

City of Tenino

149 Hodgen Street South
Tenino, WA 98589

City Council Meeting
Tuesday, March 12, 2024 at 7:00 PM

Agenda

WORK SESSION

1. 6:30 pm Review of 3/12/2024 Council Agenda
2. Council Priorities
3. Discussion of 3/26/2024 Council Draft Agenda

CALL TO ORDER

AGENDA APPROVAL

4. Agenda for the Regular Meeting of the 3/12/24.

Recommended Action: Motion to approve the agenda as presented.

APPROVAL OF MINUTES

- [5.](#) Meeting Minutes for 2/27/2024

Recommended Action: Motion to approve 2/27/2024 meeting minutes as presented.

CONSENT CALENDAR

- [6.](#) Consent Calendar consisting of February 28, 2024 through March 12, 2024

Payroll EFT's in the amount of \$65,301.59

Claims checks #32191 through #32228 in the amount of \$94,554.59 for a grant total of \$159,856.18

Claims Checks #32187 Thru 32190 Voided due to printer error.

Liquor Cannabis License: Sandstone Cafe & Quarry Bar

Recommended Action: Move to approve the consent calendar as presented.

EXECUTIVE SESSION

PRESENTATIONS

PUBLIC COMMENTS

PUBLIC HEARING

PROCLAMATIONS

OLD BUSINESS

- 7. VFW Memorial Wall

Recommended Action: None, Discussion only

NEW BUSINESS

- 8. Splash Bash Donation for Quarry Pool

Recommended Action: Motion to accept donation from Splash Bash

- 9. Biodigester Project

Recommended Action: Motion to approve Mayor Watterson sending letter of Commitment

- 10. ARTS WA agreement, Creative District Capital Grant to fund Tenino City Park Art Walk in the amount of \$21,120.00

Recommended Action: Motion to approve Arts WA Grant agreement

- 11. ARTS WA agreement for Creative District Capital Grant to fund the Library Mural project in the amount of \$5,840.00

Recommended Action: Motion to approve Arts WA grant agreement.

- 12. ARTS WA agreement for Creative District Capital Grant to fund the WSDOT Signage in the amount of \$7,500.

Recommended Action: Motion to approve Arts WA agreement.

- 13. Purchase and Sale agreement for Park addition.

Recommended Action: Motion to approve Purchase and Sale agreement for Park addition.

RESOLUTIONS

ORDINANCES

REPORTS

14. Outside Agency

- 1) Chamber of Commerce**
- 2) Economic Development Council (EDC)**
- 3) South Thurston Economic Development Initiative (STEDI)**
- 4) ARCH Commission**
- 5) Experience Olympia & Beyond (VCB)**
- 6) South Thurston Fire**

- 7) Library
- 8) Museum
- 9) Tenino Community Service Center

15. Committees/Comissions

- 1) Civil Service Commission
- 2) Façade Improvement Grant Review Committee
- 3) Finance Committee
- 4) Planning Commission
- 5) Public Safety Committee
- 6) Public Works Committee

16. Staff

- 1) Chief of Police
- 2) Director of Public Works
- 3) City Planner
- 4) Code Enforcement/Building Inspector
- 5) PARC Specialist
- 6) City Attorney
- 7) Clerk/Treasurer
- 8) Mayor

17. Liasions

- 1) Bucoda/Tenino Healthy Action Team (BTHAT)
- 2) Solid Waste Advisory Board
- 3) TCOMM/911
- 4) Tenino School Board
- 5) Thurston Regional Planning Council (TRPC)
- 6) Transportation Policy Board
- 7) Thurston County Commissioner's Office
- 8) Legislature

PUBLIC COMMENTS 2

ANNOUNCEMENTS

ADJOURNMENT

File Attachments for Item:

5. Meeting Minutes for 2/27/2024

Recommended Action: Motion to approve 2/27/2024 meeting minutes as presented.

City Council Meeting Tuesday, February 27, 2024

Minutes

WORK SESSION

Mayor Watterson convened the work session at 6:30 pm with

PRESENT

Councilmember Linda Gotovac

Councilmember Elaine Klamn

Councilmember John O'Callahan

Councilmember Jason Lawton

Councilmember Jeff Eisel.

1. 6:30 pm Review of 2/27/2024 Council Agenda

Mayor and Council went over the agenda for tonight's meeting.

2. Council Priorities- Ordinance on Fireworks

Discussion held regarding the purpose and ability to ban fireworks in the City limits.

3. Council Priorities- Financial Policies

Mayor Watterson went over the financial policies that Council requested during their retreat. To continue with suggestions during the next council meeting.

4. Discussion of 3/12/2024 Council Draft Agenda

Mayor Watterson reminded Council if they would like to discuss anything during the next council meeting, to please contact C/T Scharber or himself.

CALL TO ORDER

Mayor Watterson convened the regular Council Meeting at 7:32 pm with

PRESENT

Councilmember Linda Gotovac

Councilmember Elaine Klamn

Councilmember John O'Callahan

Councilmember Jason Lawton

Councilmember Jeff Eisel

AGENDA APPROVAL

5. Agenda for the Regular Meeting of the 3/12/24.

Recommended Action: Motion to approve the agenda as presented.

Motion made by Councilmember O'Callahan, Seconded by Councilmember Lawton.

Voting Yea: Councilmember Gotovac, Councilmember Klamn, Councilmember O'Callahan, Councilmember Lawton, Councilmember Eisel.

Motion passes 5/0.

APPROVAL OF MINUTES

6. Meeting Minutes for 2/13/2024

Recommended Action: Motion to approve 2/13/2024 meeting minutes as presented.

Motion made by Councilmember O'Callahan, Seconded by Councilmember Gotovac.

Voting Yea: Councilmember Gotovac, Councilmember Klamn, Councilmember O'Callahan, Councilmember Lawton, Councilmember Eisel.

Motion passes 5/0.

CONSENT CALENDAR

7. Consent Calendar consisting of February 14, 2024 through February 27, 2024

Payroll EFT's in the amount of \$47,468.07 and Claims Checks #32168 through #32186 in the amount of \$80,093.68 for a grand total of \$127,561.75 (Claims Checks 32170 & 32172 Voided due to printer error)

Excusal of Council Member Linda Gotovac from the 2/13/24 Meeting.

Liquor Cannabis License: None

Recommended Action: Move to approve the consent calendar as presented.

Motion made by Councilmember Lawton, Seconded by Councilmember Gotovac.

Voting Yea: Councilmember Gotovac, Councilmember Klamn, Councilmember O'Callahan, Councilmember Lawton, Councilmember Eisel.

Motion passes 5/0.

EXECUTIVE SESSION

None

PRESENTATIONS

8. Tenino VFW Memorial-Frank Hicks

Frank Hicks with the VFW gave a presentation of the VFW's request for an honor wall to be placed in the park along with a request of adding a Coast Guard flag along with the others in the park. The wall is to be made with Tenino sandstone and Pennsylvania bluestone. They would like to erect 5 walls total in the park. After much discussion it was decided to put on the agenda for the next Council Meeting.

PUBLIC COMMENTS

Keith Phillips 4th Ave: He commented on his concern every year with the fireworks possibly starting a fire by his house as it is surrounded by trees.

PUBLIC HEARING

None

PROCLAMATIONS

None

OLD BUSINESS

None

NEW BUSINESS

None

RESOLUTIONS

None

ORDINANCES

None

REPORTS

9. **1) Chamber of Commerce**

2) Economic Development Council (EDC)

3) South Thurston Economic Development Initiative (STEDI)

4) ARCH Commission

5) Experience Olympia & Beyond (VCB)

6) South Thurston Fire

7) Library

8) Museum

9) Tenino Community Service Center

1) Chamber of Commerce: March's meeting will be held in the evening at the Kodiak Room.

5) Experience Olympia & Beyond (VCB): Mayor Watterson reported he visited with the VCB and is impressed with the knowledge they have with the visitors coming into and out of Tenino and how they can read which roads are traveled the most.

6) South Thurston Fire: Mike Vanderhoof reporting for Chief Schaffren stated their new engine they purchased with the bond is now in service. The new tender they purchased will also be in service next week. The new lot they hope to purchase for the new building is still having land issues before buying. To date they have had 296 total calls. They are still looking at dates for an Emergency Management Meeting. Their annual Crab Feed is Saturday the 2nd, tickets are \$45.00 per person. With your ticket you receive 2 crabs, all you can eat spaghetti, salad and bread. They will also provide soft drinks and water.

7) Library: Mayor Watterson had a quick meeting with Librarian Linda and will meet more in-depth when she returns from vacation.

9) Tenino Community Service Center: C/T Scharber reporting for Jody Stolz stated they have a new Kiosk at the Food Bank that will test for COVID and the flu at this time, which is free to the public.

10. 1) Civil Service Commission

2) Façade Improvement Grant Review Committee

3) Finance Committee

4) Planning Commission

5) Public Safety Committee

6) Public Works Committee

6) **Public Works Committee:** The next public works committee meeting will be held 3/12/24.

11. 1) Chief of Police

2) Director of Public Works

3) City Planner

4) Code Enforcement/Building Inspector

5) PARC Specialist

6) City Attorney

7) Clerk/Treasurer

8) Mayor

1) Chief of Police: Chief reported they have had a significant upswing in juvenile arrests. The department has been training with Thurston County which has been going well. They will be doing evoked training on 3/18 and anyone is welcome to come ride with him. He is looking into purchasing a vehicle from our Sister City, City of Tumwater.

2) Director of Public Works: DPW Cannon reported on the water report from 2023 and went over the numbers of gallons being used and the amount of water rights we have left. He is

going to irrigate with reclaimed water and will ask the Schools to do so as well. The park bathrooms are now open and we are hoping to keep them open year round.

8) Mayor: Mayor Watterson has been in contact with Habitat for Humanity who would like to put in a townhouse on City property. He met with Miles Sand and Gravel regarding their agreement to receive reclaimed water from the City and the possibility to annex into the City. He also met with the Colvin's on their involvement with the Ag Park. He is looking into a grant for low income families to up grade their heating in their homes. He has scheduled a meeting on 3/25/24 regarding flood insurance. PSE charges for street lighting, they increased their rates in 2003 and sent us a bill for 6 months for \$6,000.00. He is going to contact the City's PSE rep to help with the costs.

12. 1) Bucoda/Tenino Healthy Action Team (BTHAT)

2) Solid Waste Advisory Board

3) TCOMM/911

4) Tenino School Board

5) Thurston Regional Planning Council (TRPC)

6) Transportation Policy Board

7) Thurston County Commissioner's Office

8) Legislature

4) Tenino School Board: Miss Rodriguez took 3rd at State. Boys still have a possibility to continue to place at state.

5) Thurston Regional Planning Council (TRPC): ?

6) Transportation Policy Board: Wednesday morning. Information on how to remove the dam please see their website.

8) Legislature: Councilmember Gotovac reported the extension of the Comp Plan.

PUBLIC COMMENTS 2

None

ANNOUNCEMENTS

Splash Bash will be held on June 1st.

ADJOURNMENT

Mayor Watterson adjourned the meeting at 8:10 pm.

File Attachments for Item:

6. Consent Calendar consisting of February 28, 2024 through March 12, 2024 Payroll EFT's in the amount of \$65,301.59

Claims checks #32191 through #32228 in the amount of \$94,554.59 for a grant total of \$159,856.18

Claims Checks #32187 Thru 32190 Voided due to printer error.

Liquor Cannabis License: Sandstone Cafe & Quarry Bar

Recommended Action: Move to approve the consent calendar as presented.



Washington State
Liquor and Cannabis Board

Licensing and Regulation
PO Box 43098
Olympia WA 98504-3098
Phone – (360) 664-1600
Fax – (360) 753-2710

March 12, 2024

CAJUN CHROME, LLC
PO BOX 872
TENINO, WA 98589-0492

Re: SANDSTONE CAFE AND QUARRY BAR
273 SUSSEX AVE W
TENINO, WA 98589-9360
LICENSE #436512 - 20
UBI 605-364-619-001-0001

Your **SPIRITS/BR/WN REST LOUNGE +
CATERING** license has been approved.

This license is valid through March 31, 2025.

Starting summer of 2023, Department of Revenue/Business License Services (DOR/BLS) will be sending business licenses and renewal notices to the email address you have on file with your Secure Access Washington (SAW) account.

You can view or update your business locations email address at [My DOR](#)

Upon renewal, the expiration date of the license may subsequently be prorated as necessary in accordance with chapter [19.02 RCW](#) (Business Licensing).

For questions regarding the issuance of your liquor license, please contact our customer service unit at (360) 664-1600.

For questions regarding the renewal process, please contact Business Licensing at (360) 705-6741.

You must post this letter in a public service area as your temporary operating permit. If you do not receive your Business License with liquor endorsements in 15 days, please contact Department of Revenue's Business Licensing Service/Specialty Licenses at (360) 705-6744.

At this time, Board approval is not required for music, dancing, and other entertainment at your premises. If you wish to continue these activities in the dining area after 11 p.m., you must either, 1) request Board approval to reclassify the dining area to a lounge, thus restricting persons under 21 years of age, or 2) notify the Board Licensing and Regulation Division in writing at least 48 hours in advance that the sale, service, and consumption of liquor will end in the dining area at 11 p.m.

All employees involved in the sale and service of alcohol, their supervisors, and managers of the liquor licensed establishment must have a valid MAST permit within 60 days of employment.

A Catering endorsement extends the on-premises license privilege to allow the sale and service of liquor at approved locations other than the licensed premises:

1. Events open to the general public must be sponsored by a non-profit organization.
2. Catering of events at another licensed premise is prohibited.
3. You must notify your local liquor enforcement office five days prior to any event that is being held in a public place.
4. A legible copy of the caterer's license must be posted in a public service area at each catered location.

Persons under 21 years of age are not permitted in the lounge, except for musicians or employees who qualify under RCW 66.44.316. "Minors prohibited" signs must be posted at all restricted area entrances, and other locations as necessary, to clearly mark restricted area boundaries.

Beer to be sold under this license must be purchased from a beer distributor or brewery.

Wine sold under this license may be purchased from another retailer with a Wine Retailer Reseller endorsement.

If you purchase spirits from a Spirits Retailer licensee, you must keep records by stock-keeping unit (SKU) of all your purchases, including the identity of the seller and the quantities purchased.

When applicable, you are obligated to meet all other requirements of state, county, and city laws and ordinances (such as sanitation, zoning, fire, safety and building codes, etc.).

Page 3
License No. - 436512

Alterations or changes in ownership require prior Board approval. If you wish to make such changes, please contact our office for assistance.

Your liquor license can now be renewed online through Department of Revenue's Business Licensing Service. Information on how to do this will be included on your renewal notice.

Zoila Melendez Ijef
Liquor Licensing Specialist
360-664-1751

cc: Southwest Enforcement
City of Tenino
File

Consent Calendar for February 28, 2024 through March 12, 2024 consisting of:

- **Payroll EFT's in the amount of \$65,301.59**
- **Claims Checks #32191 through #32228 in the amount of \$94,554.59.**
- **Claims Checks #32187 thru 32190 voided due to printer error.**

for a grand total of \$159,856.18

a) Liquor & Cannabis License:

CHECK REGISTER

6. City Of Tenino

Time: 14:59:11 Date: 03/12/2024

02/28/2024 To: 03/12/2024

Page: 2

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
858	03/12/2024	Claims	5	32206	Oaks Corporation	3,459.20	
859	03/12/2024	Claims	5	32207	Puget Sound Energy	12,674.84	
860	03/12/2024	Claims	5	32208	RTS Enviromental LLC	5,500.00	
861	03/12/2024	Claims	5	32209	Chelsea Reese	150.00	
862	03/12/2024	Claims	5	32210	Right Systems Inc	20,713.31	
863	03/12/2024	Claims	5	32211	Schaeffer's Mfg. Co.	1,658.70	
864	03/12/2024	Claims	5	32212	Robert & Dawn Sprague	242.78	208100.00 - 508 HUSTON ST S (B)
865	03/12/2024	Claims	5	32213	Robert & Dawn Sprague	242.78	208200.00 - 508 HUSTON ST S A
866	03/12/2024	Claims	5	32214	Tenino Marketfresh	372.48	
867	03/12/2024	Claims	5	32215	Tenino Telephone Co	1,838.27	
868	03/12/2024	Claims	5	32216	City Of Tenino	1,701.64	
869	03/12/2024	Claims	5	32217	Thurston Co Treasurer	35.19	
870	03/12/2024	Claims	5	32218	Up Remodeling LLC.	46.96	504000.30 - 1072 LINCOLN AVE E
871	03/12/2024	Claims	5	32219	Utilities Underground Location	5.28	
872	03/12/2024	Claims	5	32220	Voyager Fleet System	4,481.92	
873	03/12/2024	Claims	5	32221	WA State Treasurer	1,305.34	
874	03/12/2024	Claims	5	32222	Wells Fargo Vendor Fin Serv	529.02	
875	03/12/2024	Claims	5	32223	Wilcox & Flegel	744.11	
876	03/12/2024	Claims	5	32224	Wilson Parts Corporation	374.82	
877	03/12/2024	Claims	5	32225	ALS Group USA, Corp	675.00	
878	03/12/2024	Claims	5	32226	Applied Control Equipment LLLP	4,660.57	
879	03/12/2024	Claims	5	32227	Kara Caldwell	150.00	
880	03/12/2024	Claims	5	32228	Capital Industrial Inc.	79.63	
						74,894.27	001 General Government Fund #001
						304.33	002 Quarry Pool Fund #002
						19,282.98	101 City Street Fund #101
						24,172.51	310 Municipal Capital Imp Fund 310
						5,073.68	401 Water Fund
						4,498.88	402 Water Capital Imp Fund
						31,612.64	410 Sewer Fund
						16.89	421 Sewer Capital Improvement Fund
						94,554.59	Claims:
* Transaction Has Mixed Revenue And Expense Accounts						159,856.18	Payroll: 65,301.59

CHECK REGISTER

6. City Of Tenino

Time: 14:59:11 Date: 03/12/2024

02/28/2024 To: 03/12/2024

Page: 1

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
736	03/05/2024	Payroll	5	EFT	Jeffrey A Eisel	136.86	
737	03/05/2024	Payroll	5	EFT	Linda Gotovac	182.48	
738	03/05/2024	Payroll	5	EFT	Effie E Klamn	182.48	
739	03/05/2024	Payroll	5	EFT	Jason A Lawton	136.86	
740	03/05/2024	Payroll	5	EFT	John J O'Callahan	228.10	
741	03/05/2024	Payroll	5	EFT	David A Watterson	1,368.61	
742	03/05/2024	Payroll	5	EFT	Robert A Auderer	2,790.77	
743	03/05/2024	Payroll	5	EFT	Veronica A Barnes	1,917.53	
744	03/05/2024	Payroll	5	EFT	Troy LK Cannon	3,120.75	
745	03/05/2024	Payroll	5	EFT	Rene Durand	1,978.40	
746	03/05/2024	Payroll	5	EFT	Brent L Gibbs	2,913.98	
747	03/05/2024	Payroll	5	EFT	Drew Johnson	3,554.70	
748	03/05/2024	Payroll	5	EFT	Aaron Lee	3,028.95	
749	03/05/2024	Payroll	5	EFT	Patrick H Maguire	1,686.93	
750	03/05/2024	Payroll	5	EFT	Alec C McClelland	2,605.76	
751	03/05/2024	Payroll	5	EFT	Cole Plaja	1,820.12	
752	03/05/2024	Payroll	5	EFT	Jason M Plaja	2,445.13	
753	03/05/2024	Payroll	5	EFT	Jessica Reeves-Rush	1,462.21	
754	03/05/2024	Payroll	5	EFT	Maria Rodriguez	1,804.66	
755	03/05/2024	Payroll	5	EFT	Jennifer N Scharber	2,596.02	
756	03/05/2024	Payroll	5	EFT	Courtney N Sheldon	1,420.08	
791	03/06/2024	Payroll	5	EFT	Timberland Bank	12,814.49	941 Deposit for Pay Cycle(s) 03/05/2024 - 03/05/2024
792	03/06/2024	Payroll	5	EFT	WA State Dept of Retirement Systems	410.00	Pay Cycle(s) 03/05/2024 To 03/05/2024 - Deffered Comp
823	03/08/2024	Payroll	5	EFT	WA State Dept of Retirement Systems	14,695.72	Pay Cycle(s) 02/20/2024 To 02/20/2024 - LEOFF II; Pay Cycle(s) 02/20/2024 To 02/20/2024 - PERS II; Pay Cycle(s) 03/05/2024 To 03/05/2024 - LEOFF II; Pay Cycle(s) 03/05/2024 To 03/05/2024 - PERS II
839	03/12/2024	Claims	5	32187	ALS Group USA, Corp		Check print error
840	03/12/2024	Claims	5	32188	Applied Control Equipment LLLP		Check print error
841	03/12/2024	Claims	5	32189	Kara Caldwell		Check print error
842	03/12/2024	Claims	5	32190	Capital Industrial Inc.		Check print error
843	03/12/2024	Claims	5	32191	Cintas Corporation	136.21	
844	03/12/2024	Claims	5	32192	City of Tumwater	5,729.55	
845	03/12/2024	Claims	5	32193	Corporate Payment Systems	2,138.31	
846	03/12/2024	Claims	5	32194	Sarah Gaden	235.20	
847	03/12/2024	Claims	5	32195	Gibbs & Olson Inc	8,370.00	
848	03/12/2024	Claims	5	32196	H D Fowler Co	8,938.20	
849	03/12/2024	Claims	5	32197	Joes Refuse	1,416.01	
850	03/12/2024	Claims	5	32198	Ashley Largen	150.00	
851	03/12/2024	Claims	5	32199	Law Office of Richard L. Hughes PLLC	3,105.00	
852	03/12/2024	Claims	5	32200	Kamerrer & Bogdanovich P Law, Lyman, Daniel,	387.50	
853	03/12/2024	Claims	5	32201	Joshua & Angela Lesmeister	150.00	
854	03/12/2024	Claims	5	32202	Lewis County Chemical	780.17	
855	03/12/2024	Claims	5	32203	Mountain Mist Water	47.49	
856	03/12/2024	Claims	5	32204	Jim M Moyer	150.00	
857	03/12/2024	Claims	5	32205	Northstar Chemical, Inc	1,179.11	

File Attachments for Item:

8. Splash Bash Donation for Quarry Pool

Recommended Action: Motion to accept donation from Splash Bash

Quarry Pool Request

Costco

6 Umbrellas ProShade 10ft Round Auto Tilt Aluminum Market Umbrella (Blue)	149.99	\$899.94
4 Umbrella Bases SunVilla Pembroke 59.5 lb. Granite Umbrella Base	74.99	\$299.96
		\$1307.89 w/tax

[ProShade 10ft Round Auto Tilt Aluminum Market Umbrella | Costco](#)

TreeTop Products

6 - 8' Picnic Tables with umbrella hole Blue (see attached quote)	899.96	7470.20 w/tax & ship
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Amazon

4 Garbage Cans Safco Evos Steel Can Outdoor	430.17	1860.08 w/tax
6 Lifeguard Rescue Tubes	59.99	389.10 w/tax

Total est. \$11027.27

Note: Umbrellas might have shipping added to this



Quote

Account Number - 88987

Treetop Products, LLC
222 State Street
Batavia IL 60510
(630) 845-5468
keyaccounts@treetopproducts.com

Estimate # QUOTRE33551

2/8/2024

Customer
Accounts Payable
City of Tenino
PO Box 4019
Tenino WA 98589
(360) 264-2368

Ship To
Troy Cannon
City of Tenino
149 Hodgden St S
Tenino WA 98589
(360) 264-2368

Item	Qty	Rate	Amount	Estimated Lead Time
1WG5691-BL 8' SuperSaver™ Table/ Portable/ Surface Mount/ Blue/ w/Umbrella Hole	6	\$899.96	\$5,399.76	Ships in 1 to 2 Days

Subtotal	\$5,399.76
Tax Total (%)	\$559.75
Shipping	\$1,510.69
Total	\$7,470.20

*Estimated lead time is based on normal fulfillment time of an order at this moment. Orders with large quantities may require additional time. These estimates are subject to change based on the nationwide supply chain issue.

