



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, June 06, 2024
8:00 AM**

1. Call to Order
2. Roll Call
- [3.](#) Approval of Minutes: Public Works Committee, May 9, 2024 & May 23, 2024
- [4.](#) Authority to Solicit Bids and Recommend Award for the Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave project (Transportation & Engineering Department)
- [5.](#) Golf Course Stormwater Retrofit Grant Agreement with Dept of Ecology Amendment 1 (Water Resources & Sustainability)
6. Additional Items
7. 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/87877073280?pwd=C_OsVuAGEPM0ySX-R8s5mNFY0xZfeQ.BIVN-Pu5orVHEcSf

Listen by Telephone

Call (253) 215-8782, listen for the prompts and enter the Webinar ID 878 7707 3280 and Passcode 813524.

Public Comment

The public may submit comments by sending an email to 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

Audio of the meeting will be recorded and later available by request, please email CityClerk@ci.tumwater.wa.us

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 Clerk by calling (360) 252-5488 or email CityClerk@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. To contact the City's ADA Coordinator directly, call (360) 754-4128 or email ADACoordinator@ci.tumwater.wa.us.

TUMWATER PUBLIC WORKS COMMITTEE**MINUTES OF VIRTUAL MEETING****May 9, 2024 Page 1****CONVENE:** 8:00 a.m.**PRESENT:** Chair Eileen Swarthout and Councilmembers Michael Althausser and Angela Jefferson.

Staff: City Administrator Lisa Parks, City Attorney Karen Kirkpatrick, Assistant City Attorney Davis Abbott, Finance Director Troy Niemeyer, Water Resources and Sustainability Director Dan Smith, Transportation and Engineering Director Brandon Hicks, Assistant Transportation and Engineering Director Mary Heather Ames, Engineering Services Manager Bill Lindauer, Water Resources & Sustainability Program Manager Patrick Soderberg, Transportation Engineer I Bernie Gertje, and Administrative Assistant Bonnie Hale.

Others: Meridith Greer, Greer Environmental Consulting and Stephen Lukas, EPA Region 10.

**APPROVAL OF
MINUTES:
PUBLIC WORKS
COMMITTEE,
APRIL 18, 2024:**

MOTION: Councilmember Althausser moved, seconded by Councilmember Jefferson, to approve the minutes of April 18, 2024, as published. A voice vote approved the motion.

**RESOLUTION
NO. R2024-004
SIX-YEAR
TRANSPORTATI
ON
IMPROVEMENT
PROGRAM (:**

Assistant Director Ames briefed the committee on the annual process for updating the City's Six-Year Transportation Improvement Program (TIP). The process serves as the foundation for transportation funding within the State of Washington. Each city/jurisdiction prepares a list of transportation projects for the next six years to serve as the local TIP. The lists are submitted through local planning organizations. For the Thurston region, Thurston Regional Planning Council (TRPC) serves as the local planning organization. The deadline to complete the submittal process is the end of June 2024 for submittal to the state. TRPC submits local TIPs to the state to form the State Transportation Improvement Program (STIP). Although the TIP is comprehensive, not all projects listed in the TIP are achievable as the TIP includes as many projects as possible to ensure the City is positioned to apply for different types of funding.

Changes to the TIP are grouped into three main categories of removals, modifications, and additions. Projects underway and anticipated for completion this year include the I-5/Troster project, Israel-Linderson Way Bicycle and Pedestrian Improvements, and the Linwood Avenue Sidewalk. Those projects have been removed from the TIP.

A new project is the Somerset Hill Fish Passage Barrier Removal project that was amended into the 2024 TIP/STIP earlier in the year and is carried forward to the

TUMWATER PUBLIC WORKS COMMITTEE
MINUTES OF VIRTUAL MEETING
May 9, 2024 Page 2

2025 TIP.

Assistant Director Ames reviewed the status of several projects.

The Old Highway 99 Roundabout at 79th Avenue project amount has been reduced to an anticipated amount the City plans to expend this year.

The City continues the Pavement Maintenance Program funded primarily by the Transportation Benefit District. The project improves the quality of life for users of the street network in the City.

The Linwood Avenue Sidewalk project will be removed with another project continuing for the Second Avenue Pedestrian and Bicycle Improvements project at the intersection of Linwood for bicycle lanes, sidewalks, and pavement funded by a grant for pedestrian and bicycle improvements with the pavement portion of the project funded as a match through the TBD.

