



CITY OF  
**TUMWATER**

**PUBLIC WORKS COMMITTEE  
MEETING AGENDA**

**Online via Zoom and In Person at  
Tumwater City Hall, Council Conference  
Room, 555 Israel Rd. SW, Tumwater, WA  
98501**

**Thursday, April 23, 2026  
11:00 AM**

1. Call to Order
2. Roll Call
3. Approval of Minutes: Public Works Committee, February 19, 2026 & March 05, 2026
4. 2026 National Pollutant Discharge Elimination System (NPDES) Permit Update (Water Resources & Sustainability Department)
5. Acceptance of Barnes Lake Management District Budget & Work Plan (Water Resources & Sustainability Department)
6. Resolution No. R2026-005, Receipt Authority for the Water Quality Combined Financial Assistance Agreement (WQC-2026-Tumwat-00294) with the Department of Ecology for the Trospen Sewer Extension Project (Water Resources & Sustainability Department)
7. Additional and Future Items
8. Adjourn

**Meeting Information**

All committee members will be attending remotely. The public are welcome to attend in person, by telephone or online via Zoom.

**Watch Online**

<https://us02web.zoom.us/j/84539216316?pwd=TaL0mDBpPeuNoaETX8iVKDVLW6HWUB.1>

**Listen by Telephone**

Call (253) 215-8782, listen for the prompts and enter the Webinar ID 845 3921 6316 and Passcode 951531.

**Public Comment**

The public may submit comments by sending an email to [council@ci.tumwater.wa.us](mailto:council@ci.tumwater.wa.us), no later than 5:00 p.m. the day before the meeting. Comments are submitted directly to the Committee members and will not be read individually into the record of the meeting.

**Post Meeting**

Video of this meeting will be recorded and posted on our City Meeting page: <https://tumwater-wa.municodemeetings.com>.

**Accommodations**

The City of Tumwater takes pride in ensuring that people with disabilities are able to take part in, and benefit from, the range of public programs, services, and activities offered by the City. To request an accommodation or alternate format of communication, please contact the City's ADA Coordinator directly, call (360) 754-4129 or email [ADACoordinator@ci.tumwater.wa.us](mailto:ADACoordinator@ci.tumwater.wa.us). For vision or hearing impaired services, please contact the Washington State Relay Services at 7-1-1 or 1-(800)-833-6384.

# MEETING MINUTES

TUMWATER PUBLIC WORKS COMMITTEE  
February 19, 2026



**CONVENE:** 11:00 a.m.

**PRESENT:** Chair Angela Jefferson and Councilmembers Eileen Swarthout and Meghan Sullivan

Staff: Water Resources Specialist Carrie Gillum, Community Engagement Specialist Marnie McGrath, Transportation & Engineering Deputy Director Jeffrey Cook, City Attorney Karen Kirkpatrick, Construction Manager Colby Fletcher, Water Resources & Sustainability Deputy Director Tyle Zuchowski, Transportation & Engineering Director Brandon Hicks, City Administrator Paul Simmons, Finance Director Troy Niemeyer, City Engineer Bill Lindauer, Water Resources & Sustainability Director Dan Smith and Administrative Assistant Kelly Quiroz

**APPROVAL OF MINUTES:** Councilmember Swarthout moved, seconded by Councilmember Sullivan, to approve the minutes of January 8, 2026, and January 22, 2026, as presented. A voice vote approved the motion.

**SERVICE PROVIDER AGREEMENT WITH GRAY & OSBORNE FOR THE WELL 15 AERATION AND DESIGN PROJECT:** Specialist Gillum presented a Service Provide Agreement with Gray and Osborne for the Well 15 aeration and design project. She explained that Well 15 is owned by the Port of Olympia and is one of 12 wells in the City’s water system. The agreement with Gray & Osborne will fund the design work for treatment improvements and site upgrades. Councilmembers asked questions about the project and construction timeline.

**MOTION:** Councilmember Swarthout moved, seconded by Councilmember Sullivan, to place the Service Provider Agreement with Gray & Osborne for the Well 15 Aeration Design Project on the March 3, 2026, Consent Calendar with a

**recommendation to approve and authorize the Mayor to sign. A voice vote approved the motion unanimously.**

**FINAL ACCEPTANCE OF WORK WITH A&D ENTERPRISES FOR THE ANTSEN SEWER PROJECT:**

Manager Fletcher presented the final acceptance of work with A&D enterprises for the Antsen Sewer project. He explained that the project upgraded the Antsen Street Sewer Force Main to meet growing capacity needs and allowed for the decommissioning of the Lift Station at Lake Park Drive and Linwood Avenue. The completed work improves system performance and safety. Councilmember Jefferson asked about the process for releasing the contractor’s performance bond, and Manager Fletcher explained that the City must first obtain clearance from three state agencies before releasing all bonding and retainage. The final project cost was \$305,555.37.

**MOTION:**

**Councilmember Sullivan moved, seconded by Councilmember Swarthout, to place the Final Acceptance of the work with A&D Enterprises for the Antsen Sewer Project on the March 3, 2026, Consent Calendar with a recommendation for the Mayor to accept the project as complete and authorize the release of the performance bond as soon as the laws of the state of Washington allow. A voice vote approved the motion unanimously.**

**FINAL ACCEPTANCE OF WORK WITH MILES RESOURCES FOR THE ISRAEL ROAD PEDESTRIAN AND BIKE PROJECT:**

Manager Fletcher presented the final acceptance of work with Miles Resources for the Israel Road Pedestrian and Bike Project. He explained that the project delivered:

- ADA-compliant sidewalks
- Pedestrian crossings
- Curb ramps
- Driveway upgrades
- Roadway repairs and repaving, and
- Improved stormwater drainage.

These improvements enhanced pedestrian and bicycle safety as well as overall roadway conditions. Councilmembers asked questions about the project and had suggestions for improvements. The final contract total was \$2,004,572.17.

**MOTION:**

**Councilmember Sullivan moved, seconded by Councilmember Swarthout, to place the Final Acceptance of the work with Miles Resources for the Israel Pedestrian and Bike Project on the March 3, 2026, Consent Calendar with a**

**recommendation for the Mayor to accept the project as complete and authorize the release of the performance bond as soon as the laws of the state of Washington allow. A voice vote approved the motion unanimously.**

**FIBER OPTIC CABLING AGREEMENT WITH WASHINGTON STATE DEPARTMENT OF TRANSPORTATION AMENDMENT NO. 17:**

Deputy Director Cook presented a Fiber Optic Cabling Agreement with the Washington State Department of Transportation (WSDOT) Amendment No. 17. He explained that the City entered into an Interlocal Agreement with WSDOT in 2005 to share use and responsibility of the fiber optic network throughout the City. Amendment No.17 extends the agreement’s expiration to 2045, and all conditions of the original agreement and prior amendments remain unchanged.

**MOTION:**

**Councilmember Sullivan moved, seconded by Councilmember Swarthout, to place the Fiber Optic Cabling Agreement with Washington State Department of Transportation Amendment No. 17 on the March 3, 2026, Consent Calendar, with a recommendation to approve and authorize the Mayor to sign. A voice vote approved the motion unanimously.**

**ADDITIONAL ITEMS:**

Councilmember Swarthout was elected to serve as Chair of the Tumwater General Government Committee during 2026-2027. Councilmember Jefferson will be taking over as Chair of the Public Works Committee.