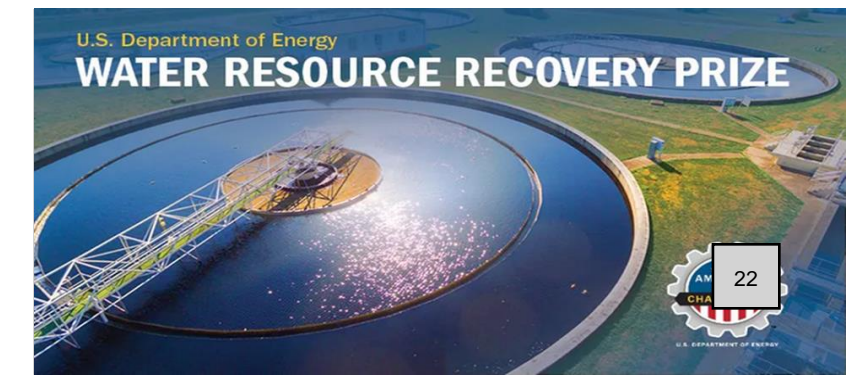
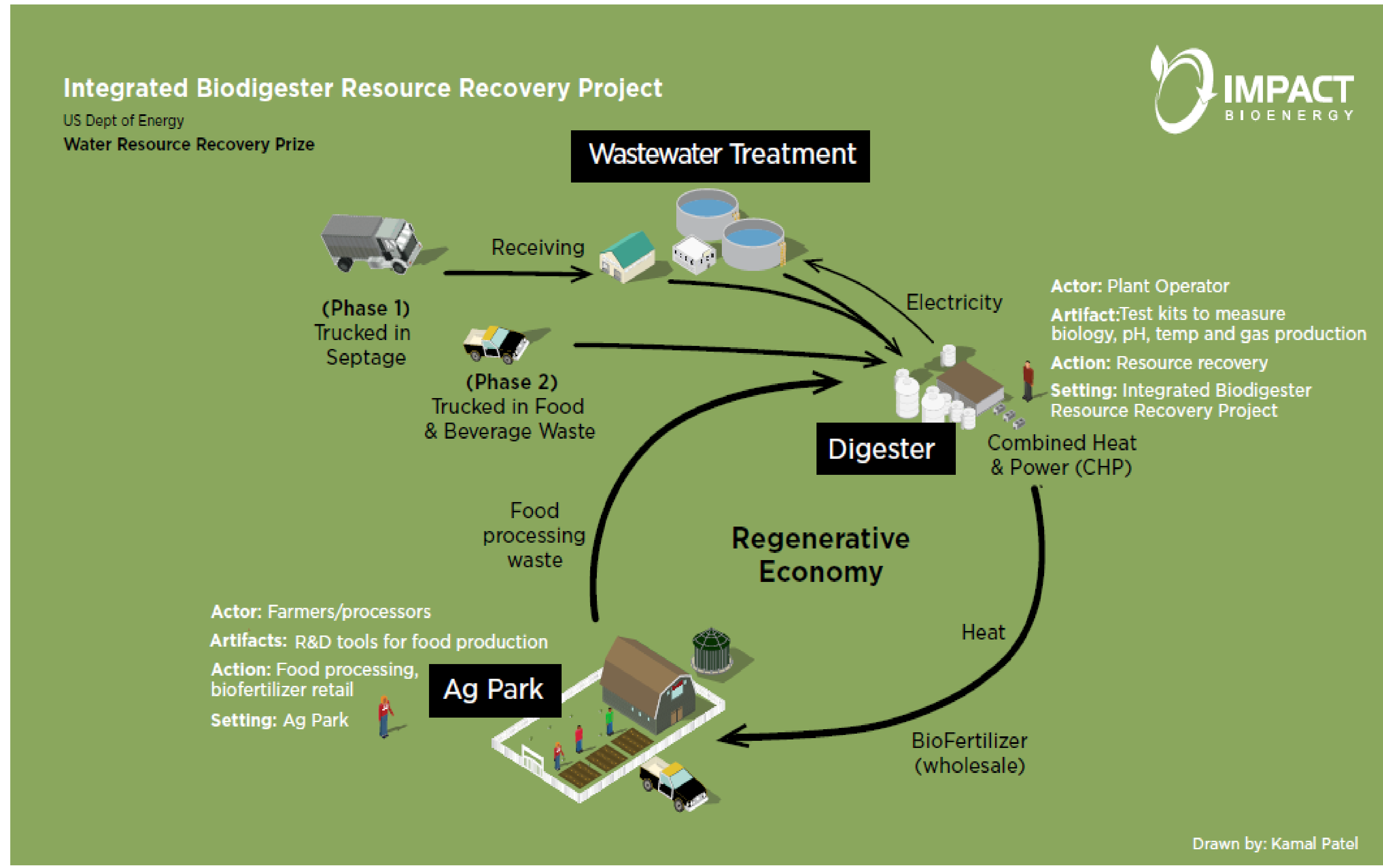
PRICING FOR THIS QUOTE IS LOCKED IN FOR 30 DAYS

File Attachments for Item:

9. Biodigester Project

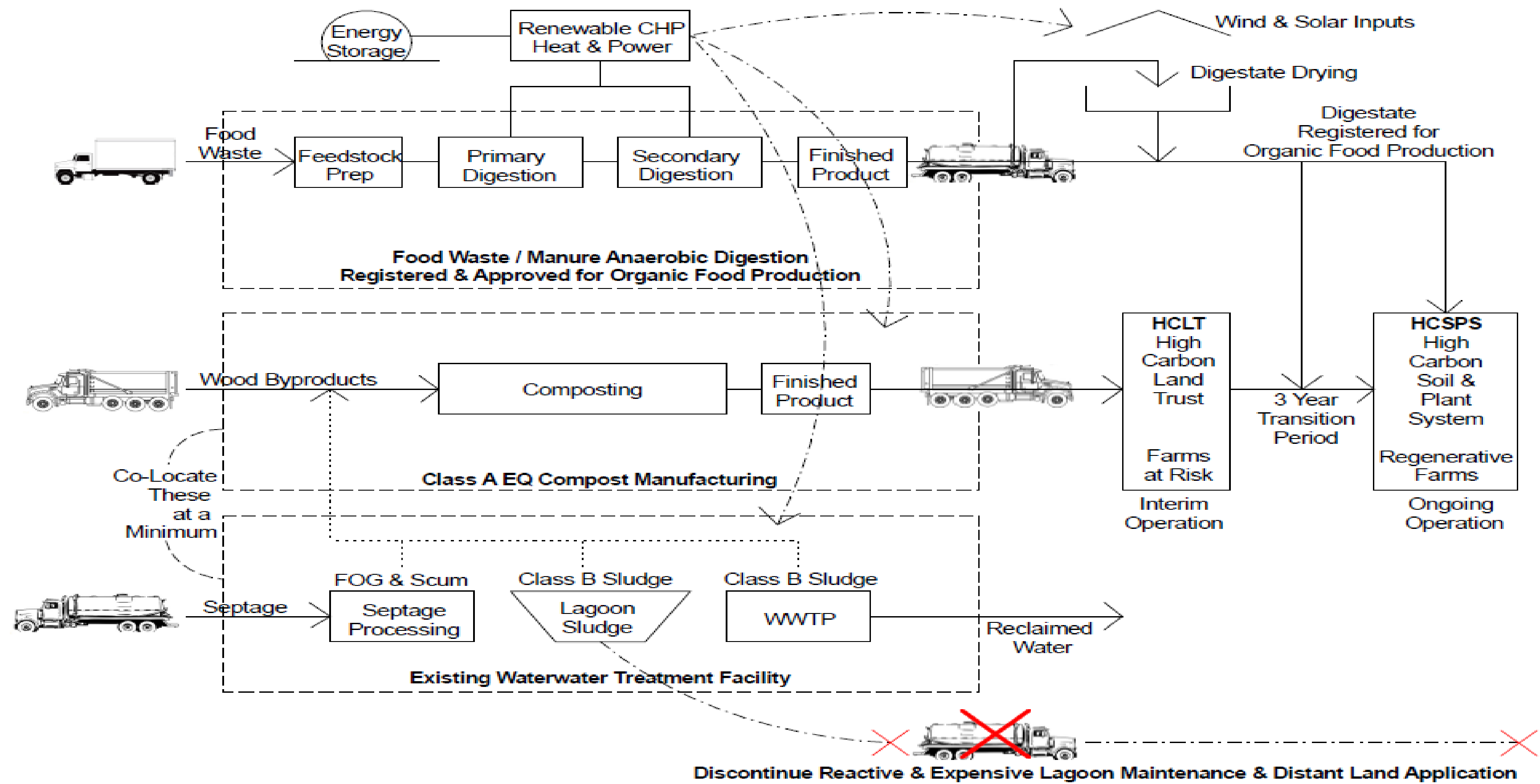
Recommended Action: Motion to approve Mayor Watterson sending letter of Commitment

INTEGRATED BIODIGESTER RESOURCE RECOVERY PROJECT



INTEGRATED BIODIGESTER RESOURCE RECOVERY PROJECT

Tenino Process Diagram



INTEGRATED BIODIGESTER RESOURCE RECOVERY PROJECT

Capital Budget & Pro Forma	\$	2,460,000	CAPEX
Amortized, 15 years, 4.0% int rate			\$ (221,000)
Project Annual OPEX			\$ (657,000)
Target Value - 8 Revenue Streams (target values - actual rev will be lower initially)			\$ 1,240,000
Target Annual Net Income			\$ 362,000
ROI			15%

Initial Project Return During Startup	\$	2,460,000	CAPEX
Amortized, 15 years, 4.0% int rate			\$ (221,000)
Project Annual OPEX			\$ (591,300)
Startup Value - 8 Revenue Streams (target values at initial project start)			\$ 866,875
Target Annual Net Income			\$ 54,575
ROI			2%

INTEGRATED BIODIGESTER RESOURCE RECOVERY PROJECT

8 Revenue Streams - Detail

unit value	finished compost	\$ 30.00	CY	\$ 16.50	per ton
unit value	septage	\$ 0.12	gallon	\$ 28.78	per ton
unit value	lagoon sludge export	\$ 0.40	gallon	\$ 95.92	per ton
unit value	commercial foodwaste	\$ 0.25	gallon	\$ 60.00	per ton
unit value	digestate	\$ 0.35	gallon	\$ 83.93	per ton
unit value	electricity	\$ 0.15	kWh		
unit value	heat	\$ 0.92	therm		
unit value	GHG emission reductions	\$ 51.00	MTCO2e		



INTEGRATED BIODIGESTER RESOURCE RECOVERY PROJECT AGPARK SITE PLAN

CONTEXT MAP



SITE LEGEND

- PROPERTY LINE
- WELL
- LANDSCAPE AREA
- GRAVEL
- ASPHALT
- CONCRETE NORMAL/PLATE AREA
- PROJECT STRUCTURE
- FUTURE STRUCTURE



1 SITE PLAN - OPTION 5

BUILDING DIMENSIONS

- A - 80' x 264' = 20,000 SF
- B - 60' x 200' = 12,000 SF
- C - 60' x 200' = 12,000 SF
- D - 60' x 148' = 10,080 SF
- E - 60' x 300' = 18,000 SF
- F - 60' x 148' = 10,080 SF
- G - 60' x 148' = 10,080 SF

TOTAL BUILDING SQUARE FOOTAGE: 92,240 SF

AVAILABLE PARKING SPOTS : 370

TOTAL PERMEABLE AREA: 240,711 SF

TOTAL NON-PERMEABLE AREA (PAVEMENT): 249,449 SF

TOTAL NON-PERMEABLE AREA (BUILDING): 92,240 SF

TENINO AGRICULTURAL PARK
 16402 OLD HWY 99 SE | TENINO, WA
 DESIGN UPDATE | SEPTEMBER 27, 2021

A1
OPTION 5



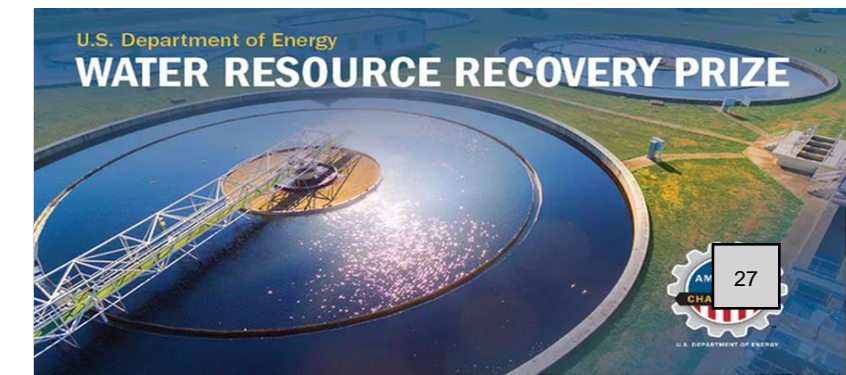
U.S. Department of Energy
WATER RESOURCE RECOVERY PRIZE



INTEGRATED BIODIGESTER RESOURCE RECOVERY PROJECT AGPARK SITE PLAN



TENINO AGRICULTURAL PARK
 16402 OLD HWY 99 SE | TENINO, WA
 DESIGN UPDATE | SEPTEMBER 27, 2021



Farm Operations with Interest in Tenino Biodigester Project

- Tracking Y Ranch, Scatter Creek near Tenino
 - 15 historical hillside hayfield
 - 4 acres flat historical hayfield
 - 20 acres silvopasture and meadow
 - 80 ac total with about 20 ac in creek bottom ground, rest in 2nd growth timber
- Tracking Y Ranch, south of Tumwater: flat 18 ac on 93rd
- Broadfields Farm, Gifford Road, Tumwater
 - 25 ac dedicated hay, 30 ac hay and grazing
- Riverbend Ranch: 317+ flat ac off Skookumchuck Hwy
- Two grain operations that market malting barley through the SW WA Growers Cooperative utilize treated municipal wastes; potential sites for composted biosolids and/or digestate (Riesinger, 100+ acres; 1 other site)

Note: interest among these operations ranges from general to very interested

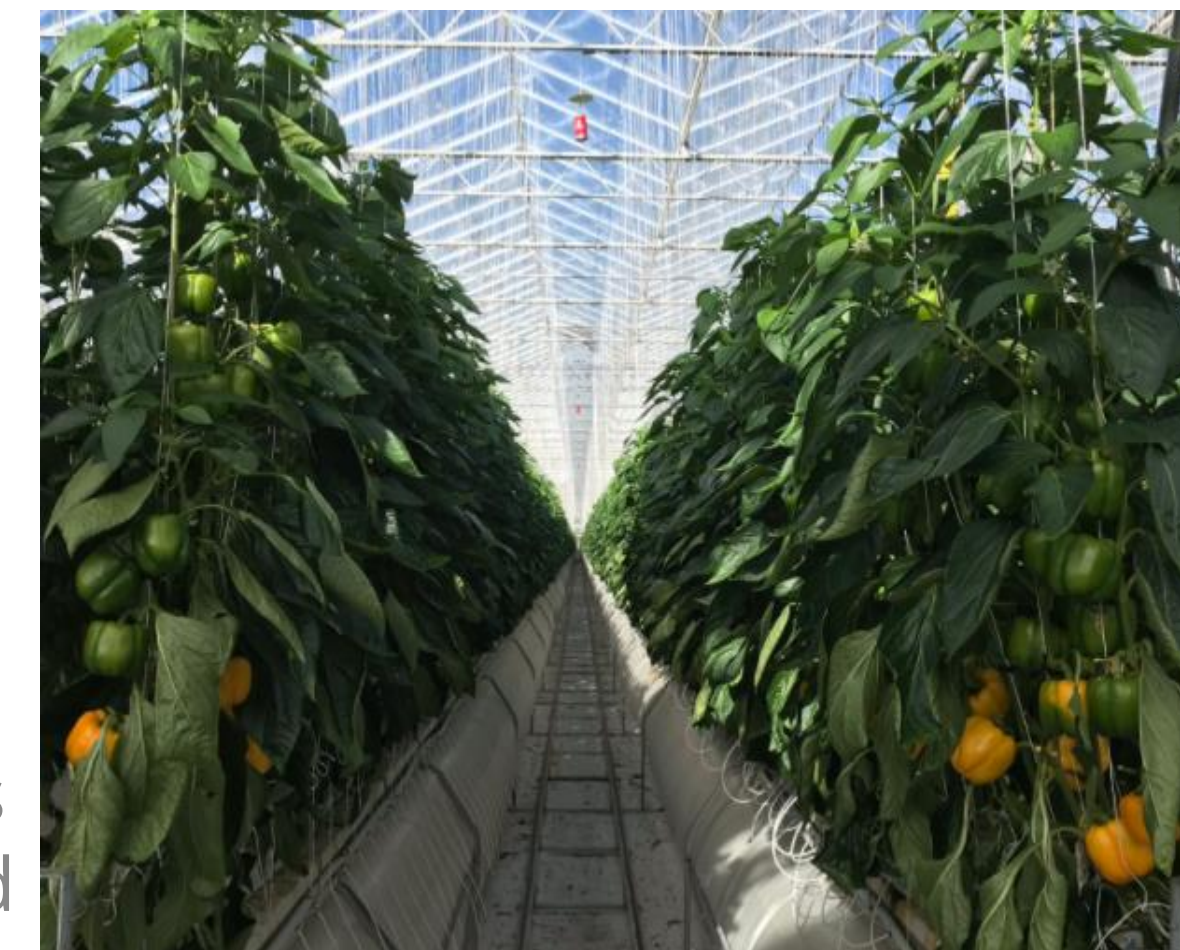
INTEGRATED BIODIGESTER RESOURCE RECOVERY PROJECT

EQUILIBRIUM FINANCING AND PROJECT DEVELOPMENT PARTNER

Carbon Transition Infrastructure Funds

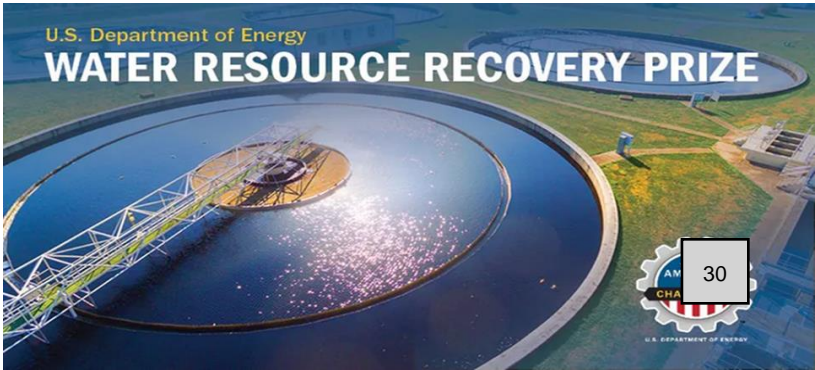
Our thesis: Water, waste and energy will continue to shift to a distributed infrastructure architecture, connected by shared inputs, process technologies, and offtake buyers.

