pay to the CONSULTANT, or any employee of the CONSULTANT, sick leave, vacation pay, overtime or any other benefit applicable to employees of the CITY, nor to pay or deduct any social security, income tax, or other tax from the payments made to the CONSULTANT which may arise as an incident of the CONSULTANT performing services for the CITY. The CITY shall not be obligated to pay industrial insurance for the services rendered by the CONSULTANT.

8. Indemnification / Hold Harmless. The CONSULTANT shall defend, indemnify and hold the City, its officers, officials, employees and volunteers (collectively, "the CITY") harmless from any and all claims, injuries, damages, losses or suits, including attorneys' fees, arising out of, in connection with, or otherwise resulting in any manner from the performance of this agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the CONSULTANT and the City, the CONSULTANT'S liability hereunder shall only be to the extent of the CONSULTANT'S negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes the CONSULTANT'S waiver of immunity under the Industrial Insurance provisions

of Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

The provisions of this section shall survive the expiration or termination of this agreement.

9. Insurance. The CONSULTANT shall obtain and provide verification of insurance coverage of the type and amount specified in this section.

A. Minimum Scope of Insurance.

The CONSULTANT shall obtain insurance of the types described below:

(1). Worker's compensation and employer's liability insurance as required by the State of Washington;

(2). Commercial General Liability insurance written on Insurance Services Office (ISO) occurrence form CG 00 01 and covering liability arising from premises, operations, independent contractors and personal injury and advertising injury. The CITY shall be named as an insured under the CONSULTANT'S Commercial General Liability insurance policy with respect to any work performed for the CITY.

(3). Professional liability insurance, appropriate to CONSULTANT's field of expertise.

(4). Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on ISO form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

B. Minimum Amounts of Insurance.

The CONSULTANT shall maintain the following insurance limits:

(1) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

(2) Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence and \$2,000,000 general aggregate.

(3) Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

The amounts listed above are the minimum deemed necessary by the CITY to protect the CITY'S interests in this matter. The CITY has made no recommendation to the CONSULTANT as to the insurance necessary to protect the CONSULTANT'S interests and any decision by the

CONSULTANT to carry or not carry insurance amounts in excess of the above is solely that of the CONSULTANT.

C. Other Insurance Provisions.

(1) All insurance coverage required by this agreement shall be obtained from an insurance company authorized to do business in the State of Washington and holding a current A.M Best rating of not less than A:VII. Excepting professional liability insurance, the CITY will be named on all insurance as an additional insured. The certificates of insurance shall cover the work specified in, related to or performed in any manner under this agreement.

(2) The Automobile Liability, Commercial General Liability and Professional Liability insurance policies required under this agreement shall contain or be endorsed to contain the following provisions:

a. The CONSULTANT'S insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance or insurance pool coverage maintained by the City shall be excess of the CONSULTANT'S INSURANCE and shall not contribute with it.

b. The CONSULTANT'S insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

D. Verification of Coverage.

The CONSULTANT shall furnish the CITY with original certificates and a copy of the amendatory endorsements, including but not limited to the additional insured endorsement, evidencing the insurance requirements of the CONSULTANT before commencement of the work specified under this agreement.

10. Records Retention and Disclosure. The CONSULTANT shall keep all records related to this agreement for a period of three years following completion of the work for which the CONSULTANT is retained. The CONSULTANT shall permit any authorized representative of the CITY, and any person authorized by the CITY for audit purposes, to inspect such records at all reasonable times during regular business hours of the CONSULTANT. Upon request, the CONSULTANT will provide the CITY with reproducible copies of any such records. The copies will be provided without cost if required to substantiate any billing of the CONSULTANT, but the CONSULTANT may charge the CITY for copies requested for any other purpose. The CONSULTANT shall also provide a complete electronic copy of all reports, plans, and specifications upon completion of the work or upon request of the CITY.

Separate from and additional to the foregoing, the CONSULTANT shall fully cooperate with and assist the CITY with respect to any request for public records received by the CITY and related to any public records generated, produced, created and/or possessed by the CONSULTANT and related to the services performed under this agreement. Upon written demand by the CITY, the

CONSULTANT shall furnish the CITY with full and complete copies of any such records within five business days.

The CONSULTANT's failure to timely provide such records upon demand shall be deemed a material breach of this agreement. To the extent that the CITY incurs any monetary penalties, attorneys' fees, and/or any other expenses as a result of such breach, the CONSULTANT shall fully indemnify and hold harmless the CITY as set forth in Section 8.