**ADJOURNMENT:**

**With there being no further business, Chair Jefferson adjourned the meeting at 11:45 a.m.**

Prepared by Kelly Quiroz, Administrative Assistant

# MEETING MINUTES

TUMWATER PUBLIC WORKS COMMITTEE  
March 5, 2026



**CONVENE:** 11:00 a.m.

**PRESENT:** Chair Angela Jefferson and Councilmembers Eileen Swarthout and Kelly Von Holtz

Staff: Community Engagement Specialist Marnie McGrath, City Attorney Karen Kirkpatrick, Construction Manager Colby Fletcher, Water Resources & Sustainability Deputy Director Tyle Zuchowski, Transportation & Engineering Director Brandon Hicks, City Administrator Paul Simmons, Finance Director Troy Niemeyer, City Engineer Bill Lindauer, Water Resources & Sustainability Director Dan Smith, Administrative Assistant Kelly Quiroz, and Engineer Ryan Blaser

**REIMBURSABLE AGREEMENT WITH WASHINGTON STATE DEPARTMENT OF TRANSPORTATION FOR THE TUMWATER BLVD & I-5 INTERCHANGE PROJECT:**

Engineer Blaser presented a Reimbursable Agreement with the Washington State Department of Transportation (WSDOT) for the Tumwater Blvd. & I-5 Interchange Project. He explained that even though the project is a City project, it is inside of the WSDOT right-of-way and easement areas and it is their interchange. Therefore, it requires a lot of WSDOT coordination.

This agreement includes Phase 1 and 2 of the project and covers reimbursement for their time in reviewing and inspecting. The agreement amount is approximately \$100,000 per roundabout and includes a 25% exceedance provision. Engineer Blaser explained that the project is three phases and not being done all at the same time due to project cost and timing

**MOTION:** Councilmember Swarthout moved, seconded by Councilmember Van Holtz, to place the Reimbursable Agreement with Washington State Department of Transportation for the Tumwater Blvd & I-5 Interchange

**Project on the March 17, 2026, consent calendar with a recommendation to approve and authorize the Mayor to sign. A voice vote approved the motion unanimously.**

**ACCEPTANCE OF WORK WITH NORTHWEST CASCADE FOR THE LINWOOD AVENUE SIDEWALK, SUSITNA LANE TO 2ND AVENUE PROJECT:**

Construction Manager Fletcher presented an Acceptance of Work with Northwest Cascade for the Linwood Avenue Sidewalk, Sustina Lane to 2<sup>nd</sup> Avenue project. He explained that the project consisted of multi-modal improvements, roadway improvements, utility relocation, and forward compatibility with the 2<sup>nd</sup> Avenue Pedestrian & Bicycle project. The final contract amount was \$1,683,380.45. Councilmembers congratulated staff for their teamwork for this project

**MOTION:**

**Councilmember Von Holtz moved, seconded by Councilmember Swarthout, to place the Final Acceptance of Work with Northwest Cascade for the Linwood Avenue Sidewalk, Susitna Lane to 2nd Avenue project on the March 17, 2026, consent calendar with a recommendation for the Mayor to accept the project as complete and authorize the release of the performance bond as soon as the laws of the state of Washington allow. A voice vote approved the motion unanimously.**

**ADDITIONAL ITEMS:**

No additional items.

**ADJOURNMENT:**

**With there being no further business, Chair Jefferson adjourned the meeting at 11:30 a.m.**

Prepared by Kelly Quiroz, Administrative Assistant

TO: Public Works Committee  
FROM: Dave Kangiser, Water Resources Specialist  
DATE: April 23, 2026  
SUBJECT: 2026 National Pollutant Discharge Elimination System (NPDES) Permit Update

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1) Recommended Action:

This item is informational only.

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2) Background:

Tumwater is issued the National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit under the federal Clean Water Act and administered by the Department of Ecology. The permit regulates stormwater discharges from municipal stormwater systems through a number of pollution prevention requirements and reporting metrics. The goal of the permit is to reduce pollutants in stormwater runoff to protect receiving waters. This agenda item is to inform on key metrics, projects, and achievements for 2025 NPDES compliance.

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3) Policy Support:

- Tumwater Municipal Code, Chapter 13.12
  - [Water Pollution Control Law Chapter 90.48 Revised Code of Washington](#)
  - Federal Water Pollution Control Act, Title 33 United States Code, Section 1251
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4) Alternatives:

- Compliance with the NPDES Municipal Stormwater Permit is required by the WA Department of Ecology
- 

5) Fiscal Notes:

The stormwater utility funds the implementation of the NPDES permit requirements including; public outreach programs, basin planning, water quality improvements, and the full operation and maintenance of the public stormwater system. State grants are sought, if available, to offset operating costs.

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6) Attachments:

None.

TO: Public Works Committee  
 FROM: Dave Kangiser, Water Resources Specialist  
 DATE: April 23, 2026  
 SUBJECT: Acceptance of Barnes Lake Management District Budget & Work Plan

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1) Recommended Action:

Place the Barnes Lake Management District (BLMD) 2026 Budget and Work Plan on the May 5, 2026, City Council consent calendar with a recommendation to approve.

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2) Background:

The BLMD was formed to conduct routine aquatic vegetation maintenance on Barnes Lake. In 2024 and 2025, a new contractor, AquaTechnex, provided aquatic weed control and city staff conducted water quality analyses to evaluate implementation of the BLMD’s Integrated Aquatic Vegetation Management Plan (IAVMP) and inform future weed control activities. The IAVMP for Barnes Lake was first developed in 2007 and updated about every ten years. This year’s work plan includes updating the IAVMP, last completed in 2016, and hiring a consultant to assist.

Staff will provide the annual status update for the BLMD, review the 2026 work plan and budget.

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3) Policy Support:

- Ordinance O2004-041, Lake Management District Formation
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4) Alternatives:

The BLMD is a Tumwater supported lake management district according to Chapter 36.61 RCW. There are no alternatives identified.

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5) Fiscal Notes:

As a Special Revenue Fund, all revenues are directed for use solely by BLMD in support of lake management efforts. The 2026 budget, \$29,500, is fully funded by the LMD through fees assessed to properties within the district; 109 properties contribute approximately \$22,000 annually.