- Technology will continue to push downward the cost and size needed to deliver economies-of-scale efficiencies.
- Efficient distributed infrastructure is an opportunity for businesses and communities to cost-effectively address their water, waste and energy management needs.
- Our investments in distributed infrastructure for water, waste and energy address core business needs including environmental compliance, cost reductions, decarbonization initiatives, infrastructure resilience and climate risk mitigation.
- Distributed water, waste, and energy infrastructure creates revenue and returns from reuse, reduction, recycle and resilience.



INTEGRATED BIODIGESTER RESOURCE RECOVERY PROJECT

EXAMPLES OF USING DIGESTATE AT EXISTING PROJECTS



File Attachments for Item:

10. ARTS WA agreement, Creative District Capital Grant to fund Tenino City Park Art Walk in the amount of \$21,120.00

Recommended Action: Motion to approve Arts WA Grant agreement

WASHINGTON STATE ARTS COMMISSION

Program: FY24 Creative District Capital Grants

Contract No. 387-CP24-025

GRANT CONTRACT

THIS CONTRACT is made and entered into by and between the **WASHINGTON STATE ARTS COMMISSION**, 711 Capitol Way S, Suite 600, PO Box 42675, Olympia, WA 98504-2675 hereinafter referred to as the COMMISSION, and

Name:	City of Tenino
Physical Address:	149 Hodgden St S Tenino, WA 98589
Phone No:	(360) 264-2368
Email:	<u>dwatterson@cityofTENINO.org</u>
Federal Employee ID (EIN):	
SWV Number:	SWV0001495-00

hereinafter referred to as the CONTRACTOR.

THE PARTIES MUTUALLY UNDERSTAND AND AGREE AS FOLLOWS:

A. PURPOSE OF CONTRACT

This Contract sets out the terms and conditions by which the COMMISSION provides a grant to the CONTRACTOR for the purpose of developing, sponsoring, promoting or administering an activity, project or program which is related to the conservation and development of artistic resources of the State of Washington. RCW 43.46 provides the statutory authorization for making the grant. The funding is administered under WAC Title 30.

B. DESCRIPTION OF THE ACTIVITY, PROJECT, OR PROGRAM

CONTRACTOR shall use funds provided under this **Contract No. 387-CP24-025** solely for the Purpose of developing, sponsoring, and administering a Creative District as certified by the COMMISSION representing the State of Washington.

C. AMOUNT OF GRANT

Total amount provided under this contract: **\$21,120.00**

1. The Commission provides **Capital Funds** in the amount of **\$21,120.00** to the CONTRACTOR.

D. CONTRACT PERIOD OF PERFORMANCE

Funds are awarded for the period beginning **March 1, 2024 to June 30th, 2025**. The CONTRACTOR must expend all funds by the ending date of this contract. The CONTRACTOR shall notify the COMMISSION immediately in writing if any portion of the funds will not be expended by the end of the fiscal year.

E. CONTRACT REPRESENTATIVES

The following shall be the contact persons for all communications and billings regarding the performance of this Contract. Either party shall provide written notification to the other of changes in contract representation.

CONTRACTOR's Contract Representative:		COMMISSION's Contract Representative:	
Name:	<u>David Watterson</u> Mayor	Name:	<u>Annette Roth</u> Community Development Manager
Org. Name:	City of Tenino 149 Hodgden St S	Org. Name:	Washington State Arts Commission
Address:	Tenino, WA 98589	Address:	PO Box 42675, Olympia, WA 98504-2675
Phone:	(360) 264-2368	Phone:	360-252-9982
Email:	<u>dwatterson@cityoftenino.org</u>	Email:	<u>annette.roth@arts.wa.gov</u>

F. LIMITATION OF AUTHORITY

The COMMISSION's Agent shall be the Executive Director of the Washington State Arts Commission. Only the COMMISSION's Agent shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. The Agent may delegate this authority, but such delegation is effective only if in writing. See General Terms and Conditions for Contract Amendment or Modification procedures.

G. RIGHTS AND OBLIGATIONS

All rights and obligations of the parties to this Contract shall be subject to this Contract and its attachments including the following, which by this reference, are made a part of this Contract:

- Attachment A: Scope of Work and Reporting Requirements
- Attachment B: Budget and Payment Schedule
- Attachment C: General Terms and Conditions
- Attachment D: Invoice Voucher

H. INSURANCE

Automobile Liability: In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or unowned by the CONTRACTOR, the CONTRACTOR shall require the owner or driver of the automobile to provide automobile liability insurance. The minimum limit for automobile liability is: \$100,000/\$300,000 bodily injury and \$100,000 property damage.

I. ENTIRE CONTRACT

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

J. ANNUAL REPORT

Every Creative District is required to submit annual reports by August 15th of each year in order to maintain certification as a Creative District by the State of Washington. By signing this grant contract, the Creative District agrees to submit annual reports for each year of certification as a Creative District by the State of Washington.

THIS CONTRACT is executed by the persons signing below who warrant that they have authority to execute this contract.

City of Tenino

WASHINGTON STATE ARTS COMMISSION

(Signature of party authorized to sign for CONTRACTOR)

Karen Hanan, Executive Director

(Printed name of signatory)

Date: _____

(Printed title of signatory)

Date: _____

APPROVED AS TO FORM:

(Signature of Kathryn Wyatt, Assistant Attorney General, State of Washington, July 11, 2013 on file in fiscal office)

GRANT CONTRACT - ATTACHMENT “A”
Scope of Work and Reporting Requirements

Program: Creative District Capital Grants

Contract No. 387-CP24-025

CONTRACTOR: City of Tenino

The CONTRACTOR agrees that funds shall be received solely for the services and/or reimbursements described here below:

Project Summary:

Tenino has been certified as a Creative District by the State of Washington. The Creative District certification is effective for the 5-year period between **6/5/2020** and **6/5/2025** as specified in Chapter 30-42 WAC.

This grant, effective March 1st, 2024 to June 30th, 2025 is intended to support the development and implementation of the Creative District occurring during the contract period.

Scope of Work:

- **Tenino City Park Art Walk**

Allowable Expenses:

All funds allocated through this grant contract are designated to support the formation and operation of the Creative District, including, but not limited to, salaries, benefits and program operating costs.

Annual Report Obligations:

Creative District Certification is independent of this funding. Every Creative District is required to submit annual reports by or before August 15th of each year in order as well as comply with other program requirements to maintain certification in good standing as a Creative District by the State of Washington as required under Chapter 30-42 WAC.

Logo Credit:

Grant recipients are required to acknowledge support from the Washington State Arts Commission (ArtsWA) in all online and printed materials and announcements (including media interviews) associated with this grant as follows: “This Creative District is certified by the Washington State Arts Commission.” Whenever possible use the ArtsWA logo on any printed, promotional materials related to this grant. ArtsWA will provide the suite of logos to Creative Districts upon acceptance of this grant contract.

ARTSWA

WASHINGTON STATE
ARTS COMMISSION

GRANT CONTRACT - ATTACHMENT "B"
Budget and Payment Schedule

Program: Creative District Capital Grant

Contract No. 387-CP24-025

CONTRACTOR: City of Tenino

The CONTRACTOR agrees that in consideration of **sections A, B, and C** on page 1 of this CONTRACT, that funds as awarded will be paid to the CONTRACTOR by the COMMISSION with the following terms and conditions:

1. No funds will be paid to the CONTRACTOR in advance of the contract starting date stated in section D of the CONTRACT.
2. Grant funds can only be spent on the expenses for which COMMISSION funds were committed and described in the Allowable Expenses section of Attachment "A".
 - a. Invoice Vouchers will be signed and returned to the COMMISSION along with the signed contract as outlined in the cover letter included with this contract. The Invoice Voucher may not be altered by the GRANTEE.
 - b. When you have completed your scope of work and are ready to be paid, e-mail Annette Roth with copies of your documentation including materials with the required documentation.
3. The budget is as follows:
 - a. Capital Funds: **\$21,120.00**
4. Payment Schedule:
 - a. Up to four installments, for a total of **\$21,120.00** for the period 3/1/2024-6/30/2025

GRANT CONTRACT - ATTACHMENT "C"
General Terms and Conditions

Program: Tenino Creative District

Contract No. 387-CP24-025

CONTRACTOR: City of Tenino

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A. HEADINGS AND DEFINITIONS

DEFINITIONS - As used throughout this Contract, the following terms shall have the meaning set forth below:

1. "COMMISSION" shall mean the Washington State Arts Commission, any division, section, office, unit or other entity of the Commission, or any of the officers or other officials lawfully representing that Commission.
2. "Creative District" shall mean a land area designated by a local government and certified by the Commission in accordance with RCW 43.46.105 that contains either a hub of cultural facilities, creative industries, or arts-related businesses, or multiple vacant properties in close proximity that would be suitable for redevelopment as a creative district.
3. "State-certified creative district" means a creative district whose application for certification has been approved by the commission.
4. "AGENT" shall mean the Executive Director, Washington State Arts Commission, and/or the delegate authorized in writing to act on his/her behalf.
5. "CONTRACTOR" shall mean that Creative District Administrator or administrative entity that has been awarded a grant of funds under this Contract and shall include all designated employees of the CONTRACTOR.
6. "Local government" means a city, county, or town.

HEADINGS - Headings used in this Contract are for reference purposes only and shall not be considered a substantive part of this Contract.

B. GENERAL CONTRACT TERMS

AMENDMENTS OR MODIFICATION - This Contract may be amended or modified only by mutual consent of the COMMISSION and CONTRACTOR. To be effective, any amendment or modification must be in writing, signed by all parties, and attached hereto. No oral understanding or agreement binds the parties.

CONFORMANCE - If any provision of this contract violates any statute or rule of law of the State of Washington, it is considered modified to conform to that statute or rule of law.

ORDER OF PRECEDENCE – The items listed below are incorporated herein by reference. In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable Federal and Washington State statutes and regulations including applicable Federal and State Executive Orders.
2. Special Terms and Conditions of this Contract, including
 - a. Scope of Work and Reporting Requirements
 - b. Modifications to the General Terms and Conditions
3. General Terms and Conditions
4. NEA General Terms and Conditions if Federal funds are committed by this Contract.
5. All other attachments or material incorporated by reference.

SEVERABILITY - If any provision of this Contract or any provision of any document incorporated by reference is held invalid, such invalidity shall not affect the other provisions of this Contract which can

be given effect without the invalid provision, and to this end the provisions of this Contract are declared to be severable.

WAIVER OF DEFAULT OR BREACH-- Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Waiver of any default or breach shall not be construed to be a modification of the terms of the Contract.

C. PERFORMANCE AND GENERAL RESPONSIBILITIES

COVENANT AGAINST CONTINGENT FEES - The CONTRACTOR warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or a bona fide established agent maintained by the CONTRACTOR for the purpose of securing business. The COMMISSION shall have the right, in the event of breach of this clause by the CONTRACTOR, to annul this Contract without liability, or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

INDEMNIFICATION – To the fullest extent permitted by law, the CONTRACTOR shall indemnify defend, and hold harmless the State of Washington, including the COMMISSION and all officials, agents, employees of the State from and against any liability, damages, claims, suits and/or expenses arising out of or resulting from performance of this Contract, including, but not limited to, injury to persons or property, failure to follow applicable law, acts that are libelous or slanderous, and the violation or infringement of any copyright, patent, trademark, trade name or unfair trade practice law. The CONTRACTOR’s obligation to indemnify, defend, and hold harmless includes any claim by the CONTRACTOR’s agents, employees, representatives, or any subcontractor or its employees. The CONTRACTOR shall be required to indemnify, defend, and hold harmless the State only to the extent claim is caused in whole or in part by negligent acts or omissions of the CONTRACTOR.

INDEPENDENT CAPACITY OF CONTRACTOR This Contract creates an independent contractor relationship. The CONTRACTOR and its employees or agents performing under this Contract are not employees or agents of the COMMISSION or the State of Washington. The CONTRACTOR and its employees or agents will not hold themselves out as nor claim to be officers or employees of the COMMISSION or of the State of Washington by reason of this Contract and will not make any claim, demand, or application to or for any right or privilege which would accrue to such an officer or employee under law. The COMMISSION shall not control or otherwise supervise the manner in which this Contract is performed.

NONASSIGNABILITY – The CONTRACTOR shall not assign this Contract, any rights or obligations under this Contract, or any claim arising under this Contract without prior written consent of the COMMISSION.

PUBLICITY/ACKNOWLEDGEMENTS – The CONTRACTOR shall acknowledge the COMMISSION in all printed or oral material and announcements, including in-person interviews with audio, video, or print journalists, which result from this Contract, as follows: “This program is supported, in part, by a grant from ArtsWA (the Washington State Arts Commission).”

REPRODUCTION - The CONTRACTOR relinquishes to the State and its assigns royalty-free, irrevocable, non-exclusive license to make photographic or graphic reproductions or otherwise use data and copyrightable materials that result from this Contract, provided that such use or reproduction shall be only for government purposes. Data shall include, but is not limited to, reports, documents, pamphlets, other printed matter, photographs, and sound recordings. Government purposes shall include, but are not limited to, (1) internal documents such as memoranda and (2) public releases such as advertising, brochures, media publicity and catalogs or other similar publications, social media or other electronic communications, provided that the author or artist is credited. All reproductions of

copyrightable material by the State in public releases shall contain a credit to the author or artist where applicable.

SERVICES WITHIN WASHINGTON - The CONTRACTOR agrees that no funds under this Contract will be used for activities or services outside the State of Washington, without prior authorization of the COMMISSION.

D. COMPLIANCE WITH LAWS, RECORDKEEPING, AND INSPECTION

AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CRF Part 35. – The CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodation, state and local government services, and telecommunications.

COMPLIANCE WITH APPLICABLE LAW. The CONTRACTOR shall comply with all applicable and current federal, state, and local laws, regulations, and policies, including all applicable local, state, and federal licensing, accreditation and registration requirements/standards necessary for the performance of this Contract.

In the event of the CONTRACTOR's noncompliance or refusal to comply with any applicable law or policy, the COMMISSION may rescind, cancel or terminate this Contract for cause in whole or in part. The COMMISSION also may declare the CONTRACTOR ineligible for further grant awards from the COMMISSION.

CONFLICT OF INTEREST. Notwithstanding any determination by the Executive Ethics Board or other tribunal, the COMMISSION may, by written notice to the CONTRACTOR, terminate this Contract if it is found after due notice and examination by the COMMISSION that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW, or any similar statute involving the CONTRACTOR in the procurement of, or performance under, this Contract.

In the event this Contract is terminated as provided above, the COMMISSION shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of contract by the CONTRACTOR. The rights and remedies of the COMMISSION 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 the Agent makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Contract.

HAZARDOUS SUBSTANCES. The CONTRACTOR will defend, protect and hold harmless COMMISSION and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances as defined by state and federal law on the property covered by the project.

NONDISCRIMINATION LAWS – During the performance of this Contract, the CONTRACTOR shall comply with all federal and state nondiscrimination laws, regulations, or policies. If the CONTRACTOR does not comply or refuses to comply with nondiscrimination laws, regulations or policies, the COMMISSION may rescind, cancel, or terminate this Contract in whole or in part and may also declare the CONTRACTOR ineligible for further contracts with the COMMISSION. The CONTRACTOR shall be given a reasonable time in which to cure noncompliance. Any dispute may be resolved in accordance with the "Disputes" provision in this Contract.

NONDISCRIMINATION

- a. Nondiscrimination Requirement. During the term of this Contract, CONTRACTOR, including any SUBCONTRACTOR, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, CONTRACTOR, including any SUBCONTRACTOR, shall give written notice of this

- nondiscrimination requirement to any labor organizations with which CONTRACTOR, or SUBCONTRACTOR, has a collective bargaining or other agreement.
- b. **Obligation to Cooperate.** CONTRACTOR, including any SUBCONTRACTOR, shall cooperate and comply with any Washington state agency investigation regarding any allegation that CONTRACTOR, including any SUBCONTRACTOR, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).
 - c. **Default.** Notwithstanding any provision to the contrary, COMMISSION may suspend CONTRACTOR, including any SUBCONTRACTOR, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until COMMISSION receives notification that CONTRACTOR, including any SUBCONTRACTOR, is cooperating with the investigating state agency. In the event CONTRACTOR, or SUBCONTRACTOR, is determined to have engaged in discrimination identified at RCW 49.60.530(3), COMMISSION may terminate this Contract in whole or in part, and CONTRACTOR, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. CONTRACTOR or SUBCONTRACTOR may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.
 - d. **Remedies for Breach.** Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, CONTRACTOR, SUBCONTRACTOR, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. COMMISSION shall have the right to deduct from any monies due to CONTRACTOR or SUBCONTRACTOR, or that thereafter become due, an amount for damages CONTRACTOR or SUBCONTRACTOR will owe COMMISSION for default under this provision.

PUBLIC DISCLOSURE/CONFIDENTIALITY – CONTRACTOR acknowledges that the COMMISSION is subject to Chapter 42.17 RCW, the Public Disclosure Act and that this Contract shall be a public record as defined in RCW 42.17.250 through 42.17.340. Any specific information that is claimed by the CONTRACTOR to be confidential or proprietary must be clearly identified as such by the CONTRACTOR. To the extent consistent with Chapter 42.17 RCW, the COMMISSION shall maintain the confidentiality of all such information marked confidential or proprietary. If a request is made to view the CONTRACTOR's information, the COMMISSION will notify the CONTRACTOR of the request and the date that such records will be released to the requester unless CONTRACTOR obtains a court order enjoining that disclosure. If the CONTRACTOR fails to obtain the court order enjoining disclosure, the COMMISSION will release the request information on the date specified.

RECORDS, DOCUMENTS, AND REPORTS – The CONTRACTOR shall maintain complete financial records, including all accounts, books, records, documents, invoices and other evidence, that sufficiently and properly reflect all direct and indirect costs of any nature expenses incurred and revenues acquired under this Contract. The records must clearly show that matching expenditures, if required, are not less than the amount granted in the approved application and this Contract. The system of accounting employed by the CONTRACTOR shall be in accordance with generally accepted accounting principles, and will be applied in a consistent manner so that the project finances can be clearly identified.

These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by the COMMISSION, the Office of the State Auditor, and Federal officials so authorized by law, rule, regulation, or contract. The CONTRACTOR will retain all books, records, documents, and other materials relevant to this Contract for six years after termination or expiration of the Contract, and make them available for inspection by persons authorized under this provision. 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.

REGISTRATION WITH THE DEPARTMENT OF REVENUE - The CONTRACTOR shall complete registration, if required by law, with the Washington State Department of Revenue, P.O. Box 47450, Olympia, WA 98504-7450, <http://dor.wa.gov>. The CONTRACTOR shall be responsible for payment of all taxes due on payments made under this Contract.

RIGHT OF INSPECTION – The CONTRACTOR shall cooperate with and freely participate in any monitoring or evaluation activities conducted by the COMMISSION pertinent to the intent of this Contract, including right of entry for periodic site inspections. The CONTRACTOR shall provide right of access to the facilities and/or site of the activity, project, or program to the COMMISSION, or to 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 Contract.

E. FUNDING, REIMBURSEMENT AND BUDGET

ADVANCE PAYMENTS PROHIBITED - No payments in advance or in anticipation of services or supplies to be provided under this Contract shall be made by the COMMISSION.

TAXES – All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

TRAVEL AND PER DIEM - In the event the Contract expressly provides for the CONTRACTOR to be reimbursed for out-of-pocket expenses, the CONTRACTOR will be reimbursed for travel expenses at the State rates for mileage and per diem in effect at the time these expenses are incurred. The COMMISSION reserves the right to audit documents supporting billings made for out-of-pocket expenses.

F. TERMINATION AND DISPUTES

DISPUTES. Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing of the other according to the process set out in this section. Either party's request for dispute hearing must be in writing and clearly state:

1. The disputed issue(s);
2. The relative positions of the parties;
3. The CONTRACTOR's name, address and project title.

The requesting party shall mail the request for hearing to the other party within 5 working days after the parties agree that they cannot resolve the dispute. Within 5 working days of receipt of the request, the receiving party shall respond by either accepting or refusing the request for dispute resolution.

If both parties agree to a dispute hearing, the dispute shall be heard by a panel of three persons consisting of one person selected by the CONTRACTOR, one person selected by the COMMISSION, and a third person chosen by the two persons initially appointed. Any hearing under this section shall be informal, with the specific processes to be determined by the panel according to the nature and complexity of the issues involved. The process may be solely based upon written material if the parties so agree. Provisions of this Contract shall govern the panel in deciding the disputes. The parties shall equally share all cost associated with implementation of this process.

The decision of the panel shall not be admissible in any succeeding judicial or quasi-judicial proceeding concerning the Contract. The parties agree that these dispute resolution proceedings shall precede any action in a judicial or quasi-judicial tribunal. Nothing in this

Contract shall be construed to limit the parties' choice of a mutually acceptable alternative dispute resolution method in addition to the dispute resolution procedure outlined above.

GOVERNING LAW AND VENUE – Washington law shall govern this Contract. In the event of a lawsuit involving this Contract, venue shall be proper in Thurston County.

SAVINGS If any State, Federal, private, or other funding source withdraws, reduces, or limits in any way the funds appropriated for the work under this Contract prior to normal termination of the Contract, the COMMISSION may terminate the Contract without advance notice. At the COMMISSION's discretion, the parties may renegotiate the Contract under those new funding limitations and conditions. If this Contract is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Contract prior to the effective date of termination.

TERMINATION FOR CONVENIENCE - Either party may terminate this Contract upon 15 days' prior written notification to the other party. If this Contract is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Contract prior to the effective date of termination.