The Somerset Hill Fish Passage Removal project has secured funding.

Nearly \$47 million is planned in grant funding with over \$50 million in local funds totaling over \$97 million. The process of the TIP is not financially constrained. Staff will continue efforts to ensure completion of the project list.

Assistant Director Ames shared a map of project locations.

Staff requests the committee's concurrence of the proposed list for a public hearing during the May 21, 2024 Council meeting.

Councilmember Althaus asked for additional information on the process staff uses to determine projects to include in the plan. Assistant Director Ames explained the two ways staff considers projects. The first is through the typical planning process based on the Transportation Element within the Comprehensive Plan. The Transportation Element will be updated as part of the Comprehensive Plan Periodic Update process. Staff has relied on the previous plan, which is nearing the end of its planning horizon. Long range planning often serves as the basis for identifying projects. As the update of the Transportation Element is a full-scale analysis of the entire City, staff anticipates capturing all areas in most need of an improvement. Secondly, if constituents contact the City about a transportation concern, staff addresses the requests through a Traffic Team process, which evaluates lower cost alternatives or options that could be completed by staff rather than through contracting. Police and fire are represented on the team and offer input as well. Following a review of all options through the team, the proposal is moved to a possible project for additional planning.

Chair Swarthout pointed out that the list of projects is not prioritized. Assistant Director Ames affirmed the order of projects is not prioritized but numbered to

**TUMWATER PUBLIC WORKS COMMITTEE
MINUTES OF VIRTUAL MEETING
May 9, 2024 Page 3**

correspond with projects on the map and for the online program for submittal of the TIP to the state.

Chair Swarthout reviewed the proposed action requested by the committee.

MOTION:

Councilmember Jefferson moved, seconded by Councilmember Althausser, to move Resolution No. R2024-004, adopting the City's Six-Year Transportation Improvement Program for 2025-2030 to a public hearing at the City Council meeting on Tuesday, May 21, 2024. A voice vote approved the motion unanimously.

**RESOLUTION
NO. R2024-003
PERCIVAL
CREEK FISH
PASSAGE
BARRIER
REMOVAL #22-
1161:**

Director Smith reported the request is approval of grant funding. He introduced Meridith Greer with Greer Environmental Consulting to provide an overview of the proposal.

Ms. Greer said the project site is located on Percival Creek as it runs under Sapp Road in Tumwater. Percival Creek is located within the City of Tumwater. Fish are only able to access one-third of the creek because of fish passage barriers. Once the project is completed, the entire creek along Sapp Road will be accessible to fish.

Councilmember Jefferson inquired as to the definition of "anadromous fish." Ms. Greer advised that anadromous fish are born in fresh water, migrate to saltwater, and return to freshwater to spawn. Fish passages serve an important role to ensure fish returning can pass through barriers and roads.

Ms. Greer displayed a photograph of the existing culvert at Sapp Road. The barrier is caused by a slope within the culvert making it difficult for fish to pass through the culvert. The area above the culvert is considered a significant reach with good habitat for fish to thrive. In total, the number and type of fish found in Percival Creek include Chum, Chinook, Coho, Steelhead, Sea run cutthroat, and resident trout.

Councilmember Althausser asked whether a significant reach is considered a legal term. Ms. Greer explained that significant reach is generally a habitat term and applies to areas of streams with good gravel, food sources, habitat, and tree cover. Upstream of Sapp Road is Trosper Lake and a number of wetlands, which serve as good habitat for fish to live and thrive.

Ms. Greer said the project replaces the small round culvert with a 19-foot four-sided box culvert to enable the stream to move freely with fish able to pass through easily and access the upper area of the stream. The project includes some re-meandering of the stream to enable the stream to flow in a snake pattern rather than forced into a culvert, as well as the placement of large wood structures. The project also benefits as a transportation improvement project as work above the stream on the road expands the travel lanes on each side and includes bike lanes and sidewalks.

**TUMWATER PUBLIC WORKS COMMITTEE
MINUTES OF VIRTUAL MEETING
May 9, 2024 Page 4**

The City was the recipient of the first round of PROTECT funding from the Washington State Department of Transportation (WSDOT) of approximately \$2.1 million. The proposed request is to secure another \$257,000 from the Salmon Recovery Funding Board. The total cost of the project is approximately \$2.3 million with the cost funded by grants with no match required by the City.