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6) Attachments:

- A. 2026 Budget Update
- B. 2026 Proposed BLMD Work Plan

2026						
ACCOUNT DESCRIPTION	BUDGET	TRANFRS/ ADJSMTS	REVISED BUDGET	YTD ACTUAL	AVAILABLE BUDGET	% USED
SPECIAL ASSESSMENTS	\$ 306	\$ -	\$ 306	\$ -	\$ 306	0%
OFFICE SUPPLIES	\$ 350	\$ -	\$ 350	\$ -	\$ 350	0%
OPERATING SUPPLIES	\$ 1,500	\$ -	\$ 1,500	\$ -	\$ 1,500	0%
PROFESSIONAL SERVICES*	\$ 39,500	\$ -	\$ 39,500	\$ -	\$ 39,500	0%
<i>AquaTechnex</i>	\$ 17,000	\$ -	\$ 17,000	\$ -	\$ 17,000	0%
<i>Laboratory Services</i>	\$ 7,500	\$ -	\$ 7,500	\$ -	\$ 7,500	0%
<i>IVAMP Update</i>	\$ 15,000	\$ -	\$ 15,000	\$ -	\$ 15,000	0%
MISC - LICENSES PERMITS & FEES	\$ 760	\$ -	\$ 760	\$ -	\$ 760	0%
FINANCE / RECORDS MGMT SVCS	\$ 2,081	\$ -	\$ 2,081	\$ -	\$ 2,081	0%
LMD OPERATING RESERVE	\$ -	\$ -	\$ -	\$ -	\$ -	0%
<b>TOTAL EXP</b>	<b>\$ 44,497</b>	<b>\$ -</b>	<b>\$ 44,497</b>	<b>\$ -</b>	<b>\$ 44,497</b>	<b>0%</b>
BEGINNING FUND BALANCE	\$ 53,707	\$ -	\$ 53,707	\$ 53,707		
MISC CREDITS	\$ -	\$ -	\$ -	\$ -		
ASSESSMENTS	\$ 22,086	\$ -	\$ 22,086	\$ 22,086		
<b>TOTAL REV</b>	<b>\$ 75,793</b>	<b>\$ -</b>	<b>\$ 75,793</b>	<b>\$ 75,793</b>		
<b>FUND BALANCE</b>	<b>\$ 31,296</b>		<b>\$ 31,296</b>	<b>\$ 75,793</b>		

\* Professional Services include contract services, community outreach, and water quality monitoring.



## Barnes Lake Management District – 2026 Work Plan

### January / February (Meeting date: January 14)

1.  *Submit 2026 Annual Work Plan & Operating Budget for Council review and approval*
2.  *Review Steering Committee Appointments; announce vacancies as necessary*
3.  *Assign Newsletter Articles to LMD Members*
4.  *Review SOP for volunteer monitoring program*

### March / April (Meeting date: March 4)

1.  *Assess supplies and equipment for water quality monitoring program*
2.  *Complete training of volunteers for summer water quality monitoring program*
3.  *Distribute LMD Newsletter with annual assessments*

### May / June (Meeting date: May 13)

1.  *Conduct pre-treatment imaging assessment of the lake as conditions allow*
2.  *Conduct chemical treatment on lake as conditions allow*
3.  *Draft RFQ for IAVMP Update*
4.  *Conduct May round of water quality monitoring*
5.  *Conduct June round of water quality monitoring*

### July / August (No meeting)

1.  *Conduct shoreline treatment(s) as needed*
2.  *Conduct chemical treatment on lake as needed*
3.  *Issue RFQ for IAVMP Update/Interview consultants*
4.  *Conduct July round of water quality monitoring*
5.  *Conduct August round of water quality monitoring*

### September / October (Meeting date: September 9 – Walk About)

1.  *Conduct post-treatment aerial imaging assessment as conditions allow*
2.  *Steering Committee’s Annual Lake “Walk About”*
3.  *Conduct September round of water quality monitoring*
4.  *Conduct final round of water quality monitoring*
5.  *Issue contract for IAVMP update to contractor*

### November / December (Meeting date: November 4)

1.  *Develop 2027 Work Plan based on 2026 needs and available budget.*
2.  *Develop draft Operational Budget for 2027*
3.  *Finalize meeting schedule for 2027*
4.  *Annual election of Steering Committee officers – Chair, Vice-Chair, Recorder.*
5.  *Review permit compliance needs and requirements for 2027*
6.  *Review budgetary needs for 2027*

TO: Public Works Committee  
 FROM: Tyle Zuchowski, Water Resources & Sustainability Deputy Director  
 DATE: April 23, 2026  
 SUBJECT: Resolution No. R2026-005, Receipt Authority for the Water Quality Combined Financial Assistance Agreement (WQC-2026-Tumwat-00294) with the Department of Ecology for the Trosper Sewer Extension Project

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1) Recommended Action:

Place Resolution No. R2026-005, Receipt Authority for the Water Quality Combined Financial Assistance Agreement with the Department of Ecology for the Trosper Sewer Extension Project on the May 5, 2026 City Council consent calendar with a recommendation to adopt.

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2) Background:

Percival Creek was identified as a hot spot for fecal coliform and total nitrogen in the Total Maximum Daily Load (TMDL) assessments for both the Deschutes River, Percival Creek, Black Lake Ditch in 2018, and Budd Inlet 2022. The project extends the sewer collection system to the west along the Trosper corridor, making septic to sewer conversion available for roughly 32 parcels.

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3) Policy Support:

- The proposed sewer extension is in alignment with Tumwater General Sewer Plan approved by Ecology in 2015.
  - Develop policies for the Septic to Sewer program to guide the extension of sewer mains and private properties to sewer.
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4) Alternatives:

- The council could reject the loan from Ecology, which would defer water quality improvements in Percival Creek and Budd Inlet and maintain financial barriers for septic to sewer conversions within the Trosper Road corridor.
- 

5) Fiscal Notes:

The current estimated total project is \$5,250,000, the amount of the Water Quality Combined Assistance loan allocated through this agreement. The loan has a 30 year term with an effective interest rate of 2.7%, and does not impact the city’s overall debt capacity.

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6) Attachments:

- A. Resolution No. R2026-005
- B. Agreement No. WQC-2026-Tumwat-00294
- C. Opinion of Recipient’s Legal Counsel

**RESOLUTION NO. R2026-005**

**A RESOLUTION** of the City Council of the City of Tumwater, Washington, accepting a loan offered by the Department of Ecology to aid in financing the cost of the Troser Road Sewer Extension Project.

**WHEREAS**, the City of Tumwater was awarded a \$5,250,000.00 loan through the Washington State Department of Ecology's Water Quality Combined Funding Program (WQC-2026-Tumwater-00294) to aid in financing the cost of the Troser Road Sewer Extension Project; and

**WHEREAS**, this loan has a 2.7% effective interest rate; and

**WHEREAS**, this loan has a 30 year term with an early pay-off option; and

**WHEREAS**, water quality impacts from fecal coliform and total nitrogen have been identified in Percival Creek due to failing septic systems; and

**WHEREAS**, the construction of wastewater collection infrastructure in this corridor will improve the economic viability of septic to sewer conversions, resulting in improved water quality; and

**WHEREAS**, the City of Tumwater is committed to environmental stewardship and improving water quality within its jurisdiction through the implementation of the General Sewer Plan, approved by Ecology in 2015; and

**WHEREAS**, acceptance of the loan to construct the project is in the best interests of and supports the health, safety and welfare of the residents of the City of Tumwater;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUMWATER AS FOLLOWS:**

**Section 1. Acceptance of Loan.** The City of Tumwater City Council hereby approves the acceptance of Loan #WQC-2026-Tumwater-00294 for the Troser Road Sewer Extension Project and authorizes the Mayor to sign the Loan Agreement.

**Section 2. Ratification.** Any act consistent with the authority and prior to the effective date of this Resolution is hereby ratified and affirmed.

**Section 3. Severability.** The provisions of this Resolution are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Resolution or the invalidity of the application

thereof to any person or circumstance, shall not affect the validity of the remainder of the Resolution, or the validity of its application to other persons or circumstances.