TERMINATION OR SUSPENSION FOR CAUSE—In the event the COMMISSION determines the CONTRACTOR has failed to comply with the conditions of this Contract in a timely manner, the COMMISSION has the right to suspend or terminate the Contract. Before suspending or terminating the Contract, the COMMISSION shall notify the CONTRACTOR in writing of the need to take corrective action. If corrective action is not taken within fifteen (15) days of receiving notice, the COMMISSION may terminate or suspend the Contract.

If the Contract is terminated for cause, the COMMISSION reserves the right to require the CONTRACTOR to repay all or any portion of funds paid to the CONTRACTOR prior to termination. The CONTRACTOR shall make repayment within thirty (30) days of the demand. If the COMMISSION is required to institute legal proceedings to enforce this repayment provision, the COMMISSION shall be entitled to its costs, including reasonable attorneys' fees. However, repayment shall not be the sole or exclusive remedy available to the COMMISSION. No remedy available to the COMMISSION shall be deemed exclusive. The COMMISSION may elect to exercise any single, any combination, or all of the remedies available to it under this Contract, or under any provision of law, common law, or equity.

SUSPENSION AND DEBARMENT

If federal funds are used for this contract, the CONTRACTOR shall assure that, its officers, agents, SUBCONTRACTORS, and consultants shall not fund, contract with, or engage the services of any consultant, SUBCONTRACTOR, supplier, or other party who is debarred, suspended, or otherwise ineligible to receive funds.

The CONTRACTOR certifies that the CONTRACTOR is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in the AGREEMENT by any federal department or agency. If requested by COMMISSION, the CONTRACTOR shall complete a Certification of Debarment, Suspension, Ineligibility, and Voluntary Exclusion form.

GRANT CONTRACT - ATTACHMENT "D"
Invoice Voucher

FORM A19-1A (REV 7/96)		STATE OF WASHINGTON AFRS INVOICE VOUCHER
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AGENCY USE ONLY		
AGENCY NO.	LOCATION CODE	P.R. OR AUTH. NO.
387	001	

AGENCY NAME AND LOCATION
WASHINGTON STATE ARTS COMMISSION PO BOX 42675 OLYMPIA WA 98504-2675

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

Vendor's Certificate. I hereby certify under penalty of perjury that the items and totals listed herein are proper charges for materials, merchandise or services furnished to the State of Washington, and that all goods furnished and/or services rendered have been provided without discrimination because of age, sex, marital status, race, creed, color, national origin, handicap, religion, or Vietnam era or disabled veterans status.

VENDOR OR CLAIMANT (Warrant is to be payable to)
City of Tenino 149 Hodgden St S Tenino, WA 98589 dwatterson@cityoftenino.org SWV No. SWV0001495-00

X BY:

(DIGITAL SIGNATURES ACCEPTED)	
(TITLE)	(DATE)

FEDERAL I.D. NO. OR SOCIAL SECURITY NO. (For Reporting Personal Service Contract Payments to IRS):				RECEIVED BY:		DATE RECEIVED:								
DATE	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT	FOR AGENCY USE								
	Creative Districts Grant -- Tenino													
	Capital Grant – City Park Art Walk													
	Per Attachment "A" Scope of Work													
	Contract No: 387-CP24-025													
	057 Creative District Capital Funds:	\$21,120.00												
	011 Creative District State Funds:	\$0												
	Total Grant Awarded:	\$21,120.00												
Vendor Message:					Invoice Total:	\$21,120.00								
PREPARED BY: Korja Giles		TELEPHONE NUMBER: 360-485-1106	DATE: 3/1/2024	AGENCY APPROVAL:		DATE:								
DOC. DATE	PMT DUE DATE	CURRENT DOC. NO.:	REF. DOC. NO.:	VENDOR NUMBER: SWV0001495-00	USE TAX	VENDOR MESSAGE:	UBI NUMBER:							
REF DOC	TRANS CODE	FUND	MASTER APPN INDEX	INDEX PROGRAM	SUB SUB OBJ	ORG INDEX	WORKCLASS	COUNTY	CITY/TOWN	PROJECT	SUB PROJ	PROJ PHAS	AMOUNT	INVOICE NUMBER
		057	D00	00207	NZ					7CAP	24		\$21,120.00	CP24-025
ACCOUNTING APPROVAL FOR PAYMENT:				DATE:	WARRANT TOTAL:			WARRANT NUMBER:						

File Attachments for Item:

11. ARTS WA agreement for Creative District Capital Grant to fund the Library Mural project in the amount of \$5,840.00

Recommended Action: Motion to approve Arts WA grant agreement.

WASHINGTON STATE ARTS COMMISSION

Program: FY24 Creative District Capital Grants

Contract No. 387-CP24-024

GRANT CONTRACT

THIS CONTRACT is made and entered into by and between the **WASHINGTON STATE ARTS COMMISSION**, 711 Capitol Way S, Suite 600, PO Box 42675, Olympia, WA 98504-2675 hereinafter referred to as the COMMISSION, and

Name:	City of Tenino
Physical Address:	149 Hodgden St S Tenino, WA 98589
Phone No:	(360) 264-2368
Email:	<u>d watterson@cityoftenino.org</u>
Federal Employee ID (EIN):	
SWV Number:	SWV0001495-00

hereinafter referred to as the CONTRACTOR.

THE PARTIES MUTUALLY UNDERSTAND AND AGREE AS FOLLOWS:

A. PURPOSE OF CONTRACT

This Contract sets out the terms and conditions by which the COMMISSION provides a grant to the CONTRACTOR for the purpose of developing, sponsoring, promoting or administering an activity, project or program which is related to the conservation and development of artistic resources of the State of Washington. RCW 43.46 provides the statutory authorization for making the grant. The funding is administered under WAC Title 30.

B. DESCRIPTION OF THE ACTIVITY, PROJECT, OR PROGRAM

CONTRACTOR shall use funds provided under this **Contract No. 387-CP24-024** solely for the Purpose of developing, sponsoring, and administering a Creative District as certified by the COMMISSION representing the State of Washington.

C. AMOUNT OF GRANT

Total amount provided under this contract: **\$5,840.00**

1. The Commission provides **Capital Funds** in the amount of **\$5,840.00** to the CONTRACTOR.

D. CONTRACT PERIOD OF PERFORMANCE

Funds are awarded for the period beginning **March 1, 2024 to June 30th, 2025**. The CONTRACTOR must expend all funds by the ending date of this contract. The CONTRACTOR shall notify the COMMISSION immediately in writing if any portion of the funds will not be expended by the end of the fiscal year.

E. CONTRACT REPRESENTATIVES

The following shall be the contact persons for all communications and billings regarding the performance of this Contract. Either party shall provide written notification to the other of changes in contract representation.

CONTRACTOR's Contract Representative:		COMMISSION's Contract Representative:	
Name:	<u>David Watterson</u> <u>Mayor</u>	Name:	<u>Annette Roth</u> <u>Community Development Manager</u>
Org. Name:	<u>City of Tenino</u> <u>149 Hodgden St S</u>	Org. Name:	<u>Washington State Arts Commission</u>
Address:	<u>Tenino, WA 98589</u>	Address:	<u>PO Box 42675, Olympia, WA</u> <u>98504-2675</u>
Phone:	<u>(360) 264-2368</u>	Phone:	<u>360-252-9982</u>
Email:	<u>dwatterson@cityoftenino.org</u>	Email:	<u>annette.roth@arts.wa.gov</u>

F. LIMITATION OF AUTHORITY

The COMMISSION's Agent shall be the Executive Director of the Washington State Arts Commission. Only the COMMISSION's Agent shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. The Agent may delegate this authority, but such delegation is effective only if in writing. See General Terms and Conditions for Contract Amendment or Modification procedures.

G. RIGHTS AND OBLIGATIONS

All rights and obligations of the parties to this Contract shall be subject to this Contract and its attachments including the following, which by this reference, are made a part of this Contract:

- Attachment A: Scope of Work and Reporting Requirements
- Attachment B: Budget and Payment Schedule
- Attachment C: General Terms and Conditions
- Attachment D: Invoice Voucher

H. INSURANCE

Automobile Liability: In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or unowned by the CONTRACTOR, the CONTRACTOR shall require the owner or driver of the automobile to provide automobile liability insurance. The minimum limit for automobile liability is: \$100,000/\$300,000 bodily injury and \$100,000 property damage.

I. ENTIRE CONTRACT

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

J. ANNUAL REPORT

Every Creative District is required to submit annual reports by August 15th of each year in order to maintain certification as a Creative District by the State of Washington. By signing this grant contract, the Creative District agrees to submit annual reports for each year of certification as a Creative District by the State of Washington.

THIS CONTRACT is executed by the persons signing below who warrant that they have authority to execute this contract.

City of Tenino

WASHINGTON STATE ARTS COMMISSION

(Signature of party authorized to sign for CONTRACTOR)

Karen Hanan, Executive Director

(Printed name of signatory)

Date: _____

(Printed title of signatory)

Date: _____

APPROVED AS TO FORM:

(Signature of Kathryn Wyatt, Assistant Attorney General, State of Washington, July 11, 2013 on file in fiscal office)

**GRANT CONTRACT - ATTACHMENT "A"
Scope of Work and Reporting Requirements**

Program: Creative District Capital Grants

Contract No. 387-CP24-024

CONTRACTOR: City of Tenino

The CONTRACTOR agrees that funds shall be received solely for the services and/or reimbursements described here below:

Project Summary:

Tenino has been certified as a Creative District by the State of Washington. The Creative District certification is effective for the 5-year period between **6/5/2020** and **6/5/2025** as specified in Chapter 30-42 WAC.

This grant, effective March 1st, 2024 to June 30th, 2025 is intended to support the development and implementation of the Creative District occurring during the contract period.

Scope of Work:

- **Tenino Library Mural Project**

Allowable Expenses:

All funds allocated through this grant contract are designated to support the formation and operation of the Creative District, including, but not limited to, salaries, benefits and program operating costs.

Annual Report Obligations:

Creative District Certification is independent of this funding. Every Creative District is required to submit annual reports by or before August 15th of each year in order as well as comply with other program requirements to maintain certification in good standing as a Creative District by the State of Washington as required under Chapter 30-42 WAC.

Logo Credit:

Grant recipients are required to acknowledge support from the Washington State Arts Commission (ArtsWA) in all online and printed materials and announcements (including media interviews) associated with this grant as follows: "This Creative District is certified by the Washington State Arts Commission." Whenever possible use the ArtsWA logo on any printed, promotional materials related to this grant. ArtsWA will provide the suite of logos to Creative Districts upon acceptance of this grant contract.



GRANT CONTRACT - ATTACHMENT "B"
Budget and Payment Schedule

Program: Creative District Capital Grant

Contract No. 387-CP24-024

CONTRACTOR: City of Tenino

The CONTRACTOR agrees that in consideration of **sections A, B, and C** on page 1 of this CONTRACT, that funds as awarded will be paid to the CONTRACTOR by the COMMISSION with the following terms and conditions:

1. No funds will be paid to the CONTRACTOR in advance of the contract starting date stated in section D of the CONTRACT.
2. Grant funds can only be spent on the expenses for which COMMISSION funds were committed and described in the Allowable Expenses section of Attachment "A".
 - a. Invoice Vouchers will be signed and returned to the COMMISSION along with the signed contract as outlined in the cover letter included with this contract. The Invoice Voucher may not be altered by the GRANTEE.
 - b. When you have completed your scope of work and are ready to be paid, e-mail Annette Roth with copies of your documentation including materials with the required documentation.
3. The budget is as follows:
 - a. Capital Funds: **\$5,840.00**
4. Payment Schedule:
 - a. Up to four installments, for a total of **\$5,840.00** for the period 3/1/2024-6/30/2025

GRANT CONTRACT - ATTACHMENT "C"
General Terms and Conditions

Program: Tenino Creative District

Contract No. 387-CP24-024

CONTRACTOR: City of Tenino

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A. HEADINGS AND DEFINITIONS

DEFINITIONS - As used throughout this Contract, the following terms shall have the meaning set forth below:

1. "COMMISSION" shall mean the Washington State Arts Commission, any division, section, office, unit or other entity of the Commission, or any of the officers or other officials lawfully representing that Commission.
2. "Creative District" shall mean a land area designated by a local government and certified by the Commission in accordance with RCW 43.46.105 that contains either a hub of cultural facilities, creative industries, or arts-related businesses, or multiple vacant properties in close proximity that would be suitable for redevelopment as a creative district.
3. "State-certified creative district" means a creative district whose application for certification has been approved by the commission.
4. "AGENT" shall mean the Executive Director, Washington State Arts Commission, and/or the delegate authorized in writing to act on his/her behalf.
5. "CONTRACTOR" shall mean that Creative District Administrator or administrative entity that has been awarded a grant of funds under this Contract and shall include all designated employees of the CONTRACTOR.
6. "Local government" means a city, county, or town.

HEADINGS - Headings used in this Contract are for reference purposes only and shall not be considered a substantive part of this Contract.

B. GENERAL CONTRACT TERMS

AMENDMENTS OR MODIFICATION - This Contract may be amended or modified only by mutual consent of the COMMISSION and CONTRACTOR. To be effective, any amendment or modification must be in writing, signed by all parties, and attached hereto. No oral understanding or agreement binds the parties.

CONFORMANCE - If any provision of this contract violates any statute or rule of law of the State of Washington, it is considered modified to conform to that statute or rule of law.

ORDER OF PRECEDENCE - The items listed below are incorporated herein by reference. In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable Federal and Washington State statutes and regulations including applicable Federal and State Executive Orders.
2. Special Terms and Conditions of this Contract, including
 - a. Scope of Work and Reporting Requirements
 - b. Modifications to the General Terms and Conditions
3. General Terms and Conditions
4. NEA General Terms and Conditions if Federal funds are committed by this Contract.
5. All other attachments or material incorporated by reference.

SEVERABILITY - If any provision of this Contract or any provision of any document incorporated by reference is held invalid, such invalidity shall not affect the other provisions of this Contract which can

be given effect without the invalid provision, and to this end the provisions of this Contract are declared to be severable.

WAIVER OF DEFAULT OR BREACH-- Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Waiver of any default or breach shall not be construed to be a modification of the terms of the Contract.

C. PERFORMANCE AND GENERAL RESPONSIBILITIES

COVENANT AGAINST CONTINGENT FEES - The CONTRACTOR warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or a bona fide established agent maintained by the CONTRACTOR for the purpose of securing business. The COMMISSION shall have the right, in the event of breach of this clause by the CONTRACTOR, to annul this Contract without liability, or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

INDEMNIFICATION – To the fullest extent permitted by law, the CONTRACTOR shall indemnify defend, and hold harmless the State of Washington, including the COMMISSION and all officials, agents, employees of the State from and against any liability, damages, claims, suits and/or expenses arising out of or resulting from performance of this Contract, including, but not limited to, injury to persons or property, failure to follow applicable law, acts that are libelous or slanderous, and the violation or infringement of any copyright, patent, trademark, trade name or unfair trade practice law. The CONTRACTOR’s obligation to indemnify, defend, and hold harmless includes any claim by the CONTRACTOR’s agents, employees, representatives, or any subcontractor or its employees. The CONTRACTOR shall be required to indemnify, defend, and hold harmless the State only to the extent claim is caused in whole or in part by negligent acts or omissions of the CONTRACTOR.

INDEPENDENT CAPACITY OF CONTRACTOR This Contract creates an independent contractor relationship. The CONTRACTOR and its employees or agents performing under this Contract are not employees or agents of the COMMISSION or the State of Washington. The CONTRACTOR and its employees or agents will not hold themselves out as nor claim to be officers or employees of the COMMISSION or of the State of Washington by reason of this Contract and will not make any claim, demand, or application to or for any right or privilege which would accrue to such an officer or employee under law. The COMMISSION shall not control or otherwise supervise the manner in which this Contract is performed.

NONASSIGNABILITY – The CONTRACTOR shall not assign this Contract, any rights or obligations under this Contract, or any claim arising under this Contract without prior written consent of the COMMISSION.

PUBLICITY/ACKNOWLEDGEMENTS – The CONTRACTOR shall acknowledge the COMMISSION in all printed or oral material and announcements, including in-person interviews with audio, video, or print journalists, which result from this Contract, as follows: “This program is supported, in part, by a grant from ArtsWA (the Washington State Arts Commission).”

REPRODUCTION - The CONTRACTOR relinquishes to the State and its assigns royalty-free, irrevocable, non-exclusive license to make photographic or graphic reproductions or otherwise use data and copyrightable materials that result from this Contract, provided that such use or reproduction shall be only for government purposes. Data shall include, but is not limited to, reports, documents, pamphlets, other printed matter, photographs, and sound recordings. Government purposes shall include, but are not limited to, (1) internal documents such as memoranda and (2) public releases such as advertising, brochures, media publicity and catalogs or other similar publications, social media or other electronic communications, provided that the author or artist is credited. All reproductions of

copyrightable material by the State in public releases shall contain a credit to the author or artist where applicable.

SERVICES WITHIN WASHINGTON - The CONTRACTOR agrees that no funds under this Contract will be used for activities or services outside the State of Washington, without prior authorization of the COMMISSION.

D. COMPLIANCE WITH LAWS, RECORDKEEPING, AND INSPECTION

AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CRF Part 35. – The CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodation, state and local government services, and telecommunications.

COMPLIANCE WITH APPLICABLE LAW. The CONTRACTOR shall comply with all applicable and current federal, state, and local laws, regulations, and policies, including all applicable local, state, and federal licensing, accreditation and registration requirements/standards necessary for the performance of this Contract.

In the event of the CONTRACTOR's noncompliance or refusal to comply with any applicable law or policy, the COMMISSION may rescind, cancel or terminate this Contract for cause in whole or in part. The COMMISSION also may declare the CONTRACTOR ineligible for further grant awards from the COMMISSION.

CONFLICT OF INTEREST. Notwithstanding any determination by the Executive Ethics Board or other tribunal, the COMMISSION may, by written notice to the CONTRACTOR, terminate this Contract if it is found after due notice and examination by the COMMISSION that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW, or any similar statute involving the CONTRACTOR in the procurement of, or performance under, this Contract.

In the event this Contract is terminated as provided above, the COMMISSION shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of contract by the CONTRACTOR. The rights and remedies of the COMMISSION 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 the Agent makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Contract.

HAZARDOUS SUBSTANCES. The CONTRACTOR will defend, protect and hold harmless COMMISSION and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances as defined by state and federal law on the property covered by the project.

NONDISCRIMINATION LAWS – During the performance of this Contract, the CONTRACTOR shall comply with all federal and state nondiscrimination laws, regulations, or policies. If the CONTRACTOR does not comply or refuses to comply with nondiscrimination laws, regulations or policies, the COMMISSION may rescind, cancel, or terminate this Contract in whole or in part and may also declare the CONTRACTOR ineligible for further contracts with the COMMISSION. The CONTRACTOR shall be given a reasonable time in which to cure noncompliance. Any dispute may be resolved in accordance with the "Disputes" provision in this Contract.

NONDISCRIMINATION

- a. Nondiscrimination Requirement. During the term of this Contract, CONTRACTOR, including any SUBCONTRACTOR, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, CONTRACTOR, including any SUBCONTRACTOR, shall give written notice of this

- nondiscrimination requirement to any labor organizations with which CONTRACTOR, or SUBCONTRACTOR, has a collective bargaining or other agreement.
- b. **Obligation to Cooperate.** CONTRACTOR, including any SUBCONTRACTOR, shall cooperate and comply with any Washington state agency investigation regarding any allegation that CONTRACTOR, including any SUBCONTRACTOR, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).
 - c. **Default.** Notwithstanding any provision to the contrary, COMMISSION may suspend CONTRACTOR, including any SUBCONTRACTOR, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until COMMISSION receives notification that CONTRACTOR, including any SUBCONTRACTOR, is cooperating with the investigating state agency. In the event CONTRACTOR, or SUBCONTRACTOR, is determined to have engaged in discrimination identified at RCW 49.60.530(3), COMMISSION may terminate this Contract in whole or in part, and CONTRACTOR, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. CONTRACTOR or SUBCONTRACTOR may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.
 - d. **Remedies for Breach.** Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, CONTRACTOR, SUBCONTRACTOR, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. COMMISSION shall have the right to deduct from any monies due to CONTRACTOR or SUBCONTRACTOR, or that thereafter become due, an amount for damages CONTRACTOR or SUBCONTRACTOR will owe COMMISSION for default under this provision.

PUBLIC DISCLOSURE/CONFIDENTIALITY – CONTRACTOR acknowledges that the COMMISSION is subject to Chapter 42.17 RCW, the Public Disclosure Act and that this Contract shall be a public record as defined in RCW 42.17.250 through 42.17.340. Any specific information that is claimed by the CONTRACTOR to be confidential or proprietary must be clearly identified as such by the CONTRACTOR. To the extent consistent with Chapter 42.17 RCW, the COMMISSION shall maintain the confidentiality of all such information marked confidential or proprietary. If a request is made to view the CONTRACTOR’s information, the COMMISSION will notify the CONTRACTOR of the request and the date that such records will be released to the requester unless CONTRACTOR obtains a court order enjoining that disclosure. If the CONTRACTOR fails to obtain the court order enjoining disclosure, the COMMISSION will release the request information on the date specified.

RECORDS, DOCUMENTS, AND REPORTS – The CONTRACTOR shall maintain complete financial records, including all accounts, books, records, documents, invoices and other evidence, that sufficiently and properly reflect all direct and indirect costs of any nature expenses incurred and revenues acquired under this Contract. The records must clearly show that matching expenditures, if required, are not less than the amount granted in the approved application and this Contract. The system of accounting employed by the CONTRACTOR shall be in accordance with generally accepted accounting principles, and will be applied in a consistent manner so that the project finances can be clearly identified.