For purposes of this section, the term "public records" shall have the same meaning as defined by Chapter 42.17 RCW and Chapter 42.56 RCW, as said chapters have been construed by Washington courts.

The provisions of this section shall survive the expiration or termination of this agreement.

11. Notices. All notices required to be given by either party to the other under this Agreement shall be in writing and shall be given in person or by mail to the addresses set forth in the box for the same appearing at the outset of this Agreement. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, addressed as provided in this paragraph.

12. Project Administrator. The Project Administrator shall be responsible for coordinating the work of the CONSULTANT, for providing any necessary information for and direction of the CONSULTANT's work in order to ensure that it generally meets the requirements of this agreement, and for reviewing, monitoring and approving the general quality and quantity of such work. The CONSULTANT shall report to and take any necessary direction from the Project Administrator. Provided, that nothing in this section shall be construed as altering the CONSULTANT'S duty of care or otherwise limiting, abridging, waiving or reducing the CONSULTANT'S obligations under this agreement.

13. Disputes/Conflict amongst attachments. Any dispute concerning questions of fact in connection with the work not disposed of by agreement between the CONSULTANT and the CITY shall be referred for determination to the CITY Department Head who administers the department in which the Project Administrator works. The Department Head's decision in the matter shall be final and binding upon the parties to this agreement, provided, however, that if litigation is brought challenging the decision, that decision shall be subject to judicial review. In case of conflict between the Attachments to this Agreement and the portions of this Agreement preceding the signature lines (paragraphs 1-23), the terms of paragraphs 1-23 shall prevail. Any limitations on liability and indemnification expressed in the Attachments beyond those specified in paragraph 8 (prior to signature line) shall be null and void.

14. Termination. The CITY reserves the right to terminate this agreement at any time upon ten (10) days written notice to the CONSULTANT. Any such notice shall be given to the address specified above. In the event that this agreement is terminated by the City other than for fault on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for all services performed. No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. In the event that services of

the CONSULTANT are terminated by the CITY for fault on the part of the CONSULTANT, the amount to be paid shall be determined by the CITY with consideration given to the actual cost incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the CITY at the time of termination, the cost of the CITY of employing another firm to complete the work required, and the time which may be required to do so.

15. Non-Discrimination. The CONSULTANT agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or material man, because of race, color, creed, religion, national origin, marital status, sex, age or handicap, except for a bona fide occupational qualification. The CONSULTANT understands that if it violates this provision, this agreement may be terminated by the CITY and that the CONSULTANT may be barred from performing any services for the CITY now or in the future.

16. Subcontracting or Assignment. The CONSULTANT may not assign or subcontract any portion of the services to be provided under this agreement without the express written consent of the CITY.

17. Non-Waiver. Payment for any part of the work or services by the CITY shall not constitute a waiver by the CITY of any remedies of any type it may have against the CONSULTANT for any breach of the agreement by the CONSULTANT, or for failure of the CONSULTANT to perform work required of it under the agreement by the CITY. Waiver of any right or entitlement under this agreement by the CITY shall not constitute waiver of any other right or entitlement.

18. Litigation. In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this agreement, the parties agree that such actions shall be initiated in the Superior Court of the State of Washington, in and for King County. The parties agree that all questions shall be resolved by application of Washington law and that parties to such actions shall have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, in and for King County. The prevailing party in any such litigation shall be entitled to recover its costs, including reasonable attorneys' fees, in addition to any other award.

19. Taxes. The CONSULTANT will be solely responsible for the payment of any and all applicable taxes related to the services provided under this agreement and if such taxes are required to be passed through to the CITY by law, the same shall be duly itemized on any billings submitted to the CITY by the CONSULTANT.

20. City Business License. The CONSULTANT has obtained, or agrees to obtain, a business license from the CITY prior to commencing to perform any services under this agreement if required by CITY ordinances. The CONSULTANT will maintain the business license in good standing throughout the term of this Agreement.

21. Entire Agreement. This agreement represents the entire integrated agreement between the CITY and the CONSULTANT, superseding all prior negotiations, representations or agreements, written or oral. This agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto.

22. Legal Compliance. In the performance of work under this agreement, the CONSULTANT shall comply with all federal, state and municipal laws, ordinances, rules and regulations that are applicable to the CONSULTANT's business, equipment, and personnel engaged in operations covered by this agreement or accruing out of the performance of such operations.