**Section 4. Effective Date.** This Resolution shall become effective five days after adoption and signature as provided by law.

**RESOLVED** this \_\_\_ day of \_\_\_\_\_, 2026.

CITY OF TUMWATER

\_\_\_\_\_  
Leatta Dahlhoff, Mayor

ATTEST:

\_\_\_\_\_  
Melody Valiant, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Karen Kirkpatrick, City Attorney



# Agreement No. WQC-2026-Tumwat-00294

## WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF TUMWATER

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

### GENERAL INFORMATION

Project Title:	Trosper Road Sewer Extension
Total Cost:	\$5,250,000.00
Total Eligible Cost:	\$5,250,000.00
Ecology Share:	\$5,250,000.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	07/01/2025
The Expiration Date of this Agreement is no later than:	02/28/2028
Project Type:	Wastewater Facility

#### Project Short Description:

This project improves water quality in Percival Creek and Budd Inlet through the design and construction of a wastewater collection system within the Trosper Road Corridor in the City of Tumwater (RECIPIENT). As a result, this project facilitates septic to sewer conversion for area residents and improves treatment of fecal coliform and total nitrogen.

#### Project Long Description:

This project improves water quality in Percival Creek and Budd Inlet through the design and construction of a wastewater collection system within the Trosper Road Corridor in the City of Tumwater. As a result, this project facilitates septic to sewer conversion for area residents and improves treatment of fecal coliform and total nitrogen.

The RECIPIENT will improve the water quality in Percival Creek and Budd Inlet by extending sewer 6,000 feet west along Trosper Road, while providing stub outs for future connections, in accordance with the RECIPIENT’s General Sewer Plan. This area is considered a high priority for septic conversion as Percival

Agreement No: WQC-2026-Tumwat-00294  
Project Title: Trospen Road Sewer Extension  
Recipient Name: City of Tumwater

Creek is identified as a hot spot for fecal coliform and total nitrogen in the Deschutes River, Percival Creek, Black Lake Ditch TMDL (2018), and the Budd Inlet TMDL (2022). The sewer extension within this corridor will provide 32 properties with the ability to connect to central sewer. Which once the connections are made by property owners, will improve surface and groundwater quality in the Percival Creek subbasin, the highest priority basin within the City of Tumwater.

Overall Goal:

The overall project goal is to complete design, permitting, and construction necessary to extend the RECIPIENT sewer along Trospen Road, while providing and strategic stub out to facilitate sewer availability for 32 properties. By providing these properties the opportunity to connect, eventual connections will help improve surface and groundwater quality in the Percival Creek subbasin, the highest priority basin within the City of Tumwater.

DRAFT

Agreement No: WQC-2026-Tumwat-00294  
 Project Title: Trosper Road Sewer Extension  
 Recipient Name: City of Tumwater

## RECIPIENT INFORMATION

Organization Name: City of Tumwater

Federal Tax ID: 91-6001520

UEI Number: LLLDHHS4E5G1

Mailing Address: 555 Israel Road SW  
 Tumwater, WA 98501

Physical Address: 555 Israel Road SW

Organization Email: NMusselman@ci.tumwater.wa.us

## Contacts

<b>Project Manager</b>	<p>Tyle Zuchowski          Deputy Director Water Resources and Sustainability</p> <p>555 Israel Road SW          Tumwater, Washington 98501          Email: tzuchowski@ci.tumwater.wa.us          Phone: (360) 754-4180</p>
<b>Billing Contact</b>	<p>Bonnie Hale          Administrative Assistant</p> <p>555 Israel Road SW          Tumwater, Washington 98501          Email: bhale@ci.tumwater.wa.us          Phone: (360) 754-4180</p>
<b>Authorized Signatory</b>	<p>Dan Smith          Director</p> <p>555 Israel Road SW          Tumwater, Washington 98501          Email: desmith@ci.tumwater.wa.us          Phone: (360) 754-4140</p>

Agreement No: WQC-2026-Tumwat-00294  
 Project Title: Trospen Road Sewer Extension  
 Recipient Name: City of Tumwater

**ECOLOGY INFORMATION**

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

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

**Contacts**

<p><b>Project Manager</b></p>	<p>Carey Cholski</p> <p>PO Box 47775                  Olympia, Washington 98504-7775                  Email: cgru461@ecy.wa.gov                  Phone: (564) 669-3113</p>
<p><b>Financial Manager</b></p>	<p>Jeanna Ridner</p> <p>PO Box 47600                  Olympia, Washington 98504-7600                  Email: jmac461@ecy.wa.gov                  Phone: (360) 628-4918</p>
<p><b>Technical Advisor</b></p>	<p>Dave Dougherty</p> <p>PO Box 47775                  Olympia, Washington 98504-7775                  Email: ddou461@ecy.wa.gov                  Phone: (564) 999-3586</p>

Agreement No: WQC-2026-Tumwat-00294  
 Project Title: Trospen Road Sewer Extension  
 Recipient Name: City of Tumwater

## SCOPE OF WORK

Task Number: 1 **Task Cost: \$0.00**

Task Title: Grant and Loan Administration

### Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include but are not limited to: Maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and the EAGL (Ecology Administration of Grants and Loans) recipient closeout report (including photos, if applicable). If the RECIPIENT elects to use a contractor to complete project elements, the RECIPIENT shall retain responsibility for the oversight and management of this funding agreement.

B. The RECIPIENT shall keep documentation that demonstrates the project is in compliance with applicable procurement, contracting, and interlocal agreement requirements; permitting requirements, including application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items. This documentation shall be available upon request.

C. The RECIPIENT shall maintain effective communication with ECOLOGY and maintain up-to-date staff contact information in the EAGL system. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

### Task Goal Statement:

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

### Task Expected Outcome:

- \* Timely and complete submittal of requests for reimbursement, quarterly progress reports, and Recipient Closeout Report.
- \* Properly maintained project documentation.

Recipient Task Coordinator: Patrick Soderberg

## Grant and Loan Administration

### Deliverables

Number	Description	Due Date
1.1	Progress Reports that include descriptions of work accomplished, project challenges or changes in the project schedule. Submitted at least quarterly.	
1.2	Recipient Closeout Report (EAGL Form)	

Agreement No: WQC-2026-Tumwat-00294  
Project Title: Trospen Road Sewer Extension  
Recipient Name: City of Tumwater

## SCOPE OF WORK

Task Number: 2 **Task Cost:** \$713,980.00

Task Title: Design

### Task Description:

A. The RECIPIENT will procure professional services in accordance with state law. The RECIPIENT will include ECOLOGY's State Revolving Fund Engineering Services Insert in the contract documents between the RECIPIENT and the professional services team. The RECIPIENT must submit all professional services contracts before ECOLOGY will provide reimbursement for work performed under this task.

B. The RECIPIENT will design the sewer extension. Construction contract documents developed by the RECIPIENT must be consistent with the requirements of Chapter 173-240 WAC. Elements of the design will include:

1. Extension of the City sewer, approximately 6,000 feet and adjacent smaller arterial roads along Trospen Road
2. Providing sewer availability to approximately 32 properties.