These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by the COMMISSION, the Office of the State Auditor, and Federal officials so authorized by law, rule, regulation, or contract. The CONTRACTOR will retain all books, records, documents, and other materials relevant to this Contract for six years after termination or expiration of the Contract, and make them available for inspection by persons authorized under this provision. 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.

REGISTRATION WITH THE DEPARTMENT OF REVENUE - The CONTRACTOR shall complete registration, if required by law, with the Washington State Department of Revenue, P.O. Box 47450, Olympia, WA 98504-7450, <http://dor.wa.gov>. The CONTRACTOR shall be responsible for payment of all taxes due on payments made under this Contract.

RIGHT OF INSPECTION – The CONTRACTOR shall cooperate with and freely participate in any monitoring or evaluation activities conducted by the COMMISSION pertinent to the intent of this Contract, including right of entry for periodic site inspections. The CONTRACTOR shall provide right of access to the facilities and/or site of the activity, project, or program to the COMMISSION, or to 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 Contract.

E. FUNDING, REIMBURSEMENT AND BUDGET

ADVANCE PAYMENTS PROHIBITED - No payments in advance or in anticipation of services or supplies to be provided under this Contract shall be made by the COMMISSION.

TAXES – All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

TRAVEL AND PER DIEM - In the event the Contract expressly provides for the CONTRACTOR to be reimbursed for out-of-pocket expenses, the CONTRACTOR will be reimbursed for travel expenses at the State rates for mileage and per diem in effect at the time these expenses are incurred. The COMMISSION reserves the right to audit documents supporting billings made for out-of-pocket expenses.

F. TERMINATION AND DISPUTES

DISPUTES. Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing of the other according to the process set out in this section. Either party's request for dispute hearing must be in writing and clearly state:

1. The disputed issue(s);
2. The relative positions of the parties;
3. The CONTRACTOR's name, address and project title.

The requesting party shall mail the request for hearing to the other party within 5 working days after the parties agree that they cannot resolve the dispute. Within 5 working days of receipt of the request, the receiving party shall respond by either accepting or refusing the request for dispute resolution.

If both parties agree to a dispute hearing, the dispute shall be heard by a panel of three persons consisting of one person selected by the CONTRACTOR, one person selected by the COMMISSION, and a third person chosen by the two persons initially appointed. Any hearing under this section shall be informal, with the specific processes to be determined by the panel according to the nature and complexity of the issues involved. The process may be solely based upon written material if the parties so agree. Provisions of this Contract shall govern the panel in deciding the disputes. The parties shall equally share all cost associated with implementation of this process.

The decision of the panel shall not be admissible in any succeeding judicial or quasi-judicial proceeding concerning the Contract. The parties agree that these dispute resolution proceedings shall precede any action in a judicial or quasi-judicial tribunal. Nothing in this

Contract shall be construed to limit the parties' choice of a mutually acceptable alternative dispute resolution method in addition to the dispute resolution procedure outlined above.

GOVERNING LAW AND VENUE – Washington law shall govern this Contract. In the event of a lawsuit involving this Contract, venue shall be proper in Thurston County.

SAVINGS If any State, Federal, private, or other funding source withdraws, reduces, or limits in any way the funds appropriated for the work under this Contract prior to normal termination of the Contract, the COMMISSION may terminate the Contract without advance notice. At the COMMISSION's discretion, the parties may renegotiate the Contract under those new funding limitations and conditions. If this Contract is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Contract prior to the effective date of termination.

TERMINATION FOR CONVENIENCE - Either party may terminate this Contract upon 15 days' prior written notification to the other party. If this Contract is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Contract prior to the effective date of termination.

TERMINATION OR SUSPENSION FOR CAUSE—In the event the COMMISSION determines the CONTRACTOR has failed to comply with the conditions of this Contract in a timely manner, the COMMISSION has the right to suspend or terminate the Contract. Before suspending or terminating the Contract, the COMMISSION shall notify the CONTRACTOR in writing of the need to take corrective action. If corrective action is not taken within fifteen (15) days of receiving notice, the COMMISSION may terminate or suspend the Contract.

If the Contract is terminated for cause, the COMMISSION reserves the right to require the CONTRACTOR to repay all or any portion of funds paid to the CONTRACTOR prior to termination. The CONTRACTOR shall make repayment within thirty (30) days of the demand. If the COMMISSION is required to institute legal proceedings to enforce this repayment provision, the COMMISSION shall be entitled to its costs, including reasonable attorneys' fees. However, repayment shall not be the sole or exclusive remedy available to the COMMISSION. No remedy available to the COMMISSION shall be deemed exclusive. The COMMISSION may elect to exercise any single, any combination, or all of the remedies available to it under this Contract, or under any provision of law, common law, or equity.

SUSPENSION AND DEBARMENT

If federal funds are used for this contract, the CONTRACTOR shall assure that, its officers, agents, SUBCONTRACTORS, and consultants shall not fund, contract with, or engage the services of any consultant, SUBCONTRACTOR, supplier, or other party who is debarred, suspended, or otherwise ineligible to receive funds.

The CONTRACTOR certifies that the CONTRACTOR is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in the AGREEMENT by any federal department or agency. If requested by COMMISSION, the CONTRACTOR shall complete a Certification of Debarment, Suspension, Ineligibility, and Voluntary Exclusion form.

GRANT CONTRACT - ATTACHMENT "D"
Invoice Voucher

FORM A19-1A (REV 7/96)		STATE OF WASHINGTON AFRS INVOICE VOUCHER
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AGENCY USE ONLY		
AGENCY NO.	LOCATION CODE	P.R. OR AUTH. NO.
387	001	

AGENCY NAME AND LOCATION
WASHINGTON STATE ARTS COMMISSION PO BOX 42675 OLYMPIA WA 98504-2675

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

Vendor's Certificate. I hereby certify under penalty of perjury that the items and totals listed herein are proper charges for materials, merchandise or services furnished to the State of Washington, and that all goods furnished and/or services rendered have been provided without discrimination because of age, sex, marital status, race, creed, color, national origin, handicap, religion, or Vietnam era or disabled veterans status.

VENDOR OR CLAIMANT (Warrant is to be payable to)
City of Tenino 149 Hodgden St S Tenino, WA 98589 dwatterson@cityoftenino.org SWV No. SWV0001495-00

X BY:

(DIGITAL SIGNATURES ACCEPTED)	
(TITLE)	(DATE)

FEDERAL I.D. NO. OR SOCIAL SECURITY NO. (For Reporting Personal Service Contract Payments to IRS):					RECEIVED BY:		DATE RECEIVED:									
DATE	DESCRIPTION			QUANTITY	UNIT	UNIT PRICE	AMOUNT	FOR AGENCY USE								
	Creative Districts Grant -- Tenino															
	Capital Grant – Library mural project															
	Per <i>Attachment "A"</i> Scope of Work															
	Contract No: 387-CP24-024															
	057 Creative District Capital Funds:			\$5,840.00												
	011 Creative District State Funds:			\$0												
	Total Grant Awarded:			\$5,840.00												
Vendor Message:																
						Invoice Total:	\$5,840.00									
PREPARED BY: Korja Giles		TELEPHONE NUMBER: 360-485-1106		DATE: 3/1/2024		AGENCY APPROVAL:		DATE:								
DOC. DATE:		PMT DUE DATE:		CURRENT DOC. NO.:		REF. DOC. NO.:		VENDOR NUMBER: SWV0001495-00								
USE TAX:		VENDOR MESSAGE:							UBI NUMBER:							
REF	DOC	TRANS	FUND	MASTER	INDEX	SUB	SUB	ORG	WORKCLASS	COUNTY	CITY/TOWN	PROJECT	SUB	PROJ	AMOUNT	INVOICE NUMBER
			057	D00	00207	NZ						7CAP	24		\$5,840.00	CP24-024
ACCOUNTING APPROVAL FOR PAYMENT:									DATE:		WARRANT TOTAL:			WARRANT NUMBER:		

File Attachments for Item:

12. ARTS WA agreement for Creative District Capital Grant to fund the WSDOT Signage in the amount of \$7,500.

Recommended Action: Motion to approve Arts WA agreement.

WASHINGTON STATE ARTS COMMISSION

Program: FY24 Creative District Capital Grants

Contract No. 387-CP24-026

GRANT CONTRACT

THIS CONTRACT is made and entered into by and between the **WASHINGTON STATE ARTS COMMISSION**, 711 Capitol Way S, Suite 600, PO Box 42675, Olympia, WA 98504-2675 hereinafter referred to as the COMMISSION, and

Name:	City of Tenino
Physical Address:	149 Hodgden St S Tenino, WA 98589
Phone No:	(360) 264-2368
Email:	<u>d watterson@cityof tenino.org</u>
Federal Employee ID (EIN):	
SWV Number:	SWV0001495-00

hereinafter referred to as the CONTRACTOR.

THE PARTIES MUTUALLY UNDERSTAND AND AGREE AS FOLLOWS:

A. PURPOSE OF CONTRACT

This Contract sets out the terms and conditions by which the COMMISSION provides a grant to the CONTRACTOR for the purpose of developing, sponsoring, promoting or administering an activity, project or program which is related to the conservation and development of artistic resources of the State of Washington. RCW 43.46 provides the statutory authorization for making the grant. The funding is administered under WAC Title 30.

B. DESCRIPTION OF THE ACTIVITY, PROJECT, OR PROGRAM

CONTRACTOR shall use funds provided under this **Contract No. 387-CP24-026** solely for the Purpose of developing, sponsoring, and administering a Creative District as certified by the COMMISSION representing the State of Washington.

C. AMOUNT OF GRANT

Total amount provided under this contract: **\$7,500.00**

1. The Commission provides **Capital Funds** in the amount of **\$7,500.00** to the CONTRACTOR.

D. CONTRACT PERIOD OF PERFORMANCE

Funds are awarded for the period beginning **March 1, 2024 to June 30th, 2025**. The CONTRACTOR must expend all funds by the ending date of this contract. The CONTRACTOR shall notify the COMMISSION immediately in writing if any portion of the funds will not be expended by the end of the fiscal year.

E. CONTRACT REPRESENTATIVES

The following shall be the contact persons for all communications and billings regarding the performance of this Contract. Either party shall provide written notification to the other of changes in contract representation.

CONTRACTOR's Contract Representative:		COMMISSION's Contract Representative:	
Name:	<u>David Watterson</u> <u>Mayor</u>	Name:	<u>Annette Roth</u> <u>Community Development Manager</u>
Org. Name:	<u>City of Tenino</u> <u>149 Hodgden St S</u>	Org. Name:	<u>Washington State Arts Commission</u>
Address:	<u>Tenino, WA 98589</u>	Address:	<u>PO Box 42675, Olympia, WA</u> <u>98504-2675</u>
Phone:	<u>(360) 264-2368</u>	Phone:	<u>360-252-9982</u>
Email:	<u>dwatterson@cityoftenino.org</u>	Email:	<u>annette.roth@arts.wa.gov</u>

F. LIMITATION OF AUTHORITY

The COMMISSION's Agent shall be the Executive Director of the Washington State Arts Commission. Only the COMMISSION's Agent shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. The Agent may delegate this authority, but such delegation is effective only if in writing. See General Terms and Conditions for Contract Amendment or Modification procedures.

G. RIGHTS AND OBLIGATIONS

All rights and obligations of the parties to this Contract shall be subject to this Contract and its attachments including the following, which by this reference, are made a part of this Contract:

- Attachment A: Scope of Work and Reporting Requirements
- Attachment B: Budget and Payment Schedule
- Attachment C: General Terms and Conditions
- Attachment D: Invoice Voucher

H. INSURANCE

Automobile Liability: In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or unowned by the CONTRACTOR, the CONTRACTOR shall require the owner or driver of the automobile to provide automobile liability insurance. The minimum limit for automobile liability is: \$100,000/\$300,000 bodily injury and \$100,000 property damage.

I. ENTIRE CONTRACT

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

J. ANNUAL REPORT

Every Creative District is required to submit annual reports by August 15th of each year in order to maintain certification as a Creative District by the State of Washington. By signing this grant contract, the Creative District agrees to submit annual reports for each year of certification as a Creative District by the State of Washington.

THIS CONTRACT is executed by the persons signing below who warrant that they have authority to execute this contract.

City of Tenino

WASHINGTON STATE ARTS COMMISSION

(Signature of party authorized to sign for CONTRACTOR)

Karen Hanan, Executive Director

(Printed name of signatory)

Date: _____

(Printed title of signatory)

Date: _____

APPROVED AS TO FORM:

(Signature of Kathryn Wyatt, Assistant Attorney General, State of Washington, July 11, 2013 on file in fiscal office)

GRANT CONTRACT - ATTACHMENT "A"
Scope of Work and Reporting Requirements

Program: Creative District Capital Grants

Contract No. 387-CP24-026

CONTRACTOR: City of Tenino

The CONTRACTOR agrees that funds shall be received solely for the services and/or reimbursements described here below:

Project Summary:

Tenino has been certified as a Creative District by the State of Washington. The Creative District certification is effective for the 5-year period between **6/5/2020** and **6/5/2025** as specified in Chapter 30-42 WAC.

This grant, effective March 1st, 2024 to June 30th, 2025 is intended to support the development and implementation of the Creative District occurring during the contract period.

Scope of Work:

- **WSDOT Signage for Tenino Creative District**

Allowable Expenses:

All funds allocated through this grant contract are designated to support the formation and operation of the Creative District, including, but not limited to, salaries, benefits and program operating costs.

Annual Report Obligations:

Creative District Certification is independent of this funding. Every Creative District is required to submit annual reports by or before August 15th of each year in order as well as comply with other program requirements to maintain certification in good standing as a Creative District by the State of Washington as required under Chapter 30-42 WAC.

Logo Credit:

Grant recipients are required to acknowledge support from the Washington State Arts Commission (ArtsWA) in all online and printed materials and announcements (including media interviews) associated with this grant as follows: "This Creative District is certified by the Washington State Arts Commission." Whenever possible use the ArtsWA logo on any printed, promotional materials related to this grant. ArtsWA will provide the suite of logos to Creative Districts upon acceptance of this grant contract.



GRANT CONTRACT - ATTACHMENT "B"
Budget and Payment Schedule

Program: Creative District Capital Grant

Contract No. 387-CP24-026

CONTRACTOR: City of Tenino

The CONTRACTOR agrees that in consideration of **sections A, B, and C** on page 1 of this CONTRACT, that funds as awarded will be paid to the CONTRACTOR by the COMMISSION with the following terms and conditions:

1. No funds will be paid to the CONTRACTOR in advance of the contract starting date stated in section D of the CONTRACT.
2. Grant funds can only be spent on the expenses for which COMMISSION funds were committed and described in the Allowable Expenses section of Attachment "A".
 - a. Invoice Vouchers will be signed and returned to the COMMISSION along with the signed contract as outlined in the cover letter included with this contract. The Invoice Voucher may not be altered by the GRANTEE.
 - b. When you have completed your scope of work and are ready to be paid, e-mail Annette Roth with copies of your documentation including materials with the required documentation.
3. The budget is as follows:
 - a. Capital Funds: **\$7,500.00**
4. Payment Schedule:
 - a. Payment 1: **\$7,500.00** for the period 3/1/2024-6/30/2025

GRANT CONTRACT - ATTACHMENT "C"
General Terms and Conditions

Program: Tenino Creative District

Contract No. 387-CP24-026

CONTRACTOR: City of Tenino

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A. HEADINGS AND DEFINITIONS

DEFINITIONS - As used throughout this Contract, the following terms shall have the meaning set forth below:

1. "COMMISSION" shall mean the Washington State Arts Commission, any division, section, office, unit or other entity of the Commission, or any of the officers or other officials lawfully representing that Commission.
2. "Creative District" shall mean a land area designated by a local government and certified by the Commission in accordance with RCW 43.46.105 that contains either a hub of cultural facilities, creative industries, or arts-related businesses, or multiple vacant properties in close proximity that would be suitable for redevelopment as a creative district.
3. "State-certified creative district" means a creative district whose application for certification has been approved by the commission.
4. "AGENT" shall mean the Executive Director, Washington State Arts Commission, and/or the delegate authorized in writing to act on his/her behalf.
5. "CONTRACTOR" shall mean that Creative District Administrator or administrative entity that has been awarded a grant of funds under this Contract and shall include all designated employees of the CONTRACTOR.
6. "Local government" means a city, county, or town.

HEADINGS - Headings used in this Contract are for reference purposes only and shall not be considered a substantive part of this Contract.

B. GENERAL CONTRACT TERMS

AMENDMENTS OR MODIFICATION - This Contract may be amended or modified only by mutual consent of the COMMISSION and CONTRACTOR. To be effective, any amendment or modification must be in writing, signed by all parties, and attached hereto. No oral understanding or agreement binds the parties.

CONFORMANCE - If any provision of this contract violates any statute or rule of law of the State of Washington, it is considered modified to conform to that statute or rule of law.

ORDER OF PRECEDENCE -- The items listed below are incorporated herein by reference. In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable Federal and Washington State statutes and regulations including applicable Federal and State Executive Orders.
2. Special Terms and Conditions of this Contract, including
 - a. Scope of Work and Reporting Requirements
 - b. Modifications to the General Terms and Conditions
3. General Terms and Conditions
4. NEA General Terms and Conditions if Federal funds are committed by this Contract.
5. All other attachments or material incorporated by reference.

SEVERABILITY - If any provision of this Contract or any provision of any document incorporated by reference is held invalid, such invalidity shall not affect the other provisions of this Contract which can

be given effect without the invalid provision, and to this end the provisions of this Contract are declared to be severable.

WAIVER OF DEFAULT OR BREACH-- Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Waiver of any default or breach shall not be construed to be a modification of the terms of the Contract.

C. PERFORMANCE AND GENERAL RESPONSIBILITIES

COVENANT AGAINST CONTINGENT FEES - The CONTRACTOR warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or a bona fide established agent maintained by the CONTRACTOR for the purpose of securing business. The COMMISSION shall have the right, in the event of breach of this clause by the CONTRACTOR, to annul this Contract without liability, or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

INDEMNIFICATION – To the fullest extent permitted by law, the CONTRACTOR shall indemnify defend, and hold harmless the State of Washington, including the COMMISSION and all officials, agents, employees of the State from and against any liability, damages, claims, suits and/or expenses arising out of or resulting from performance of this Contract, including, but not limited to, injury to persons or property, failure to follow applicable law, acts that are libelous or slanderous, and the violation or infringement of any copyright, patent, trademark, trade name or unfair trade practice law. The CONTRACTOR's obligation to indemnify, defend, and hold harmless includes any claim by the CONTRACTOR's agents, employees, representatives, or any subcontractor or its employees. The CONTRACTOR shall be required to indemnify, defend, and hold harmless the State only to the extent claim is caused in whole or in part by negligent acts or omissions of the CONTRACTOR.

INDEPENDENT CAPACITY OF CONTRACTOR This Contract creates an independent contractor relationship. The CONTRACTOR and its employees or agents performing under this Contract are not employees or agents of the COMMISSION or the State of Washington. The CONTRACTOR and its employees or agents will not hold themselves out as nor claim to be officers or employees of the COMMISSION or of the State of Washington by reason of this Contract and will not make any claim, demand, or application to or for any right or privilege which would accrue to such an officer or employee under law. The COMMISSION shall not control or otherwise supervise the manner in which this Contract is performed.

NONASSIGNABILITY – The CONTRACTOR shall not assign this Contract, any rights or obligations under this Contract, or any claim arising under this Contract without prior written consent of the COMMISSION.

PUBLICITY/ACKNOWLEDGEMENTS – The CONTRACTOR shall acknowledge the COMMISSION in all printed or oral material and announcements, including in-person interviews with audio, video, or print journalists, which result from this Contract, as follows: "This program is supported, in part, by a grant from ArtsWA (the Washington State Arts Commission)."

REPRODUCTION - The CONTRACTOR relinquishes to the State and its assigns royalty-free, irrevocable, non-exclusive license to make photographic or graphic reproductions or otherwise use data and copyrightable materials that result from this Contract, provided that such use or reproduction shall be only for government purposes. Data shall include, but is not limited to, reports, documents, pamphlets, other printed matter, photographs, and sound recordings. Government purposes shall include, but are not limited to, (1) internal documents such as memoranda and (2) public releases such as advertising, brochures, media publicity and catalogs or other similar publications, social media or other electronic communications, provided that the author or artist is credited. All reproductions of

copyrightable material by the State in public releases shall contain a credit to the author or artist where applicable.

SERVICES WITHIN WASHINGTON - The CONTRACTOR agrees that no funds under this Contract will be used for activities or services outside the State of Washington, without prior authorization of the COMMISSION.

D. COMPLIANCE WITH LAWS, RECORDKEEPING, AND INSPECTION

AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CRF Part 35. – The CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodation, state and local government services, and telecommunications.

COMPLIANCE WITH APPLICABLE LAW. The CONTRACTOR shall comply with all applicable and current federal, state, and local laws, regulations, and policies, including all applicable local, state, and federal licensing, accreditation and registration requirements/standards necessary for the performance of this Contract.

In the event of the CONTRACTOR's noncompliance or refusal to comply with any applicable law or policy, the COMMISSION may rescind, cancel or terminate this Contract for cause in whole or in part. The COMMISSION also may declare the CONTRACTOR ineligible for further grant awards from the COMMISSION.