23. Risk of Loss. The CONSULTANT shall be solely responsible for the safety of its employees, agents and subcontractors in the performance of the work hereunder and shall take all protections reasonably necessary for that purpose. All work shall be done at the CONSULTANT's own risk, and the CONSULTANT shall be solely responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

CONSULTANT:

CITY OF ALGONA:

EJ Municipal Land Use Planning

By: Eric Jensen
Title: Principal/Owner

Troy Linnell, Mayor

ATTEST/AUTHENTICATED:

Dana Parker, City Clerk

ATTACHMENT A

SCOPE OF WORK AND FEE SCHEDULE

EJ Municipal Land Use Planning, LLC will provide the services specifically set forth below.

Task 001 On-Call Planning Services

Complete tasks as assigned by City Administrator. This effort includes, but is not limited to, performing tasks associated with:

- Phase 2-5 Algona Village commercial, residential, and mixed-use development proposal and related permit applications
- Algona Municipal Code update effort for Land Use related sections
- Park Planning for 2025 Comprehensive Plan annual amendment update
- Public Outreach and Community Engagement efforts for all plan and code updates
- Professional administrative and consultant selection support
- Professional support for land use hearings before City Hearing Examiner
- Professional support for grant writing and grant management
- Project Management for redevelopment of Old King County Transfer Station property

BILLING RATE

Principal/Owner	\$195/hour
Senior Planner	\$155/hour
Assistant Planner	\$100/hour



CITY COUNCIL

AGENDA BILL # AB23-0109

City of Algona
200 Washington Blvd.
Algona, WA 98001

ITEM INFORMATION

SUBJECT: Resolution 1268-23, Franchise Application Fee	Agenda Date: January 8th, 2024		
	Department/Committee/Individual	Created	Reviewed
	Mayor		
	City Administrator		X
	City Attorney	X	X
	City Clerk		
	Finance Dept		
	PW/Utilities		
	Planning Dept		
	Community Services		
Cost Impact:	Police Dept		
Fund Source:	Finance Committee		
Timeline: 1 st review – 11/27/23 (Staff Report)	Planning Commission		
2 nd review – 12/11/23	Civil Service Committee		
3 rd review – 1/8/24			
Staff Contact: Jessica Griess, City Administrator			
Attachments: Resolution 1268-23			
SUMMARY STATEMENT: “Attached for Council’s consideration is a resolution establishing a franchise application fee. The authority for this fee was established through the adoption of Ordinance No.1188-21, which set forth regulations regarding telecommunications franchises. AMC 12.02.050(H) requires that as part of the franchise application, the applicant pay a fee. The purpose of this fee is to recover the City’s costs associated with drafting and negotiating the franchise agreement. The proposed fee amount (actual cost to the City) and the deposit amount are consistent with other jurisdictions’ fees for franchise applications.” – Emily Romanenko, Ogden Murphy Wallace			
COMMITTEE REVIEW AND RECOMMENDATION:			
RECOMMENDED ACTION: Make a motion to approve Resolution 1268-23.			
RECORD OF COUNCIL ACTION			
Meeting Date:	Action:	Vote:	

**CITY OF ALGONA
RESOLUTION NO. 1268-23**

**A RESOLUTION OF THE CITY OF ALGONA, WASHINGTON ESTABLISHING A
FRANCHISE APPLICATION FEE.**

WHEREAS, the City of Algona is an optional code city, located in King County, Washington, duly organized and existing pursuant to the laws of the State of Washington, and

WHEREAS, on April 26th, 2021, the City approved Ordinance No. 1188-21, which established a fee for franchise applications.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ALGONA HEREBY
RESOLVE AS FOLLOWS:**

SECTION 1. Franchise Application Fee Adoption. The Algona City Council hereby adopts a Franchise Application Fee as follows:

Telecommunications Franchise Agreement/Renewal

Application Fee..... Actual Cost

Attorney and Staff Time Deposit

New Franchises..... \$5,000.00

Renewals..... \$2,500.00

Fee based on staff time required..... Hourly Rate

Attorney fees..... Amount billed to City

SECTION 2. Effective Date. This resolution shall take effect and be in full force immediately upon passage by the City Council.

PASSED BY THE CITY COUNCIL OF THE CITY OF ALGONA THIS __th DAY OF _____, 2023; AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS __th DAY OF _____, 2023.

Troy Linnell, Mayor

ATTEST:

Dana Parker, City Clerk

APPROVED AS TO FORM:

Greg Rubstello, City Attorney

Published:

Effective: see Section 2.