C. The construction contract documents will be approved by the RECIPIENT prior to submittal for ECOLOGY review. Construction plans submitted to ECOLOGY for review and approval will be reduced to no larger than 11" x 17" in size. Plans should note if they are to scale or not. The Project Manager may request plans be submitted in either PDF or other electronic format, and specifications in a searchable PDF or Microsoft Word electronic file. An updated construction cost estimate will be submitted with each plan/specification submittal. The project manager may request a spreadsheet of the estimate in electronic file format.

D. The RECIPIENT will provide ECOLOGY with a resolution or ordinance adopting the required schedule of rate increases.

E. The RECIPIENT will complete the facility designs within one year of Ecology signing this AGREEMENT.

F. The RECIPIENT will conduct an Investment Grade Efficiency Audit (IGEA). In lieu of preparing a full IGEA, the Recipient may also provide a signed letter memorandum indicating "no obtainable energy savings" if the project design, includes only minimal energy use (maintenance lighting only), or no new energy use (an example being a "Pipes and Pavement only" project).

G. The RECIPIENT will submit the minimum requirements as outlined in the Environmental Information Document (EID) Guidance, Section A and in the State Environmental Review Process (SERP) EID at the time construction contract documents are submitted to ECOLOGY for approval.

H. The RECIPIENT will provide an Ecology Cultural Resources Review form as part of the minimum SERP requirements. The RECIPIENT will provide any additional information for ECOLOGY to lead the required cultural resources consultation. Costs incurred for ground-disturbing activities that occur before cultural resources review will not be eligible for reimbursement.

I. The RECIPIENT will complete an Ecology Inadvertent Discovery Plan template for their project.

J. The RECIPIENT will notify Ecology when deliverables are available and have been uploaded to EAGL.

Agreement No: WQC-2026-Tumwat-00294  
 Project Title: Trospen Road Sewer Extension  
 Recipient Name: City of Tumwater

**Task Goal Statement:**

Design the Tumwater Trospen Road Corridor wastewater sewer extension.

**Task Expected Outcome:**

Design the Tumwater Trospen Road Corridor wastewater sewer extension.

**Design**

**Deliverables**

Number	Description	Due Date
2.1	Executed Contracts for Professional Services and Documentation of the RECIPIENT’S Process for Procuring Professional Services.	
2.2	Copies of the Draft and Final Construction Documents.	
2.3	The RECIPIENT’S Sewer Revenue and User Rate Plan.	
2.4	Documentation of an Energy Efficiency Review.	
2.5	Complete SERP EID.	
2.6	Ecology Cultural Resources Review Form.	
2.7	Inadvertent Discovery Plan	

Agreement No: WQC-2026-Tumwat-00294  
Project Title: Trosper Road Sewer Extension  
Recipient Name: City of Tumwater

## SCOPE OF WORK

Task Number: 3 **Task Cost:** \$4,413,880.00

Task Title: Construction

### Task Description:

A. The RECIPIENT will execute a contract with a contractor selected in compliance with state law. The RECIPIENT will include ECOLOGY's State Revolving Fund Specification Insert, Contract Clauses, and Pre-Selection Inserts in the construction contract documents as applicable. The RECIPIENT will submit Bid Tabs, the Notice of Award, a copy of the executed contract, and Notice to Proceed before ECOLOGY will provide reimbursement for work performed under this task.

B. The RECIPIENT will conduct a pre-construction conference and will invite ECOLOGY staff to the meeting.

C. The RECIPIENT will complete the construction in accordance with the approved construction contract documents. The construction project will include:

1. Extension of the City Sewer of approximately 6,000 and adjacent smaller arterial roads along Trosper Road.
2. Provide sewer availability to approximately 32 properties.

D. All recipients of funding for water pollution control facility projects must comply with the SERP in accordance with WAC 173-98-720.

### Task Goal Statement:

Complete construction of the wastewater sewer collection system in accordance with the approved construction contract documents.

### Task Expected Outcome:

Complete construction of the wastewater sewer collection system in accordance with the approved construction contract documents.

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 Project Title: Trospen Road Sewer Extension  
 Recipient Name: City of Tumwater

**Construction**

**Deliverables**

Number	Description	Due Date
3.1	Documentation of the RECIPIENTS Procurement Process.	
3.2	Bid Tabs, the Notice of Award, a copy of the Executed Construction Contract and a copy of the Notice to Proceed.	
3.3	Minutes of the Pre-Construction Meeting.	

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Agreement No: WQC-2026-Tumwat-00294  
Project Title: Trosper Road Sewer Extension  
Recipient Name: City of Tumwater

## SCOPE OF WORK

Task Number: 4 **Task Cost:** \$122,140.00

Task Title: Construction Management

### Task Description:

A. The RECIPIENT will provide adequate and competent construction management and inspection for the Project. If professional services are procured, the RECIPIENT will procure them in accordance with state law. The RECIPIENT will include ECOLOGY's State Revolving Fund Specification Insert, Contract Clauses, and Pre-Selection Inserts, in the contract documents as applicable. The RECIPIENT will submit contracts for construction management services before ECOLOGY provides reimbursement for work performed under this task.

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

C. The RECIPIENT will ensure construction progresses according to a timely schedule developed to meet completion dates indicated in the construction contract. The RECIPIENT will revise or update the schedule whenever major changes occur and resubmit to ECOLOGY. A significant change in the scope of work may trigger a SERP review and should be discussed and coordinated with ECOLOGY. In the absence of any major changes, the RECIPIENT will describe progress of the construction in the monthly/quarterly progress reports.

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

E. At substantial completion, the Recipient will notify ECOLOGY and coordinate the project's closeout with ECOLOGY's Project Manager.

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

### Task Goal Statement:

Ensure construction progresses according to a timely schedule developed to meet completion dates indicated in the construction contract.

### Task Expected Outcome:

Ensure construction progresses according to a timely schedule developed to meet completion dates indicated in the construction contract.

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Project Title: Trospen Road Sewer Extension  
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## Construction Management

### Deliverables

Number	Description	Due Date
4.1	Executed Contract for Construction Management Services.	
4.2	Documentation of the RECIPIENT's Process for Procuring Professional Services.	
4.3	Construction Quality Assurance Plan.	
4.4	"As-built" Plans.	
4.5	Declaration of Construction Completion.	

Agreement No: WQC-2026-Tumwat-00294  
 Project Title: Trospen Road Sewer Extension  
 Recipient Name: City of Tumwater

**SCOPE OF WORK**

Task Number: 5 **Task Cost: \$0.00**

Task Title: Change Orders

Task Description:

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

B. The RECIPIENT will submit change orders and associated backup documentation to ECOLOGY for approval. Change orders that are a significant deviation from the approved plans/specifications will be submitted for approval, prior to execution. A significant deviation shall be as defined in the Water Quality Program Orange Book, section G1-4.2.6 and mean a change in the selected treatment process, facility size, design criteria, or performance standards that result in changes in expected facility performance or environmental impacts . All other change orders will be executed and submitted to ECOLOGY within 30 days of execution. If the change order contains engineering content a P.E stamp is required.

Task Goal Statement:

Submit change orders and associated backup documentation to ECOLOGY for approval.

Task Expected Outcome:

Submit change orders and associated backup documentation to ECOLOGY for approval.