CONFLICT OF INTEREST. Notwithstanding any determination by the Executive Ethics Board or other tribunal, the COMMISSION may, by written notice to the CONTRACTOR, terminate this Contract if it is found after due notice and examination by the COMMISSION that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW, or any similar statute involving the CONTRACTOR in the procurement of, or performance under, this Contract.

In the event this Contract is terminated as provided above, the COMMISSION shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of contract by the CONTRACTOR. The rights and remedies of the COMMISSION 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 the Agent makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Contract.

HAZARDOUS SUBSTANCES. The CONTRACTOR will defend, protect and hold harmless COMMISSION and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances as defined by state and federal law on the property covered by the project.

NONDISCRIMINATION LAWS – During the performance of this Contract, the CONTRACTOR shall comply with all federal and state nondiscrimination laws, regulations, or policies. If the CONTRACTOR does not comply or refuses to comply with nondiscrimination laws, regulations or policies, the COMMISSION may rescind, cancel, or terminate this Contract in whole or in part and may also declare the CONTRACTOR ineligible for further contracts with the COMMISSION. The CONTRACTOR shall be given a reasonable time in which to cure noncompliance. Any dispute may be resolved in accordance with the "Disputes" provision in this Contract.

NONDISCRIMINATION

- a. Nondiscrimination Requirement. During the term of this Contract, CONTRACTOR, including any SUBCONTRACTOR, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, CONTRACTOR, including any SUBCONTRACTOR, shall give written notice of this

- nondiscrimination requirement to any labor organizations with which CONTRACTOR, or SUBCONTRACTOR, has a collective bargaining or other agreement.
- b. **Obligation to Cooperate.** CONTRACTOR, including any SUBCONTRACTOR, shall cooperate and comply with any Washington state agency investigation regarding any allegation that CONTRACTOR, including any SUBCONTRACTOR, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).
 - c. **Default.** Notwithstanding any provision to the contrary, COMMISSION may suspend CONTRACTOR, including any SUBCONTRACTOR, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until COMMISSION receives notification that CONTRACTOR, including any SUBCONTRACTOR, is cooperating with the investigating state agency. In the event CONTRACTOR, or SUBCONTRACTOR, is determined to have engaged in discrimination identified at RCW 49.60.530(3), COMMISSION may terminate this Contract in whole or in part, and CONTRACTOR, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. CONTRACTOR or SUBCONTRACTOR may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.
 - d. **Remedies for Breach.** Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, CONTRACTOR, SUBCONTRACTOR, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. COMMISSION shall have the right to deduct from any monies due to CONTRACTOR or SUBCONTRACTOR, or that thereafter become due, an amount for damages CONTRACTOR or SUBCONTRACTOR will owe COMMISSION for default under this provision.

PUBLIC DISCLOSURE/CONFIDENTIALITY – CONTRACTOR acknowledges that the COMMISSION is subject to Chapter 42.17 RCW, the Public Disclosure Act and that this Contract shall be a public record as defined in RCW 42.17.250 through 42.17.340. Any specific information that is claimed by the CONTRACTOR to be confidential or proprietary must be clearly identified as such by the CONTRACTOR. To the extent consistent with Chapter 42.17 RCW, the COMMISSION shall maintain the confidentiality of all such information marked confidential or proprietary. If a request is made to view the CONTRACTOR's information, the COMMISSION will notify the CONTRACTOR of the request and the date that such records will be released to the requester unless CONTRACTOR obtains a court order enjoining that disclosure. If the CONTRACTOR fails to obtain the court order enjoining disclosure, the COMMISSION will release the request information on the date specified.

RECORDS, DOCUMENTS, AND REPORTS – The CONTRACTOR shall maintain complete financial records, including all accounts, books, records, documents, invoices and other evidence, that sufficiently and properly reflect all direct and indirect costs of any nature expenses incurred and revenues acquired under this Contract. The records must clearly show that matching expenditures, if required, are not less than the amount granted in the approved application and this Contract. The system of accounting employed by the CONTRACTOR shall be in accordance with generally accepted accounting principles, and will be applied in a consistent manner so that the project finances can be clearly identified.

These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by the COMMISSION, the Office of the State Auditor, and Federal officials so authorized by law, rule, regulation, or contract. The CONTRACTOR will retain all books, records, documents, and other materials relevant to this Contract for six years after termination or expiration of the Contract, and make them available for inspection by persons authorized under this provision. 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.

REGISTRATION WITH THE DEPARTMENT OF REVENUE - The CONTRACTOR shall complete registration, if required by law, with the Washington State Department of Revenue, P.O. Box 47450, Olympia, WA 98504-7450, <http://dor.wa.gov>. The CONTRACTOR shall be responsible for payment of all taxes due on payments made under this Contract.

RIGHT OF INSPECTION – The CONTRACTOR shall cooperate with and freely participate in any monitoring or evaluation activities conducted by the COMMISSION pertinent to the intent of this Contract, including right of entry for periodic site inspections. The CONTRACTOR shall provide right of access to the facilities and/or site of the activity, project, or program to the COMMISSION, or to 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 Contract.

E. FUNDING, REIMBURSEMENT AND BUDGET

ADVANCE PAYMENTS PROHIBITED - No payments in advance or in anticipation of services or supplies to be provided under this Contract shall be made by the COMMISSION.

TAXES – All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

TRAVEL AND PER DIEM - In the event the Contract expressly provides for the CONTRACTOR to be reimbursed for out-of-pocket expenses, the CONTRACTOR will be reimbursed for travel expenses at the State rates for mileage and per diem in effect at the time these expenses are incurred. The COMMISSION reserves the right to audit documents supporting billings made for out-of-pocket expenses.

F. TERMINATION AND DISPUTES

DISPUTES. Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing of the other according to the process set out in this section. Either party's request for dispute hearing must be in writing and clearly state:

1. The disputed issue(s);
2. The relative positions of the parties;
3. The CONTRACTOR's name, address and project title.

The requesting party shall mail the request for hearing to the other party within 5 working days after the parties agree that they cannot resolve the dispute. Within 5 working days of receipt of the request, the receiving party shall respond by either accepting or refusing the request for dispute resolution.

If both parties agree to a dispute hearing, the dispute shall be heard by a panel of three persons consisting of one person selected by the CONTRACTOR, one person selected by the COMMISSION, and a third person chosen by the two persons initially appointed. Any hearing under this section shall be informal, with the specific processes to be determined by the panel according to the nature and complexity of the issues involved. The process may be solely based upon written material if the parties so agree. Provisions of this Contract shall govern the panel in deciding the disputes. The parties shall equally share all cost associated with implementation of this process.

The decision of the panel shall not be admissible in any succeeding judicial or quasi-judicial proceeding concerning the Contract. The parties agree that these dispute resolution proceedings shall precede any action in a judicial or quasi-judicial tribunal. Nothing in this

Contract shall be construed to limit the parties' choice of a mutually acceptable alternative dispute resolution method in addition to the dispute resolution procedure outlined above.

GOVERNING LAW AND VENUE – Washington law shall govern this Contract. In the event of a lawsuit involving this Contract, venue shall be proper in Thurston County.

SAVINGS If any State, Federal, private, or other funding source withdraws, reduces, or limits in any way the funds appropriated for the work under this Contract prior to normal termination of the Contract, the COMMISSION may terminate the Contract without advance notice. At the COMMISSION's discretion, the parties may renegotiate the Contract under those new funding limitations and conditions. If this Contract is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Contract prior to the effective date of termination.

TERMINATION FOR CONVENIENCE - Either party may terminate this Contract upon 15 days' prior written notification to the other party. If this Contract is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Contract prior to the effective date of termination.

TERMINATION OR SUSPENSION FOR CAUSE—In the event the COMMISSION determines the CONTRACTOR has failed to comply with the conditions of this Contract in a timely manner, the COMMISSION has the right to suspend or terminate the Contract. Before suspending or terminating the Contract, the COMMISSION shall notify the CONTRACTOR in writing of the need to take corrective action. If corrective action is not taken within fifteen (15) days of receiving notice, the COMMISSION may terminate or suspend the Contract.

If the Contract is terminated for cause, the COMMISSION reserves the right to require the CONTRACTOR to repay all or any portion of funds paid to the CONTRACTOR prior to termination. The CONTRACTOR shall make repayment within thirty (30) days of the demand. If the COMMISSION is required to institute legal proceedings to enforce this repayment provision, the COMMISSION shall be entitled to its costs, including reasonable attorneys' fees. However, repayment shall not be the sole or exclusive remedy available to the COMMISSION. No remedy available to the COMMISSION shall be deemed exclusive. The COMMISSION may elect to exercise any single, any combination, or all of the remedies available to it under this Contract, or under any provision of law, common law, or equity.

SUSPENSION AND DEBARMENT

If federal funds are used for this contract, the CONTRACTOR shall assure that, its officers, agents, SUBCONTRACTORS, and consultants shall not fund, contract with, or engage the services of any consultant, SUBCONTRACTOR, supplier, or other party who is debarred, suspended, or otherwise ineligible to receive funds.

The CONTRACTOR certifies that the CONTRACTOR is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in the AGREEMENT by any federal department or agency. If requested by COMMISSION, the CONTRACTOR shall complete a Certification of Debarment, Suspension, Ineligibility, and Voluntary Exclusion form.

GRANT CONTRACT - ATTACHMENT "D"
Invoice Voucher

FORM A19-1A (REV 7/96)		STATE OF WASHINGTON AFRS INVOICE VOUCHER
------------------------------	---	---

AGENCY USE ONLY		
AGENCY NO.	LOCATION CODE	P.R. OR AUTH. NO.
387	001	

AGENCY NAME AND LOCATION
WASHINGTON STATE ARTS COMMISSION PO BOX 42675 OLYMPIA WA 98504-2675

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

Vendor's Certificate. I hereby certify under penalty of perjury that the items and totals listed herein are proper charges for materials, merchandise or services furnished to the State of Washington, and that all goods furnished and/or services rendered have been provided without discrimination because of age, sex, marital status, race, creed, color, national origin, handicap, religion, or Vietnam era or disabled veterans status.

VENDOR OR CLAIMANT (Warrant is to be payable to)
City of Tenino 149 Hodgden St S Tenino, WA 98589 dwatterson@cityoftenino.org SWV No. SWV0001495-00

X BY:

(DIGITAL SIGNATURES ACCEPTED)	
(TITLE)	(DATE)

FEDERAL I.D. NO. OR SOCIAL SECURITY NO. (For Reporting Personal Service Contract Payments to IRS):				RECEIVED BY:		DATE RECEIVED:								
DATE	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT	FOR AGENCY USE								
	Creative Districts Grant -- Tenino													
	Capital Grant – WSDOT Signage													
	Per Attachment "A" Scope of Work													
	Contract No: 387-CP24-026													
	057 Creative District Capital Funds:	\$7,500.00												
	011 Creative District State Funds:	\$0												
	Total Grant Awarded:	\$7,500.00												
Vendor Message:														
Invoice Total:						\$7,500.00								
PREPARED BY: Korja Giles		TELEPHONE NUMBER: 360-485-1106		DATE: 3/1/2024		AGENCY APPROVAL: DATE:								
DOC. DATE	PMT DUE DATE	CURRENT DOC. NO.:	REF. DOC. NO.:	VENDOR NUMBER: SWV0001495-00		USE TAX	VENDOR MESSAGE:	UBI NUMBER:						
REF DOC SUF	TRANS CODE	FUND	MASTER APPN INDEX	INDEX PROGRAM INDEX	SUB SUB OBJ	ORG INDEX	WORKCLASS ALLOC	COUNTY Budget Unit	CITY/TOWN MOS	PROJECT	SUB PROJ	PROJ PHAS	AMOUNT	INVOICE NUMBER
		057	D00	00207	NZ					7CAP	24		\$7,500.00	CP24-026
ACCOUNTING APPROVAL FOR PAYMENT:				DATE:				WARRANT TOTAL:		WARRANT NUMBER:				

File Attachments for Item:

13. Purchase and Sale agreement for Park addition.

Recommended Action: Motion to approve Purchase and Sale agreement for Park addition.

PURCHASE & SALE AGREEMENT
(Re: the Tenino Park Addition)

THIS PURCHASE AND SALE AGREEMENT (the “**Agreement**”), dated as of the date both parties have executed this Agreement (the “**Effective Date**”), is made and entered into by and between **Norseman Timber Company LLC** (“**Seller**”) and **The City of Tenino, Washington** (“**Buyer**”).

RECITALS:

A. Buyer is an incorporated city located in the County of Thurston, State of Washington, which includes as one of its public amenities an existing public park commonly referred to as the Tenino City Park (the “**City Park**”).

B. Seller is the owner of approximately 61 +/- acres of timberland contiguous with the southern boundary of the City Park as more particularly described in attached Exhibit A (the “**Real Property**”), including all rights appurtenant thereto and all improvements, timber, and fixtures if any located therein or thereon, but excepting the Permitted Exceptions specified herein (collectively, the “**Property**”).

B. Seller wishes to sell to Buyer and Buyer wishes to purchase from Seller the Property, subject to the Permitted Exceptions (hereinafter defined), for the price and on the terms and conditions set forth in this Agreement.

AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants of Seller and Buyer (individually, a “**Party**,” and collectively, the “**Parties**”) set forth in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. **Purchase and Sale.** Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller, the Property for the price and on the terms and conditions set forth in this Agreement.

2. **Purchase Price and Payment.**

2.1 **Purchase Price.** The purchase price for the Property shall be the sum of Four Hundred, Twenty-Five Thousand and no/100 Dollars (\$425,000) (the “**Purchase Price**”).

2.2 **Payment.** The Purchase Price shall be paid to Seller as follows:

2.2.1 Upon execution of this Agreement Buyer shall deposit with Chicago Title Company of Washington, at its Lacey, WA office (the “**Title Company**”) the sum of Twenty-Five Thousand and no/100 Dollars (\$25,000), which shall constitute an earnest money deposit hereunder (such amount together with all interest earned thereon is hereinafter referred to

as the “**Earnest Money Deposit**”). Title Company shall deposit the Earnest Money Deposit in an interest-bearing account. The Earnest Money Deposit and any accrued interest thereon shall be applied for Buyer’s account to the Purchase Price at Closing.

2.2.2 The remaining balance of the Purchase Price, subject to the prorations and adjustments described herein, shall be paid in full at Closing by Buyer in immediately available funds.

3. **Roll Back Taxes and Expenses.** The Property is presently designated or classified as forestland, timberland, open space or similar non-ad valorem status for property tax purposes. The Parties will cooperate before and at Closing to cause the non-ad valorem status to be approved for continuance at Closing. Buyer shall bear the risk that the Property or a portion thereof will be removed from such designation or classification as a result of this transaction. If Buyer’s acquisition of the Property results in a change in the forestland, open space, timberland or similar non-ad valorem tax classification or designation applicable to the Property or any portion thereof, Buyer shall be solely responsible for payment of all compensating or “roll back” taxes and any related interest, liabilities and penalties resulting from such change in classification or designation, if any (collectively, “**Roll Back Taxes and Expenses**”). If after the Closing any Roll Back Taxes and Expenses are imposed with respect to the Property or any portion thereof, the same shall not constitute a basis for any claim by Buyer against Seller nor entitle Buyer to rescind this transaction, and Buyer shall pay the same when due and shall and indemnify, defend and hold Seller harmless from all such Roll Back Taxes and Expenses.

4. **Condition of the Property.** Buyer shall have 45 days following execution of this Agreement by both Parties in which to investigate and review the property and all matters relating thereto, and to determine, in Buyer’s sole and absolute discretion, whether to proceed with this transaction (the “investigation period”). Should Buyer decide not to proceed with this transaction during the investigation period, or any extension thereof, the deposit referred in in paragraph 2.2 herein shall be returned to Buyer, along with any accrued interest. Buyer’s investigation and review may include, but is not limited to, conducting of toxic and hazardous waste studies, physical inspections, soils sampling and/or tests (including boring), review of endangered species, habitat, wetlands, zoning, and any other matter related to the feasibility of the property for its intended use by Buyer. Buyer may enter the property during the investigation period for the purpose of determining the feasibility of the property for Buyer’s intended use, provided Buyer shall not conduct any invasive testing without first providing a detailed work plan to Seller and obtaining Seller’s written consent thereto, which shall not be unreasonably withheld. Buyer will reasonably restore the property to its prior condition if any testing or investigation requires this if Buyer does not purchase the property. By purchasing this property, Buyer acknowledges and agrees for itself and its successors and assigns, that except as otherwise expressly provided in this Agreement, including the results of any investigation during the investigation period: (i) it has inspected and is thoroughly familiar with the physical condition of Property and that it is acquiring the Property in its “**AS IS**” condition; (ii) neither Seller nor any agent of Seller has made or makes any representations or warranties of any kind with respect to the condition of the Property or its fitness, suitability or acceptability for any particular use or purpose; (iii) Seller is selling the Property by the tract or parcel only, it being understood and agreed that the acreage of the Property is not guaranteed or warranted in any way by Seller; and (v) Seller shall have no obligation to repair or make any improvements to the condition of the

Property prior to the Closing. By purchasing the Property, Buyer acknowledges and agrees for itself and its successors and assigns that (i) Buyer has been given a reasonable opportunity to inspect and to investigate the Property and the timber thereon either independently or through agents of Buyer's choosing; (ii) any information pertaining to the Property and the timber thereon, whether written or oral, or in the form of marketing materials, maps, surveys, cruise data, inventory information, plats, soil reports, engineering studies, environmental studies, inspection reports, plans, specifications, or any other information whatsoever, without exception, pertaining to the Property and the timber thereon, or any and all other matters concerning the condition, suitability, integrity, marketability, compliance with law, or other attributes or aspects of the Property and the timber thereon, is furnished to Buyer without warranty by Seller and that neither Seller nor its representatives have verified the accuracy of any statements or other information therein contained nor the qualifications of the persons preparing such information; (iii) Buyer is responsible for verifying legal and practical access to the Property, including, contacting any responsible government agencies regarding access, permits, restrictions or existing hazards and Seller makes no guarantee regarding access; (iv) mineral rights will not be included if such rights are not owned by Seller as of the Effective Date; (v) Buyer is responsible for evaluating whether the Property is suitable for Buyer's intended purpose; and (vi) Buyer shall be solely responsible for obtaining all permits and licenses, if any, required of or by Buyer to carry on its intended operations or activities on the Property. The provisions of this Section 4 shall survive the Closing and the delivery of the Deed to Buyer.

Extension of Investigation Period. If Buyer has made a good faith and diligent effort to complete its feasibility investigation within the initial Investigation Period but is unable to do so, then Buyer may request an extension of the Investigation Period by up to an additional 60 days if necessary to complete its feasibility investigation, and Seller shall not unreasonably withhold its consent to such an extension. If Buyer does not approve the results of its investigation and review of the Property and all matters relating thereto, and/or Buyer decides not to proceed with this transaction, then Buyer may terminate this Agreement by giving a written notice to Seller and Escrow Agent stating Buyer's disapproval and/or intent to terminate this Agreement ("Feasibility Termination Notice"). Unless prior to the expiration of the Feasibility Contingency Period, Buyer has given Seller notice of waiver or satisfaction of the Feasibility Contingency and a written statement that it will proceed to Closing, then this Agreement will terminate at the expiration of the Feasibility Contingency, as the same may be extended, and thereafter, neither Buyer nor Seller shall have any further liability to the other under this Agreement, except for such obligations as expressly survive any termination of this Agreement other than as required by the first addendum attached hereto.

5. **Ongoing Operations.** From the date hereof until the Closing, Seller shall continue to operate the Property in the ordinary course of business utilizing prudent land management practices and shall not enter into any conservation easement or any other agreement that would affect Buyer's title, use, value, operation or enjoyment of the Property.

6. **Title.**

6.1 **Permitted Exceptions.** The following matters shall constitute "**Permitted Exceptions:**"

6.1.1 liens for ad valorem taxes, assessments and other governmental charges which are not yet due and payable as of the Closing;

6.1.2 all land use (including environmental and wetlands), building, forestry, and zoning laws, rules, regulations, codes and ordinances affecting the Property or the use thereof;

6.1.3 any rights of the United States of America, of the State of Washington or any other parties whatsoever, in the use and continuous flow of any brooks, streams or other natural water courses or water bodies within, crossing or abutting the Property, including, without limitation, riparian rights and navigational servitudes, or to the beds and banks of such water courses below the ordinary highwater mark thereof;

6.1.4 all existing public streets;

6.1.5 all (i) cemeteries and burial grounds and (ii) all electric power, telephone, gas, sanitary sewer, storm sewer, water and other utility lines on, over or under the Property together with easements for the same;

6.1.6 all mineral rights or reservations, oil, gas or mineral leases, water districts, water rights, restrictions or reservations outstanding in third parties of record;

6.1.7 liens or encumbrances affecting the Property created by Buyer;

6.1.8 reservations in federal patents and acts authorizing the same;

6.1.9 possible additional taxes and penalties that may be assessed if the Property is disqualified for continued assessment on the basis of forestland;

6.1.10 Indian treaty or aboriginal rights, including easements and equitable servitudes;

6.1.11 all matters affecting title to the Property which would be disclosed by a thorough physical inspection or accurate survey of the Property;

6.1.12 subject to Section 6.2 hereof, those special exceptions set forth in the Preliminary Title Report No. _____ as prepared by Chicago Title of Washington and dated as of _____, 2024, (individually and collectively, the “**Title Report**”); and

6.1.13 specific exceptions appearing in an Update which, pursuant to Section 6.2, become Permitted Exceptions.