**Change Orders**

**Deliverables**

Number	Description	Due Date
5.1	A Copy of all Executed Change Orders.	

Agreement No: WQC-2026-Tumwat-00294  
 Project Title: Trospen Road Sewer Extension  
 Recipient Name: City of Tumwater

**BUDGET**

**Funding Distribution EL260511**

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

Funding Title: SRF FY26 Loan  
 Funding Type: Loan  
 Funding Effective Date: 07/01/2025 Funding Expiration Date: 02/28/2028  
 Funding Source:

Title: CWSRF - SFY26 (state)

Fund: FD0727

Type: State

Funding Source %: 100%

Description: The Clean Water Act (CWA) (33 U.S.C 1251-1387) established the State Revolving Fund (SRF) low interest loans program (40. C.F.R. Part 31, 35 Sub Part K). Washington State administers the program under Chapter 173-98 WAC. The portion of this project funded with this funding distribution comes from non-federal source and are not subject to Federal Funding Accountability and Transparency Act (FFATA) and Single Audit Act (SAA). However, this project is subject to the federal requirements outlined in Section 4 and 5 of agreement terms and conditions.

Approved Indirect Costs Rate: Approved State Indirect Rate: 30%

Recipient Match %: 0%

InKind Interlocal Allowed: No

InKind Other Allowed: No

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

Effective Interest Rate: 2.7% Interest Rate: 2.2% Admin Charge: 0.5%

Terms: 30 years

Project Start Date: 07/01/2025 Project Completion Date: 02/28/2028

Estimated Initiation of Operation date: 02/28/2028

Loan Security: Revenue Secure Lien Obligation of the Recipient

Final Accrued Interest: \$

Final Loan Amount: \$

Repayment Schedule Number: 1164

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<b>SRF FY26 Loan</b>	<b>Task Total</b>
Grant and Loan Administration	\$ 0.00
Design	\$ 713,980.00
Construction	\$ 4,413,880.00
Construction Management	\$ 122,140.00

**Total: \$ 5,250,000.00**

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Agreement No: WQC-2026-Tumwat-00294  
 Project Title: Trosper Road Sewer Extension  
 Recipient Name: City of Tumwater

### **Funding Distribution Summary**

#### **Recipient / Ecology Share**

<b>Funding Distribution Name</b>	<b>Recipient Match %</b>	<b>Recipient Share</b>	<b>Ecology Share</b>	<b>Total</b>
SRF FY26 Loan	0.00 %	\$ 0.00	\$ 5,250,000.00	\$ 5,250,000.00
<b>Total</b>		<b>\$ 0.00</b>	<b>\$ 5,250,000.00</b>	<b>\$ 5,250,000.00</b>

#### **AGREEMENT SPECIFIC TERMS AND CONDITIONS**

N/A

#### **SPECIAL TERMS AND CONDITIONS**

WQC-2024—Water Quality Program Special Terms and Conditions (Update June 2023)

##### **SECTION 1: DEFINITIONS**

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

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

“Administrative Requirements” means the effective edition of ECOLOGY’s Administrative Requirements for Recipients of Ecology Grants and Loans at the signing of this agreement.

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

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

“Accrued Interest” means the interest incurred as loan funds are disbursed.

“Acquisition” means the purchase or receipt of a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

“Build American Buy American (BABA)” means a portion of the Infrastructure Investment and Jobs Act and establishes a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022.

“Bipartisan Infrastructure Law (BIL)” means funding to improve drinking water, wastewater and stormwater infrastructure.

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

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

“Construction Materials” means an article, material, or supply (other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; aggregate binding agents or additives; or non-permanent products) that is or consists primarily of, non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), (including optic glass), lumber, and drywall.

“Cost Effective Analysis” means a comparison of the relative cost-efficiencies of two or more potential ways of

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solving a water quality problem as described in Chapter 173-98-730 WAC.

“Davis Bacon Prevailing Wage Act” means the federal law mandating on-site workers on public works projects be paid certain wages, benefits, and overtime (also known as “prevailing wage” on all government-funded construction, alteration, and repair projects.

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

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

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

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

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount and the estimated schedule for completion of the project.

“Equivalency” means the amount of State Revolving Fund (SRF) funding each funding cycle equivalent to the EPA grant to Ecology.

“Equivalency Project” means State Revolving Fund (SRF) funded project(s) designated by ECOLOGY to receive federal funding and meet additional federal requirements.

“Expiration Date” means the latest date on which eligible costs may be incurred.

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

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

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount and the initiation of operation or completion date, whichever comes first.

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

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

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

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

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

“Initiation of Operation Date” means the actual date the facility financed with proceeds of the loan begins to operate for its intended purpose. (For loans only)

“Iron and Steel Products” means products made primarily of iron or steel including but may not be limited to: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

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

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

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

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

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

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

“Manufactured Products” means, items and construction materials composed in whole or in part of non-ferrous metals such as aluminum plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

“Produced in the United States” means for iron and steel products, that all manufacturing processes, from the initial melting state through the application of coatings, occurred in the United States.

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

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

“Prevailing Wage” means hourly wage, usual benefits, and overtime paid in the largest city in each county, to the majority of workers, laborers, and mechanics performing the same work. The rate is established separately for each county.

“Principal and Interest Account” means, for a loan that constitutes Revenue-Secured Debt, the account created in the loan fund to be first used to repay the principal of and interest on the loan.

“Project” means the project described in this agreement.

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed and is the last day eligible costs can be incurred. This term is only used in loan agreements.

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

“Revenue-Secured Debt” means an obligation of the RECIPIENT secured by a pledge of the revenue of a utility and one not a general obligation of the RECIPIENT.

“Reserve Account” means, for a loan that constitutes a Revenue Secured Debt and if specifically identified as a term and condition of the funding agreement, the account of that name created in the loan fund to secure the payment of the principal of and interest on the loan.

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

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

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

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

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

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

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

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been determined to be eligible for ECOLOGY grant or loan funding, including any required recipient match.

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

“Unique Entity Identity Identifier (UEI)” means a 12-character alphanumeric ID assigned by SAM.gov. to an entity doing business with or receiving funds from the federal government. This number replaces the DUNS number.

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

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

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

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

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference and are available on ECOLOGY’s Water Quality Program website.

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

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

C. Acquisition: The following provisions shall be in force only if the project described in this agreement is an acquisition project:

- a. Evidence of Land Value and Title. The RECIPIENT shall submit documentation of the cost of the property rights and the type of ownership interest that has been acquired.
- b. Legal Description of Real Property Rights Acquired. The legal description of the real property rights purchased with funding assistance provided through this agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the agreement before final payment.
- c. Conveyance of Rights to the State of Washington. Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT shall execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired, and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT shall use language provided by ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

### Documentation Options:

1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. RECIPIENTS shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes. The RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the deed of right.
2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and

**Item 6.** Washington Department of Ecology

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must be incorporated by reference in the easement document.

3. Easements and Leases. The RECIPIENT may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; therefore, the RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the easement or lease.

d. Real Property Acquisition and Relocation Assistance.

1. Federal Acquisition Policies. See Section 4 of this agreement for requirements specific to Section 319 and SRF funded projects.

2. State Acquisition Policies. When state funds are part of this agreement, the RECIPIENT agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.

3. Housing and Relocation. In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the RECIPIENT agrees to provide any housing and relocation assistance required.

e. Hazardous Substances.

1. Certification. The RECIPIENT shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:

- i. No hazardous substances were found on the site, or
- ii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site is deemed "clean."

2. Responsibility. Nothing in this provision alters the RECIPIENT's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.

3. Hold Harmless. The RECIPIENT will defend, protect and hold harmless ECOLOGY 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 on the property the RECIPIENT is acquiring.

f. Restriction On Conversion Of Real Property And/Or Facilities To Other Uses

The RECIPIENT shall not at any time convert any real property (including any interest therein) or facility acquired, developed, maintained, renovated, and/or restored pursuant to this agreement to uses other than those purposes for which funds were approved without prior approval of ECOLOGY. For acquisition projects that are term limited, such as one involving a lease or a term-limited restoration, renovation or development project or easement, this restriction on conversion shall apply only for the length of the term, unless otherwise provided in written documents or required by applicable state or federal law. In such case, the restriction applies to such projects for the length of the term specified by the lease, easement, deed, or landowner agreement.

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

E. Electronic Fund Transfers: Payment will be issued through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process or electronic fund transfers, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).

F. Equipment Purchase: Equipment purchases over \$5,000 and not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase. All equipment purchases over \$5,000 and not included in a contract for work being completed on the funded project, must also be reported on the Equipment Purchase Report in EAGL.

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**G. Funding Recognition:** The RECIPIENT must inform the public about any ECOLOGY or EPA funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Contact your Ecology Project Team to determine the appropriate recognition for your project.

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

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

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

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

**L. Project Status Evaluation:** ECOLOGY may evaluate the status at any time. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

**M. Technical Assistance:** Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State and specific requirements outlined in the Water Quality Funding Guidelines. Technical assistance, proposed practices, or project designs that do not meet these standards may be eligible if approved in writing by ECOLOGY.

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

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

1. Federal Funding Accountability and Transparency Act (FFATA) Form is available on the Water Quality Program website and must be completed and submitted to Ecology. (This form is used for Section 319 (federal) funds only)
2. "Section 319 Initial Data Reporting" form must be completed in EAGL.

**A. Data Reporting:** The RECIPIENT must complete the "Section 319 Initial Data Reporting" form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project for EPA.

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

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages.

Translation costs for this purpose are allowable, provided the costs are reasonable. (Applies to both the Section 319

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funded projects and the Centennial match projects)

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement: (Applies to Section 319 funded projects only)

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

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

D. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA’s assistance agreement. In the event a time extension is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date. (For Section 319 funded projects only)

#### SECTION 4: CONDITIONS APPLY TO ALL FEDERAL FUNDING AGREEMENTS, INCLUDING SECTION 319, State Revolving Fund (SRF) Equivalency Projects, and SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANT (OSG)

A. Acquisitions: RECIPIENTS shall comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.

B. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse’s Internet Data Entry System available at: <https://facweb.census.gov/>.

C. Archaeological Resources and Historic Properties (Section 106): This requires completion of the Ecology Cultural Resources Review Form, coordination with Ecology Cultural Resources staff, and receipt of the Ecology Final Determination prior to any property acquisition and above and below ground disturbing activities.

D. Architectural and Engineering Services Procurement: The RECIPIENT must procure architectural and engineering services in accordance with the federal requirements in Chapter 11 of Title 40, U.S.C. (see <https://uscode.house.gov/view.xhtml?path=/prelim@title40/subtitle1/chapter11&edition=prelim>).

E Build America, Buy America (BABA – Pub. L. No. 117-58, 70901-52) (Federally funded SRF Equivalency projects only): The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding agrees to comply with all federal requirements applicable to the assistance received (including those imposed by the Infrastructure Investment and Jobs Act (“IIJA”/BIL), Public Law No. 117-58) which the RECIPIENT understands includes, but is not limited to, the following requirements: that all the iron and steel, manufactured products, and construction materials used in the Project are to be produced in the United States (“Build America, Buy America Requirements”) unless (i) the RECIPIENT has requested and obtained a waiver from the cognizant Agency pertaining to the Project or the Project is otherwise covered by a general applicability waiver; or (ii) all of the contributing Agencies have otherwise advised the RECIPIENT in writing that the Build America, Buy America Requirements are not applicable to the project.

RECIPIENT shall comply with all record keeping and reporting requirements under all applicable legal authorities, including any reports required by the funding authority (such as EPA and/or a state), such as performance indicators

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of program deliverables, information on costs and project progress. The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding, understands that (i) each contract and subcontract related to the project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the applicable legal requirements and this Agreement may result in a default hereunder that results in a repayment of the assistance agreement in advance of termination and/or repayment of assistance, and/or other remedial actions.

EPA has granted an adjustment period waiver of the requirements of Section 70914(a) of the BIL, pursuant to Section 70914(b)(1) (public interest waiver), for eligible projects financed by SRF projects that have initiated project design planning prior to May 14, 2022, the statutory effective date of the BABA requirements. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. Sections 70917(a) and (b) of BIL provide a savings provision for existing statutory requirements that meet or exceed BABA requirements. The statutory American Iron and Steel (AIS) requirements of Clean Water Act (CWA) Section 608 and Safe Drinking Water Act (SDWA) Section 1452(a)(4) has previously applied to SRF projects and will continue to do so as part of BABA requirements.

Where manufactured products used in the project are required to be produced in the United States, manufactured product shall mean manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation. The manufactured products included cover the majority of potential water infrastructure products, including complex products made up of a variety of material types and components. For water infrastructure projects, commonly manufactured products would include, but not be limited to, pumps, motors, blowers, aerators, generators, instrumentation and control systems, gauges, meters, measurement equipment, treatment equipment, dewatering equipment, actuators, and many other mechanical and electrical items.

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

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

- 1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- 2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- 3) Consider, in the contracting process, whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State, and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- 4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.

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

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

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request. Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

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

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

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

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

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

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

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

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

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

H. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.

I. Hotel-Motel Fire Safety Act: The RECIPIENT shall ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines

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of the Hotel and Motel Fire Safety Act (15 USC 2225a, PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act. Pursuant to 15 USC 2225a.

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

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request. Wage determinations and instructions for their use can be found at <https://sam.gov/>.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request. Where conflicts arise between the State prevailing wage rates and Davis-Bacon Act prevailing wage requirements the more stringent requirement shall govern. Washington State prevailing wage rates can be found at <https://www.lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>

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

L. Unique Entity Identity Identifier (UEI): The RECIPIENT agrees to register with and make their registration public in the System for Award Management (SAM.gov). The RECIPIENT will be assigned a UEI and agree to include their UEI Number under their organization’s information in EAGL. The UEI number must be entered into EAGL before a funding agreement is signed.

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

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

1. Financial Capability Assessment Documentation (upon request)
2. Opinion of RECIPIENT’s Legal Council – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
3. Authorizing Ordinance or Resolution – Must be uploaded to the General Uploads form in EAGL.
4. Federal Funding Accountability and Transparency Act (FFATA) Form (Required for all federally funded SRF Equivalency projects – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
5. CWSRF Federal Reporting Information form – Must be completed in EAGL.
6. Fiscal Sustainability Plan (Asset Management) Certification Form (Only required if the project includes construction of a wastewater or stormwater facility construction) – Must be completed in EAGL.
7. Cost and Effectiveness Analysis Certification Form (Required for all projects receiving SRF Loan funding) – Must be completed in EAGL.