6.2 **Updates.** Within five (5) calendar days following Seller’s receipt of an updated Title Report relating to the Real Property, if any (each an “**Update**”), Seller shall deliver a copy of the Update to Buyer, together with true and complete copies of all instruments identified therein, to the extent available, as giving rise to any defects or exceptions to title to the Property not disclosed by the original Title Report. Within seven (7)

calendar days following Buyer's receipt of an Update, Buyer shall advise Seller in writing ("**Buyer's Title Update Defect Notice**") of any liens, encumbrances or other defects or exceptions in or to title to the Property reflected in such Update, other than Permitted Exceptions (except those in Sections 6.1.12 and 6.1.13) subject to which Buyer is unwilling to accept title (collectively, the "**Title Update Defect(s)**"); provided, Buyer shall be deemed to have accepted all conditions and exceptions to title listed in the Update that are not specified in Buyer's Title Update Defect Notice. If Buyer does not provide Buyer's Title Update Defect Notice to Seller prior to the expiration of such 7-day period, Buyer shall be deemed to have determined that the Title Report is satisfactory to Buyer. Seller shall have five (5) calendar days after receiving Buyer's Title Update Defect Notice to (i) cure the Title Update Defect, (ii) provide Buyer with reasonable assurances of the manner in which the Title Update Defect will be cured before the Closing, or (iii) provide Buyer with written notice that Seller will not cure the Title Update Defect prior to the Closing; provided, if Seller does not provide Buyer with such written notice prior to the expiration of such 5-day period, Seller shall be deemed to have declined to cure the Title Update Defect. If Seller declines or is deemed to have declined to cure the Title Update Defect, or is thereafter prior to the Closing unable to cure the Title Update Defect(s) after electing to do so or providing assurances, then, if Buyer and Seller are unable to negotiate a mutually acceptable resolution, Buyer may elect, as its sole remedy, by written notice to Seller prior to the Closing to terminate this Agreement, in which case Buyer shall be entitled to a return of its Earnest Money Deposit. In the event Seller elects to correct all or some of the Unacceptable Exceptions, Seller, in its sole discretion, may extend the Closing for up to thirty (30) calendar days in the aggregate in order to eliminate such Unacceptable Exceptions.

6.3 Grant Funding. Seller acknowledges that Buyer may use grant funds from the Angela J. Bowen Foundation ("Foundation") to fund this transaction. Seller will reasonably cooperate with Buyer with respect to any requests related to this grant funding necessary to complete the purchase of the property, including the First Addendum To Purchase and Sale Agreement attached hereto as Exhibit B. Seller acknowledges that at closing Seller must execute a Declaration of Conservation Restriction which will be recorded in substantially the same form as provided in Exhibit C hereto and the Foundation may provide the closing agent with instructions that require said Declaration to be recorded in a timely manner.

7. **Conditions to the Closing.**

7.1 **Buyer's Conditions.** Buyer's obligation to close this transaction shall be subject to and contingent upon the satisfaction or waiver of each of the following conditions:

7.1.1 Accuracy of Seller's Representations and Warranties. The representations and warranties of Seller contained in this Agreement shall be true, correct and not misleading in all material respects.

7.1.2 Closing Documents. Seller shall have delivered to Buyer the documents set forth in Section 8.3.

7.1.3 Grant Funding. Grant funding referred to in paragraph 6.4.3 in an amount not less than \$440,000 is received by Buyer directly from the Foundation prior to close of escrow unless expressly waived by Buyer in writing.

7.2 **Seller's Conditions.** Seller's obligation to close this transaction shall be subject to and contingent upon the satisfaction or waiver of each of the following conditions:

7.2.1 Accuracy of Buyer's Representations and Warranties. The representations and warranties of Buyer contained in this Agreement shall be true, correct and not misleading in all material respects.

7.2.2 Closing Documents. Buyer shall have delivered to Seller the documents set forth in Section 8.2.

8. Closing.

8.1 **Time and Place of Closing, and Recording of Deed.** This transaction shall be closed in escrow (the "**Closing**") at the offices of the Title Company located at _____ (_____, Escrow Officer). The Closing shall take place on the date mutually convenient for the Parties, but no later than April 1, 2024 (the "**Termination Date**"), unless extended by the Parties in writing. The date the Deeds are recorded and funds are disbursed to Seller is herein referred to as the "**Closing Date.**" Title to Real Property shall be conveyed by Statutory Warranty Deed, subject to the Declaration of Conservation which shall be recorded prior to the Deed and excepting therein the Permitted Exceptions (the "**Deed**"). THE PARTIES AGREE THAT TIME IS OF THE ESSENCE OF THIS AGREEMENT.

8.2 **Buyer's Closing Deliveries.** At or before Closing, Buyer shall deliver to Title Company, for delivery through escrow to Seller or as otherwise directed, the following:

8.2.1 the balance due on the Purchase Price, together with any other amounts required by this Agreement to be paid by Buyer, all in immediately available funds by wire transfer to the Title Company's account or by certified check;

8.2.2 an executed assignment and assumption agreement regarding the Trail Permit in such form as is requested by Thurston County (the "**Assignment and Assumption Agreement**"), if applicable;

8.2.3 an executed Washington Real Estate Excise Tax Affidavit specific to the terms of this transaction;

8.2.4 if required by the Title Company, certified resolutions, certificates of good standing and other evidence of the authority of the persons executing this Agreement and the closing documents on behalf of Buyer to execute such documents and close the transactions contemplated hereby;

8.2.5 the executed Declaration of Conservation; and

8.2.6 an executed buyer's closing statement.

8.3 **Seller's Closing Deliveries.** At the Closing, Seller shall deliver through escrow to Buyer or as otherwise directed, the following:

8.3.1 The Deed, duly executed by Seller;

8.3.2 an executed Washington Real Estate Excise Tax Affidavit specific to the terms of this transaction;

8.3.3 an executed Assignment and Assumption Agreement, if applicable;

8.3.4 an executed certificate to the effect that Seller is not a foreign person as defined in Section 1445 of the Internal Revenue Code of 1986, as amended;

8.3.5 if required by the Title Company, certified resolutions, certificates of good standing and other evidence of the authority of the persons executing this Agreement and the closing documents on behalf of Seller to execute such documents and close the transactions contemplated hereby;

8.3.6 the executed Declaration of Conservation; and

8.3.7 an executed seller's closing statement

8.4 **Reasonable Actions.** The Parties shall execute additional documents and instruments and take such other actions as may be reasonably necessary to complete the Closing in accordance with this Agreement, so long as the terms thereof are consistent with the terms of this Agreement.

8.5 **Prorations; Special Use Deferral.** All items of income and expense, including, without limitation real property taxes and governmental assessments on the Property shall be prorated between Seller and Buyer as of the Closing Date and readjusted by the Parties after Closing if the proration used at Closing is not accurate.

8.6 **Closing Costs.** The costs associated with the Closing shall be allocated as follows:

8.6.1 Seller shall pay (i) one-half of the escrow fee of Title Company (plus sales tax thereon), (ii) the real estate excise taxes, (iii) the premium for a single standard coverage owner’s title insurance policy without endorsements or extended coverage (plus sales tax thereon), and (iv) Seller’s attorneys’ fees. Buyer shall pay (i) one-half of the escrow fee of Title Company (plus sales tax thereon), (ii) the premiums for any desired endorsements to a standard coverage owner’s title insurance policy (plus sales tax thereon), (iii) the recording fees with respect to the Deeds, the Declaration of Conservation, and other conveyance documents, and (iv) Buyer’s due diligence and attorneys’ fees.

8.6.2 Except as expressly provided in this Agreement, each Party shall bear all costs and expenses incurred by such Party in connection with this transaction.

8.7 **Title Insurance Policy.** At the Closing, Buyer shall cause the Title Company to deliver to Buyer a standard coverage owner’s policy of title insurance with respect to the Property, with a coverage amount equal to the Purchase Price, subject only to the standard preprinted general exceptions (unless endorsed over) and the Permitted Exceptions, and any liens or encumbrances suffered or created by Buyer and containing such endorsements as Buyer may reasonably require (the “**Title Policy**”).

8.8 **Possession.** Buyer shall be entitled to possession of the Property immediately upon the Closing.

9. **Breach and Remedies.**

9.1 **Breach by Buyer.** IF BUYER DEFAULTS IN THE PURCHASE OF THE PROPERTY, SELLER MAY UPON WRITTEN NOTICE TO BUYER TERMINATE THIS AGREEMENT, WHEREUPON ALL RIGHTS AND OBLIGATIONS OF THE PARTIES TO EACH OTHER SHALL CEASE. AS THE SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT BY BUYER, SELLER SHALL RETAIN THE DEPOSIT AS LIQUIDATED AND AGREED-UPON DAMAGES. BUYER AND SELLER ACKNOWLEDGE THAT THEY HAVE MUTUALLY DISCUSSED THE IMPRACTICABILITY AND EXTREME DIFFICULTY OF FIXING THE ACTUAL DAMAGES TO SELLER IF THE SALE AND PURCHASE OF THE PROPERTY DOES NOT CLOSE BECAUSE OF BUYER’S DEFAULT. THE PARTIES THEREFORE AGREE THAT THE DEPOSIT REPRESENTS A REASONABLE ESTIMATE OF THE ACTUAL DAMAGES THAT SELLER WILL INCUR IN THE CASE OF SUCH DEFAULT BY BUYER.

SELLER _____

BUYER _____

9.2 **Breach by Seller.** Should Closing not occur solely due to the default of Seller, Buyer may, at its sole discretion, either (i) maintain the Earnest Money Deposit in escrow and pursue an action for specific performance, or (ii) obtain a refund of the Earnest Money Deposit and terminate this Agreement.

9.3 **Dispute Resolution.** In the event of any dispute, claim, question or disagreement from or relating to this Agreement, or breach thereof, the Parties shall use their best efforts to resolve the dispute, claim, question or disagreement. No suit may be filed by either Party against the other Party in relation to this Agreement without first referring the matter to non-binding mediation, the terms of which will be agreed to in writing or, in the absence of such agreement to mediation, to the Washington Arbitration and Mediation Service in Seattle, with each Party to bear its own attorney fees and one half of the mediation service fee.

10. **1031 Exchange.** Buyer hereby acknowledges that Seller has the option to qualify this transaction as part of a tax deferred exchange under section 1031 of the Internal Revenue Code. Buyer agrees that Seller may assign its rights and obligations under this agreement to a 1031 exchange facilitator as necessary to facilitate the exchange. Buyer agrees to cooperate with the Seller in order to complete the exchange, provided such cooperation will neither delay the closing nor cause additional expense or liability to the Buyer.

11. **Miscellaneous Provisions.**

11.1 **Recitals and Schedules.** The Recitals to this Agreement and any exhibits or schedules attached to this Agreement are incorporated herein by this reference.

11.2 **Assignment; No Recording.** Buyer shall not assign any of its rights or obligations under this Agreement without the prior written consent of Seller. Any such assignment without Seller's consent shall be invalid and of no force or effect. This Agreement shall not be recorded in any county records or other office where public documents are maintained.

11.3 **Notices.** All notices under this Agreement shall be in writing and signed by a Party or its counsel. Notices may be (i) delivered personally, (ii) delivered by a recognized national overnight delivery service, (iii) mailed by certified United States mail, postage prepaid and return receipt requested or (iv) sent by e-mail to the address below. Notices to any Party shall be directed to the address set forth below, or to such other or additional address as any Party may specify by notice to the other Party. Any notice delivered in accordance with this section shall be deemed given (a) in the case of any notice transmitted by e-mail, on the date on which the transmitting Party receives confirmation of receipt, (b) in the case of any notice delivered by a recognized national overnight delivery service, on the day of delivery to the service, or (c) in

the case of any notice mailed by certified U.S. mail, two (2) business days after deposit therein.

It to Seller: Norseman Timber Company LLC
PO Box 1161
Seattle, WA 98111
Attn: Georges Yates.
Telephone No.: (206) 335-6520
Email: GYates@NorsemanTimber.com

If to Buyer: City of Tenino

Tenino, WA _____
Attn: _____
Telephone No. _____
Email: _____

11.4 **Waiver.** Any Party’s failure to exercise any right or remedy under this Agreement, delay in exercising any such right or remedy, or partial exercise of any such right or remedy, shall not constitute a waiver of that or any other right or remedy hereunder. A waiver of any breach of any provision of this Agreement shall not constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself. No waiver of any provision of this Agreement shall be binding on a Party unless it is set forth in writing and signed by such Party.

11.5 **Amendment.** This Agreement may not be modified or amended except by the written agreement of the Parties.

11.6 **Integration.** This Agreement contains the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements with respect thereto. The Parties acknowledge and agree that there are no agreements or representations relating to the subject matter of this Agreement, either written or oral, express or implied, that are not set forth in this Agreement.

11.7 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

11.8 **Execution.** This Agreement may be executed in any number of counterparts, all of which together shall constitute one and the same agreement. Each Party may rely upon the signature of each other Party on this Agreement that is transmitted by pdf or equivalent attachment to email as constituting a duly authorized, irrevocable, actual, current delivery of this Agreement with the original ink signature of the

transmitting Party. This Agreement shall become effective and in full force only when duly and properly executed, authorized, and delivered by the Parties hereto.

11.9 **No Third Party Beneficiaries.** This Agreement is made and entered into for the sole protection and legal benefit of Seller and Buyer and, subject to the restrictions on assignment set forth herein, their respective successors and assigns, and no other person or entity shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

11.10 **No Brokers.** The Buyer and Seller hereby represent and warrant to one another that neither has engaged a broker to represent them in this transaction. Seller shall indemnify and defend Buyer from all liability and damages resulting from any claims that may be asserted against Buyer by any broker, finder, or other person, with whom Seller or Broker has or purportedly has dealt. Buyer shall indemnify and defend Seller from all liability and damages resulting from any claims that may be asserted against Seller by any broker, finder, or other person, with whom Buyer has or purportedly has dealt.

11.11 **Publicity; Confidentiality.** Prior to Closing, neither Buyer nor Seller shall release any information to the media or the general public concerning Buyer’s purchase of the Property unless the Parties mutually agree or unless such disclosure is required by any law, regulation or rule applicable to either Party or to this transaction. Seller acknowledges that Buyer is a municipal corporation subject to the Washington Open Public Meetings Act (RCW 42.30) and the Washington Public Records Act (RCW 42.56) and Buyer’s compliance therewith shall not be deemed a violation of this Agreement.

11.12 **Time.** If any date upon which some action, notice or response is required of any Party hereunder occurs on a weekend or state or national holiday, such action, notice or response shall not be required until the next succeeding business day.

11.13 **Time for Acceptance.** If Buyer and Seller have failed to mutually accept this Agreement by [February 1, 2024], this agreement shall become null and void and any deposits previously made shall be returned.

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals as of the date(s) written below.

SELLER

BUYER

Norseman Timber Company LLC

City of Tenino

By: _____
Georges Yates
As its Manager
Date of Execution: _____, 2024

By: _____
Name: _____
Title: _____
Date of Execution: _____, 2024

EXHIBIT ALegal Description

Parcel B of Boundary Line Adjustment No. BLA-10 122439TC, as recorded October 1, 2010 under Auditor's File Nos 4173586 and 4173587.

In Thurston County, Washington

Thurston County Parcel ID Nos.:

11619440000

11619410201

The Real Property is sometimes referenced as 449 Park Ave. W., Tenino, WA

Exhibit B

**FIRST ADDENDUM TO
PURCHASE AND SALE AGREEMENT**

for Real Property located at
449 Park Avenue W, Tenino, Washington, WA 98589

Norseman Timber Company LLC, a Washington limited liability company (“Seller”) and the City of Tenino, a municipality in the state of Washington (“Buyer”) (Buyer and Seller collectively referred to herein as the “Parties”), enter into this First Addendum to the Purchase and Sale Agreement (“First Addendum”) upon Mutual Acceptance below and agree as follows:

I. RECITALS

- A. Seller and Buyer are parties to a Purchase and Sale Agreement dated _____ (“PSA”) for unimproved vacant real property located at 449 Park Avenue W, Tenino, Washington, Thurston County, Washington 98589 (“Property”).
- B. Buyer’s purchase of the Property is contingent upon the receipt of funding from The Angela J. Bowen Conservancy Foundation, a Washington nonprofit corporation (“AJBCF”).
- C. AJBCF will donate the funds to close the PSA contingent upon the Parties’ execution and recording of a Declaration of Conservation Restrictions wherein AJBCF will act as Declarant (“Declaration”) in the form attached hereto as **Exhibit A** at closing and the recording of the deed of conveyance subject to said Declaration.
- D. The Parties desire to enter into this First Addendum to amend and supplement the PSA. The PSA as amended and supplemented by the First Addendum shall be referred to herein as the “Agreement.”

II. AGREEMENT

In consideration of the foregoing recitals, which are incorporated herein, the mutual promises and covenants contained in the Agreement and other valuable consideration, the sufficiency and receipt of which is acknowledged, Seller and Buyer agree as follows:

1. The Parties approve of the Declaration and agree that they shall execute and record the Declaration at closing of the PSA.
2. The Parties agree the deed of conveyance shall be subject to the Declaration and shall state it is subject to the Declaration on its face.
3. The Parties authorize AJBCF to provide escrow instructions to the closing agent to ensure the Declaration is recorded at closing of the PSA, and if closing fails to occur then the closing agent shall instead return all signature pages for the Declaration to the party whose original signature is found therein and the Declaration would not then be recorded.

Exhibit C

Update with final declaration.

WHEN RECORDED RETURN TO:

The Angela J. Bowen Conservancy Foundation
 PO Box 11459
 Olympia, WA 98508

DECLARATION OF CONSERVATION RESTRICTIONS

Grantor: Norseman Timber Company LLC, a Washington limited liability company
Grantee: City of Tenino, a municipality in the state of Washington.
Abbreviated legal description: Pcl B BLA 10 122439 TC
Legal description contained in: Exhibit A, page 15
Assessor's Tax Parcel Number: 11619440000 and 11619410201
Reference Numbers(s) of related documents:

Norseman Timber Company, LLC, a Washington limited liability company ("Grantor"), the City of Tenino, a municipality in the state of Washington ("Grantee") and The Angela J. Bowen Conservancy Foundation, a Washington nonprofit corporation and a Section 501(c)(3) tax exempt private foundation ("Declarant") enter into this Declaration of Conservation Restriction ("Declaration") on _____ ("Effective Date") and declare as follows:

BACKGROUND

1. Norseman Timber Company, LLC, a Washington limited liability company is the owner of the real property located at 449 Park Avenue W, Tenino, Washington, Washington 98589 and legally described on **Exhibit A** ("Property").
2. The Property consisting of approximately 61 +/- acres of forest land possesses natural, scenic, riparian, forest, and ecological values significant to the City of Tenino's adjacent City Park and downtown area (collectively the "Conservation Values") of great importance to Grantor

and Grantee, the people of Thurston County, and the people of the state of Washington which have been documented in a _____, on file at offices of Grantee and incorporated herein by this reference (“Baseline Documentation Report”). The Baseline Documentation Report consists of reports, maps, photographs, and other documentation that collectively provide an accurate representation of the condition of the Property on the Effective Date. The Baseline Documentation Report is intended to serve as a baseline for monitoring compliance with the terms and conditions of this Declaration.

3. The ongoing conversion of land, riparian habitats, and open space to residential and commercial use in Thurston County has contributed to the decline of quality riparian habitats, wetlands, forested and natural lands and open green space for low impact non-motorized recreational activities. The Property would be desirable for residential development because of its location and orientation. In the absence of this Declaration, the Property could be developed in a manner that would destroy the Conservation Values of the Property.

4. Grantee is a municipality in the state of Washington which has as one of its purposes the providing of park lands and recreation space for the benefit of its residents. Grantee’s City Council passed a resolution on February 13, 2024 doing the following:

- a. Authorizing the Mayor to proceed with purchase of property from Norseman Timber Company LLC, a Washington limited liability company, with the legal description provided herein, and
- b. Facilitate recordation of the attached Declaration of Conservation Restrictions attached hereto, and
- c. Enter into a purchase agreement with Norseman Timber Company LLC to buy the described property, and
- d. Receive a grant from the Angela J. Bowen Conservancy Foundation to receive funding that will be used to purchase the described property; and
- e. Purchase the described property provided all the requirements for purchase of the property are met; and
- f. To sign any agreements or documents facilitating the foregoing.

5. Declarant is a Washington nonprofit corporation and 26 U.S.C. section 501(c)(3) tax exempt private foundation which has as one of its principal purposes the conserving of natural areas.

6. Both Grantee and Declarant are authorized under RCW 64.04.130 authorized to hold or acquire development rights, easements, covenants, restrictions, or other rights, or any interest less than fee simple, to protect, preserve, maintain, improve, restore, limit the future use of, or conserve for open space purposes, any land or improvement on the land, whether the right or interest be appurtenant or in gross.

7. Grantee has an agreement with Grantor wherein it will purchase the Property from Grantor pursuant to a written Purchase and Sale Agreement (“PSA”). Grantor wishes to sell the Property to Grantee pursuant to the PSA. Grantee is requesting that Declarant provide a donation of funds to Grantee to enable Grantee to purchase the Property (“Donation”).

8. Declarant is willing to provide the funds to Grantee to purchase the Property from Grantor so long as the Grantor conveys the Property to Grantee subject to this Declaration which shall be recorded at the time Grantee acquires title to ensure that the Property is held and maintained for nature conservancy and public park purposes as described herein.

9. Grantee would not be able to purchase the Property without the Donation. Grantee is willing to acquire the Property subject to the Declaration.

10. Grantor understands that Grantee would not be able to purchase the Property from Grantor without the Donation and Grantor is willing to convey the Property to Grantee subject to the Declaration in order to sell the Property to Grantee.