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8. State Environmental Review Process (SERP) Documentation (Required for treatment works projects only) – Must be uploaded to the Environmental and Cultural Review form in EAGL.

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

B. American Iron and Steel (Buy American – P.L 113-76, Consolidated Appropriations Act 2014, Section 436): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a “treatment works” as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT’S compliance with this provision.

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

D. Equivalency Projects: ECOLOGY designated equivalency project and alternative designated equivalency project RECIPIENTS agree to accept federal funds and the federal requirements that accompany the funds. This includes all the requirements in Section 4 and this Section.

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

F. Funding Recognition and Outreach: The RECIPIENT agrees to comply with the EPA SRF Signage Guidance to enhance public awareness of EPA assistance agreements nationwide. Signage guidance can be found at: <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Water-Quality-grants-and-loans/Facility-project-resources>.

G. Insurance: The RECIPIENT shall at all times carry fire and extended insurance coverage, public liability, and property damage, and such other forms of insurance with responsible insurers and policies payable to the RECIPIENT on such of the buildings, equipment, works, plants, facilities, and properties of the Utility as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, or it shall self-insure or participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

H. Litigation Authority: No litigation is now pending, or to the RECIPIENT’S knowledge, threatened, seeking to restrain, or enjoin:

- (i) the execution of this agreement; or
- (ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or
- (iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or
- (iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are

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authorized. Neither the corporate existence, or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

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

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

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

J. Loan Repayment:

Sources of Loan Repayment

1. Nature of RECIPIENT's Obligation. The obligation of the RECIPIENT to repay the loan from the sources identified below and to perform and observe all other agreements and obligations on its part, contained herein, shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all the covenants, agreements, and attachments contained herein.

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

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

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

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

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

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

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

(i) The Loan Amount with interest

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

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

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

Method and Conditions on Repayments

1. Semiannual Payments. Notwithstanding any other provision of this agreement, the first semiannual payment of

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principal and interest on this loan shall be due and payable no later than one year after the project completion date or initiation of operation date, whichever comes first.

Thereafter, equal payments shall be due every six months.

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

Payments shall be mailed to:

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

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

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

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

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

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

K. Loan Security

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

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

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

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

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so

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long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the Loan Fund and used to pay the principal of and interest on the loan.

L. Maintenance and Operation of a Funded Utility: The RECIPIENT shall, at all times, maintain and keep the funded Utility in good repair, working order, and condition.

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

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

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

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

O. Progress Reports: RECIPIENTS funded with State Revolving Fund Loan or Forgivable Principal shall include the following verification statement in the "General Comments" text box of each progress report.

"We verified that we are in compliance with all the requirements as outlined in our funding agreement(s) with the Department of Ecology. This includes but is not limited to:

- The Davis-Bacon Act, 29 CFR, prevailing wage requirements, certified weekly payroll, etc.
- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33
- The American Iron and Steel Act (Buy American)
- The Build America Buy America Act (BABA) (equivalency projects only)"

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

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

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

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

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payment.

Q. Sale or Disposition of Funded Utility: The RECIPIENT shall not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities, or other part of the funded Utility or any real or personal property comprising a part of the funded Utility unless:

1. The facilities or property transferred are not material to the operation of the funded Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the funded Utility or are no longer necessary, material, or useful to the operation of the funded Utility; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the funded Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the funded Utility from the portion of the funded Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the ECOLOGY.

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

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

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater into separated sewer systems.
- 3) Require that new sewers and connections be properly designed and constructed.

S. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient ECOLOGY or RECIPIENT funds.
2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactor

## GENERAL FEDERAL CONDITIONS

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

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

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

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

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

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

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

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

- Receives more than \$30,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required Unique Entity Identifier in [www.sam.gov](http://www.sam.gov) <http://www.sam.gov> within 30 days of agreement signature. The FFATA information will be available to the public at [www.usaspending.gov](http://www.usaspending.gov) <http://www.usaspending.gov>.

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

#### C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

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1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#) <<https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management \(SAM\)](#) <<https://sam.gov/SAM/>> exclusion list.

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## GENERAL TERMS AND CONDITIONS

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

#### GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

07/01/2023 Version

#### 1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/2301002.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

#### 2. AMENDMENTS AND MODIFICATIONS

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

#### 3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

#### 4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
  - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.
  - \* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.
  - For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section

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106).

b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
- Make the IDP readily available to anyone working at the project site.
- Discuss the IDP with staff, volunteers, and contractors working at the project site.
- Implement the IDP when Cultural Resources or human remains are found at the project site.

c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

• Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.

d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

• Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.

e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

## 5. ASSIGNMENT

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

## 6. COMMUNICATION

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

## 7. COMPENSATION

a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.

b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.

c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.

d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.

e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.

f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.

g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).

h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.

i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according

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to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

#### 8. COMPLIANCE WITH ALL LAWS

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

a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.

b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.

c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.

d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

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

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

#### 9. CONFLICT OF INTEREST

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

#### 10. CONTRACTING FOR GOODS AND SERVICES

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

RECIPIENT must have a standard procurement process or follow current state procurement procedures.

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

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

#### 11. DISPUTES

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

a) RECIPIENT notifies the funding program of an appeal request.

b) Appeal request must be in writing and state the disputed issue(s).

c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.

d) ECOLOGY reviews the RECIPIENT's appeal.

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e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

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

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

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

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

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

## 12. ENVIRONMENTAL DATA STANDARDS

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

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at: <http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

## 13. GOVERNING LAW

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

## 14. INDEMNIFICATION

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

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

## 15. INDEPENDENT STATUS

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

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## 16. KICKBACKS

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

## 17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

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

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

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

## 18. ORDER OF PRECEDENCE

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

## 19. PRESENTATION AND PROMOTIONAL MATERIALS

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

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

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

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

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

## 20. PROGRESS REPORTING

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- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

## 21. PROPERTY RIGHTS

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

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## 22. RECORDS, AUDITS, AND INSPECTIONS

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

All records shall:

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

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

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

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

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

## 23. RECOVERY OF FUNDS

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

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT. RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

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

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

## 24. SEVERABILITY

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

## 25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

## 26. SUSPENSION

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When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

## 27. SUSTAINABLE PRACTICES

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

a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.

b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing,

<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

## 28. TERMINATION

### a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination. Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

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

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

### b) For Convenience

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

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the

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funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments.

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

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

c) By Mutual Agreement

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

d) In Event of Termination

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

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

29. THIRD PARTY BENEFICIARY

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

30. WAIVER

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

End of General Terms and Conditions

**ATTACHMENT 1: OPINION OF RECIPIENT'S LEGAL COUNSEL**

I am an attorney at law admitted to practice in the state of Washington and the duly appointed attorney of the City of Tumwater [the RECIPIENT], and I have examined any and all documents and records pertinent to the LOAN agreement.

Based on the foregoing, it is my opinion that:

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

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Karen Kirkpatrick, City Attorney