AGREEMENT

In consideration of the foregoing Background and the covenants, terms, conditions, and restrictions contained herein, Grantor, does hereby establish a real property covenant for the benefit of Declarant that touches and concerns the Property and runs with the land as follows:

1. Declaration of Real Property Covenant. Grantor and Declarant voluntarily establish, and Grantee accepts, for the benefit of Declarant this Declaration in perpetuity over the Property on the terms and conditions set forth herein for the purpose of conserving the Conservation Values of the Property.

2. Runs With the Land. This Declaration shall run with the land and shall be binding upon Grantee and their successors and assigns, and upon any person acquiring the Property, or any portion thereof, or any interest therein, including but not limited to a leasehold, easement, or license interest, whether by operation of law or otherwise. If Grantee, or Grantee's successors in interest, transfer all or any portion of its interest in the Property, the new owner of the Property or any portion thereof (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be subject to applicable covenants and requirements under this Declaration as if the new owner were the Grantee. This Declaration may not be removed from the Property or altered unless specific approval has been granted in writing by the Declarant.

3. Purpose. The purpose of this Declaration is to ensure that the Property will be retained in perpetuity in a natural, open space and scenic condition, and to prevent any use of the Property that will impair or interfere with the Conservation Values of the Property. Grantor and Declarant intend that this Declaration will confine the use of the Property to such activities as are consistent with the Conservation Values and that this Declaration shall run with the land as described in Section 2.

4. Permitted Uses and Activities. Any activity on or use of the Property inconsistent with the Conservation Values or other purpose of this Declaration is prohibited except those uses described below:

(a) *Public Access.* Grantee may permit public access to the Property and the Property may be used for low impact non-motorized recreation purposes. For purposes of this Declaration, “Authorized Recreational Purposes” shall be limited to the use and maintenance of existing or newly constructed trails for hiking, walking, biking (no e-bikes) and horseback riding and for no other recreational purpose. Authorized Recreation Purpose includes the right of Grantee to install, construct, repair, maintain, and replace the following improvements to the property as necessary to support the Authorized Recreational Purposes: bathroom facilities, storage shed, parking areas, and signage. This provision is not intended to prevent reasonable access or further use restrictions that may be reasonably necessary for the safe and effective management of the Property. New trails must be constructed and located in a manner that does not harm the Conservation Values and relies on dirt, gravel and boardwalks for the surface of the trail. A graveled access road, preferable built on the old logging roadbed is allowed. For purposes of this Declaration “educational purposes” shall mean low impact learning, research, and enrichment activities for all ages.

(b) *Restoration.* Grantee may conduct activities on the Property to restore and enhance the Conservation Values including but not limited to surveys, site preparation, removal of invasive non-native vegetation, thinning, installation of native plants, re-meandering streams, wetland enhancement, habitat restoration, wetland connection, and other activities associated with the restoration of the Conservation Values.

(c) *Other.* Grantee may conduct such other activities as are necessary to maintain and monitor the Conservation Values and protect public health, property improvements, or human safety, or which are actively required by and subject to compulsion of any governmental agency with authority to require such activity.

5. Prohibited Uses. Any activity on or use of the Property inconsistent with the Conservation Values or other purpose of this Declaration is prohibited, with the exception of those permitted uses and activities listed in Section 4 above. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, except as otherwise expressly permitted herein:

(a) *Construction and Improvements.* Excavation or placement or construction of any buildings, structures, permanent or semi-permanent fixtures or structures, or any other improvements of any kind, including, without limitation, utilities, septic systems, communication lines, communication towers, storage tanks, and pipelines except as authorized in Section 4.

(b) *Paving and Road and Trail Construction.* The paving or covering of any portion of the Property with concrete, asphalt, gravel, crushed rock or any other paving or surfacing material or the construction of a road or the construction of a trail except as authorized in Section 4.

(c) *Residential, Commercial or Industrial Use.* Any residential, commercial, or

industrial use or activity on the Property, including, but not limited to, commercial recreational activities involving any kind of motorized recreation.

(d) *Agricultural Activities.* Any domestic animal grazing or agricultural activities of any kind. The application of biocides except when necessary for the eradication of invasive non-native plant species, such application is by the narrowest spectrum, least persistent material appropriate for the target species, and only with the prior written consent of the Declarant. .

(e) *Introduced and Invasive Vegetation.* The planting or introduction of non-native or invasive species of plants.

(f) *Waste Disposal.* The disposal, storage, or release of yard waste, hazardous substances (as defined below), rubbish, garbage, debris, unregistered vehicles, abandoned equipment, parts thereof, or other unsightly or offensive waste or material on the Property. The term “release” shall mean any release, generation, treatment disposal, storage, dumping, burying, abandonment, or migration from off-site.

(g) *Active Recreation.* Conducting or allowing activities, such as golf courses, ball fields, motocross, equestrian (other than trail riding), team sports, campgrounds, or any other activity involving individuals or the public or private clubs or associations engaging in organized active recreation.

(h) *Hunting.* Conducting or allowing hunting or trapping activities, including construction of blinds, camping areas, access trails, and any other hunting related activities. Actions by Grantee to control invasive species shall not be prohibited by this section.

(i) *Signs.* The placement of commercial signs, billboards, or other commercial advertising material on the Property, except in connection with the sale or lease of the Property or notices that are consistent with the purposes of the real property covenant, such as an informational sign or kiosk.

(j) *Mineral and Aggregate Development.* The exploration for, or development and extraction of, any minerals, aggregate, or hydrocarbons.

(j) *Vehicles.* The operation of motorized vehicles except as part of any habitat restoration or general maintenance activity, emergency vehicles, or as outlined and defined in Section 4.

(k) *Encroachment.* Encroachment by neighboring landowners or other third-party individuals, including homeless encampments.

6. Responsibilities of Grantee Not Affected. Other than as specified herein, Grantee retains all responsibilities and will bear all costs and liabilities related to the ownership, operation, upkeep, and maintenance of the Property deemed necessary by Grantee to satisfy

this Declaration, including the following:

(a) *Insurance.* The maintenance of adequate comprehensive general liability insurance coverage. Such insurance will: (i) identify Declarant as the holder of a Declaration of Conservation on the Property; (ii) name Declarant as an additional insured for Declarant's interest in the Property only; (iii) provide for at least thirty (30) days' notice to Declarant before cancellation; and (iv) provide that the act or omission by one insured party will not invalidate the policy as to the other insured party.

(b) *Permits.* Grantee is solely responsible for obtaining required governmental permits and approvals for any construction or other activity or use permitted by this Declaration. All such construction and activities and uses will be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements.

(c) *Taxes.* Grantee shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "Taxes"), including any Taxes imposed upon, or incurred because of this Declaration and will furnish to Declarant satisfactory evidence of payment upon request. Declarant is authorized (but not obligated) to make or advance payment of Taxes, with three (3) days prior written notice to Grantee, in accordance with any bill, statement, or estimate procured from the appropriate authority without inquiry into the validity of the Taxes or the accuracy of the bill, statement or estimate and the obligation created by such payment will bear interest at the maximum rate allowed by law until paid by Grantee.

7. Environmental Representations and Warranties. Grantor and Grantee represent and warrant to Declarant that to the best of Grantor and Grantee's knowledge:

(a) Grantor and the Property are in substantial compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use, including without limitation all federal, state, and local environmental laws, regulations, and requirements;

(b) There has been no release, generation, treatment, disposal, storage, dumping, burying or abandonment ("Release") on the Property of any substances, materials, or wastes that are hazardous, toxic, dangerous, harmful or are designated as, or contain components that are designated as, hazardous, toxic, dangerous, or harmful and/or which are subject to regulation as hazardous, toxic, dangerous, or harmful or as a pollutant by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA") and the Model Toxics Control Act, as amended ("MTCA") or any federal, state, or local law, regulation, statute, or ordinance, including, but not limited to, petroleum or any petroleum product ("Hazardous Substances");

(c) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground

storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements;

(d) Grantor has not Released any Hazardous Substances off-site, nor has Grantor Released any substance at a site designated or proposed to be designated as a contaminated site under state or federal law;

(e) There is no pending or threatened litigation affecting, involving, or relating to the Property or any portion thereof. No civil or criminal proceedings or investigations have been instigated are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders;

(f) If, at any time, there occurs, or has occurred, a Release in, on, or about the Property of a Hazardous Substance, Grantee agrees to take all reasonable steps necessary to assure its containment and remediation, including any cleanup that may be required by regulatory officials, unless the release was caused by Grantor, in which case Grantor will be responsible for remediation; and,

(g) Nothing in this Declaration will be construed as giving rise, in the absence of a judicial decree, to any right or ability in Declarant to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantee's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of CERCLA or MTCA.

8. Indemnification. Grantee will hold harmless, indemnify, and defend Declarant and its directors, officers, employees, agents, attorney and contractors and the heirs, personal representatives, successors and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including (without limitation) reasonable attorneys' fees arising from or in any way connected with: (i) injury to or death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property; (ii) the activities of any person or entity on the Property other than activities of Declarant; (iii) the duties, representations and warranties of Grantee contained in this Declaration or a breach thereof; or (iv) any legal challenges to the validity and enforceability of this Declaration.

9. Declarant's Right to Restore the Property. As more fully discussed in Section 11 below, in the event any of the Conservation Values of the Property are impaired, Declarant shall have the right, but not the obligation, to restore all or portions of the Property.

10. Access. No right of access by the general public to any portion of the Property is

created or restricted by this real property covenant.

11. Enforcement. To accomplish the purpose of this Declaration and to prevent and correct violations of the terms of this Declaration, if any, the following rights are vested in and may be exercised by the Declarant, its successors and assigns:

(a) *Conservation Values.* To preserve and protect the Conservation Values of the Property.

(b) *Right of Entry.* To enter upon the Property at reasonable times in order to monitor Grantee's compliance with and otherwise enforce the terms of this Declaration in accordance with this Section 11.

(c) *Signage.* To place one (1) informational sign no larger than six (6) square feet in size that identifies the ownership and conservation status of the Property and indicates the conservation of the Property was made possible by the Declarant. Other signs may be maintained as necessary to support and preserve the Conservation Values.

(d) *Restoration.* To conduct, with reasonable prior notice to Grantee, survey, site preparation, removal of invasive non-native vegetation, installation of native plants, and other activities associated with the restoration of the Conservation Values. Nothing herein shall be deemed to imply any obligation to perform such restoration activities.

(e) *Unauthorized Uses.* To prevent any activity on or use of the Property that is inconsistent with the purpose of this Declaration and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in this Section 11.

12. Default and Enforcement.

(a) *Notice of Default.* If Declarant determines that Grantee is in violation of the terms of this Declaration or that a violation is threatened, Declarant shall give written notice to Grantee of such violation ("Notice of Default") and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Declaration, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by the Declarant.

(b) *Grantee's Failure to Respond.* In addition to the other rights granted in this Declaration, including the right of entry, Declarant may bring a legal action if Grantee fails to cure the violation within thirty (30) days after receipt of notice thereof from Declarant; fails to begin curing such violation within the thirty (30) day period under circumstances where the violation cannot reasonably be cured within the thirty (30) day period; or fails to continue diligently to cure such violation until finally cured.

(c) *The Declarant's Action.* Declarant may bring action at law or in equity in Thurston County Superior Court to enforce the terms of this Declaration, to enjoin the violation, *ex parte* as necessary and as allowed under the applicable civil rules, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Declaration or injury to any of the Conservation Values protected by this Declaration, including damages for the loss of the Conservation Values; and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantee's liability therefore, Declarant, in its sole and absolute discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. All such actions for injunctive relief may be taken without Declarant being required to post bond or provide other security.

(d) *Immediate Action Required.* If Declarant, in its sole and absolute discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, it may pursue remedies under this Declaration without prior notice to Grantee or without waiting for the period provided for cure to expire.

(e) *Nature of Remedy.* The rights under this Section apply equally in the event of either actual or threatened violations of the terms of this Declaration. Grantee agrees that the remedies at law for any violation of the terms of this Declaration are inadequate and Declarant shall be entitled to the injunctive relief described in this Section both prohibitive and mandatory, in addition to such other relief to which Declarant may be entitled, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The remedies described in this Section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity or contained in this Declaration.

(f) *Costs of Enforcement.* The substantially prevailing party in a judicial enforcement action regarding this Declaration shall be entitled to reimbursement of all reasonably incurred attorneys' fees and litigation expenses.

(g) *Declarant's Discretion.* Any forbearance by Declarant to exercise rights under this Declaration in the event of any violation of any terms of this Declaration shall not be deemed or construed to be a waiver of such term or of any rights under this Declaration. No delay or omission by the Declarant in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver.

(h) *Acts Beyond Grantee's Control.* Nothing contained in this Declaration shall be construed to entitle Declarant to bring any action against Grantee to abate, correct, or restore any condition on the Property or to recover damages for any injury to or change in the Property resulting from causes beyond Grantee's control, including, without limitation, fire, flood, storm, and earth movement, nor shall Grantee be required to take steps to abate or mitigate injury to the Property resulting from such causes.

13. Notice of Transfer of Property by Declarant and Successor and Assigns. Anytime the Property itself, or any interest in it is transferred, or a legal claim is established by Grantee to a third party, Grantee, its successors and assigns, shall notify the Declarant in writing at least sixty (60) days in advance of such action and the document of conveyance, transfer or establishment shall expressly refer to this real property covenant.

14. Economic Value. The fact that the Property may become greatly more economically valuable if it were used in a manner that is either expressly prohibited by this Declaration or inconsistent with the purpose of this Declaration, or that neighboring properties may in the future be put entirely to uses that would not be permitted hereunder, has been considered by the Declarant in granting this real property covenant. It is the intent of Declarant that any such change in the economic value of the Property from other use shall not be assumed to be circumstances justifying the termination or extinguishment of this Declaration pursuant to this section.

15. Notice. Any notice required by this Declaration shall be in writing and shall be personally delivered or sent by first class mail to the other party, at the following addresses, unless notifying party has been notified of a change of address.

To Grantee: City of Tenino
149 Hodgden Street
S. Tenino, WA 98589

To Declarant: The Angela J. Bowen Conservancy Foundation
P.O. Box 11459
Olympia, WA 98508

Whenever notice is required under this Declaration, the party required to give notice (“Notifying Party”) shall give written notice a minimum of thirty (30) days prior to the date the Notifying Party intends to undertake the use or activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit the other party to make an informed judgment as to its consistency with the purpose and terms of this Declaration. The purpose of requiring the Notifying Party to notify the other party prior to undertaking certain permitted uses and activities is to afford the other party an opportunity to ensure that the use or activity in question is designed and carried out in a manner consistent with the purpose and terms of this Declaration.

16. Captions. The captions in this instrument have been inserted solely for convenience and ease of reference and are not a part of this instrument and will have no effect upon construction or interpretation.

17. “Grantee” and “Declarant”. In this instrument, the term “Grantee” shall mean and include the entity identified above as Grantee and Grantee’s successors, assigns, personal

representatives, executors, and heirs. In this instrument, the term “Declarant” shall mean and include The Angela J. Bowen Conservancy Foundation and its successors and assigns.

18. Background. The Background set forth above is fully incorporated into this Declaration.

19. Liberal Construction. Notwithstanding any general rule of construction to the contrary, this Declaration will be liberally construed in favor of the grant to affect the Purpose of this Declaration and the policy and purpose of RCW 64.04.130. If any provision in this instrument is found to be ambiguous, an interpretation that is consistent with the Purpose of this Declaration and would render the provision valid will be favored over any other interpretation that would render it invalid.

20. Severability. If any provision of this Declaration is found to be invalid, the remainder of the provisions of this Declaration will not be affected thereby. If the application of a provision to any person or circumstance is found to be invalid, the application of such provision to persons or circumstances other than those to which it is found to be invalid will not be affected thereby.

21. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor’s title in any respect.

22. No Extinguishment Through Merger of Title. If Grantor becomes the owner of the fee title to all or a portion of the Property, this Declaration will not be extinguished through merger or other operation of law. The obligations of Grantee under this Declaration are obligations that are perpetual and will continue regardless of ownership of fee interest in the Property.

23. Assignment. This Declaration is transferable, but Grantee may only assign its rights and obligations under this Declaration to a charitable organization or municipal corporation that is a tax exempt under section 501(c)(3) of the Internal Revenue Code (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and is authorized to acquire and hold conservation interest under RCW 64.04.130 or RCW 84.34.250 (or any successor provision then applicable). As a condition of such transfer, Grantee shall require that the conservation purpose of this Declaration continues to be carried out by the transferee. Grantee shall notify Declarant in writing, in advance of such assignment. The failure of Grantee to give such notice will not affect the validity of such assignment nor will it impair the validity of this Declaration or limit its enforceability in any way.

24. Subsequent Transfers. Grantee agrees to incorporate by express reference the terms of this Declaration in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property, including without limitation, a leasehold interest. Grantee further agrees to give written notice to Declarant of the transfer of any interest at least sixty (60) days prior to the date of such transfer. The failure of Declarant to perform any act required by this Section will not impair the validity of this Declaration or limit its enforceability in any way.

25. Succession. If at any time it becomes impossible for Declarant to ensure compliance with the covenants contained herein and Declarant has not named a successor organization, or Declarant ceases to exist, then Declarant's rights and duties hereunder will vest in whatever organization a court of competent jurisdiction directs, pursuant to the applicable Washington law and the Internal Revenue Code (or corresponding provision of any future statute) and with due regard to the Conservation Purposes of this Declaration.

26. Termination of Rights and Obligations. A party's rights and obligations terminate upon transfer of the party's interest in this Declaration, except that liability for acts or omissions occurring prior to transfer will survive transfer.

27. Leasing. Grantee agrees to incorporate the terms of this Declaration in any lease involving the Property by persons other than Grantee. Grantee agrees to give prior written notice to Declarant of any new lease, and of the transfer, extension, or modification of an existing lease. The failure of Grantee to perform any act required by this paragraph will not impair the validity of this Declaration or limit its enforceability against any tenant of the Property in any way.

28. Controlling Law. The interpretation and performance of this Declaration will be governed by the laws of the state of Washington. Thurston County Superior Court will be the venue for any legal proceedings either Party commences regarding this Declaration. The parties agree to submit themselves to the jurisdiction of the courts of the state of Washington for any disputes arising out of this Declaration.

29. Amendment. This Declaration may be amended only with the concurrence of the Declarant and Grantee and any such amendment shall not also bind Grantor without Grantor's additional written concurrence. If circumstances arise under which an amendment to or modification of this Declaration would be appropriate, Declarant and Grantee are free to jointly amend this Declaration provided that no amendment will be allowed that will affect the qualification of this Declaration or the status of Grantee under any applicable laws, including RCW 64.04.130. Any such amendment will be consistent with the Conservation Purpose of this Declaration and will not affect this Declaration's perpetual duration. All amendments will be recorded in the official records of Thurston County, Washington.

30. Authority. The individuals signing below, if signing on behalf of any entity, represent and warrant that they have the requisite authority to bind the entity on whose behalf they are signing.

31. Counterparts. The parties may execute this instrument in two or more counterparts, which will, in the aggregate, be signed by all parties; each counterpart will be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart will be controlling.

32. Recordation. Declarant shall record this instrument in a timely fashion in the official records of Thurston County, Washington, and may re-record it at any time as may be required to preserve its rights in this Declaration.

33. Effective Date. The effective date of this Declaration will be the date on which this document is recorded.

34. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to this Declaration and supersedes all prior discussions, negotiations, understandings, and agreements relating to this Declaration, all of which are merged herein. No alteration or variation of this instrument will be valid or binding unless contained in an amendment that complies with this Declaration.

IN WITNESS WHEREOF, the undersigned parties have executed this instrument on the date set forth by the signatures below.

GRANTOR:

NORSEMAN TIMBER COMPANY, LLC

Georges Yates Date
Authorized Manager

GRANTEE:

City of Tenino

By: _____
Its: _____

DECLARANT:

The Angela J. Bowen Conservancy Foundation,
a Washington nonprofit corporation

By: Karen Buckley
Its: Chairman of the Board

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

This record was acknowledged before me on _____, 2024, by George Yates, Authorized Manager of Norseman Timber Company, LLC, a Washington limited liability.

Notary Public in and for the state of Washington.
Residing at: _____
My Commission Expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

This record was acknowledged before me on _____, 2024, by _____ as the _____ of City of Tenino, a municipality in the state of Washington.

Notary Public in and for the state of Washington.
Residing at: _____
My Commission Expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

This record was acknowledged before me on _____, 2024, by Karen Buckley as Chairman of the Board of The Angela J. Bowen Conservancy Foundation.

Notary Public in and for the state of Washington.
Residing at: _____
My Commission Expires: _____

EXHIBIT A (to conservation easement)
LEGAL DESCRIPTION

11619440000 and 11619410201

Parcel B of Boundary Line Adjustment No. BLA 10 122439 TC, as recorded October 1, 2010 under Auditor's File Nos. 4173586 and 4173587.

TOGETHER WITH all of Grantor's right, title and interest in and to the Easement reserved by Grantor in the Statutory Special Warranty Deed dated October 13, 2010, recorded October 29, 2010 under Auditor's File No. 4178626, records of Thurston County, Washington, subject to the terms and conditions thereof; and, also

TOGETHER WITH all of Grantor's right, title and interest in and to the easement granted and conveyed by the City of Tenino in the Easement dated October 28, 2010, recorded November 1, 2010 under Auditor's File No. 4178998, records of Thurston County, Washington, subject to the terms and conditions thereof.