Currently, staff is working on right-of-way acquisition and is nearing completion by early summer. Construction bid packages are scheduled for release by late summer/early fall with a goal to initiate construction next summer. The Transportation and Engineering Department is reviewing plans prior to forwarding to WSDOT for its review. Staff continues to work through the right-of-way process involving a construction easement and a permanent easement required to accommodate expansion of the road.

Chair Swarthout asked about the location of the sidewalks. Ms. Greer advised that the design includes sidewalks on both sides of the road.

Chair Swarthout inquired as to the status of the right-of-way acquisition. Ms. Greer said the process is proceeding well with staff working with a right-of-way company to ensure the process is completed properly. Offer letters have been presented to landowners with staff working through some last steps, such as staking to ensure landowners are aware of the property required for the temporary construction easement and the permanent easement. Staff anticipates completing the process within the next several months.

MOTION:

Councilmember Jefferson moved, seconded by Councilmember Althaus, to place Resolution No. R2024-003 Percival Creek Fish Passage Barrier Removal #22-1161, on the May 21, 2024, City Council consent calendar with a recommendation to adopt the Resolution. A voice vote approved the motion unanimously.

**FLOODPLAINS
BY DESIGN
APPLICATION
UPDATE:**

Director Smith reported the City is positioned to apply for a substantial watershed-wide grant with a number of partners. Ms. Greer has worked to create a collaboration of partners to consider some improvement projects throughout the Deschutes watershed.

Ms. Greer reported the Deschutes Watershed Recovery Phase 1 project is a result of several years of collaboration within the watershed to restore processes. Much of the work surrounds floodplains. Floodplains are areas rivers naturally expand into during big storm events. Generally, floodplains move freely with slow flows and assist in flood control and erosion and often treat water and recharge groundwater beneficial for fish and wildlife habitat.

In the Deschutes watershed, floodplains in Tumwater are mostly built out with a number of buildings and other uses surrounding floodplain areas and reducing many of the benefits a floodplain provides to the environment. To achieve some

TUMWATER PUBLIC WORKS COMMITTEE
MINUTES OF VIRTUAL MEETING
May 9, 2024 Page 5

floodplain benefits, efforts, process, and many partners are required. For a number of decades, partners surrounding the area have worked on projects. Approximately one year ago, partners working together (Capitol Land Trust, Deschutes Estuary Restoration Team, South Puget Sound Salmon Enhancement Group, Squaxin Island Tribe, Thurston Conservation District, and Thurston Regional Planning Council) considered ways to improve the health of the watershed. The group identified many options. Priorities for the watershed include reducing flooding, protecting salmon, protecting riparian areas, improving water quality, providing opportunities for recreational uses, and supporting economic uses. The priorities are many for one river requiring a comprehensive plan to identify ways to fund the projects.

The Floodplain by Design Program is sponsored by the Department of Ecology providing a unique funding source through a public/private partnership with a goal to improve multi-beneficial aspects of projects. The program requires one application per watershed for a number of projects that provide benefits, such as flood reduction, agriculture uses, and improved water quality, etc. The program offers substantially sized grants up to \$10 million for watersheds as many of the projects in the watershed can cost upwards of hundreds of thousands of dollars. Project partners have been meeting and developed a ten-year plan encompassing different methods of landowner outreach, community engagement, pre-design with alternatives analysis and feasibility studies, final design and permitting work to ensure shovel-ready projects for construction, and acquisition of land for conservation and restoration. The project application is for approximately \$50 million. To ensure scalability of the application, the Department of Ecology requested phasing the project. The proposal pertains to Phase 1 focused on the lower watershed near Henderson Boulevard and Pioneer Park. The area experiences flooding during storm events creating water quality issues. Within the mid-area of the watershed, many landowners are working within their lands and the intent is to improve riparian areas and installation of large woody debris. Within the upper watershed, timber harvesting is dominant with more intact buffer zones.

The partners identified 11 projects for the first round of funding. The projects extend along the entire watershed and will provide different types of benefits. The application request is for \$12.5 million from the Department of Ecology with \$2.5 million of match funding required for the application. Over \$6 million of the funding would be for construction and restoration.

For the City of Tumwater, the proposal would benefit five projects. The City of Tumwater is the lead entity and submitted the application to the Department of Ecology. Staff working to establish a memorandum of understanding with other project partners for budgeting, scope of work, and formalization of the structure to enable partners to work together. Tumwater will be responsible of submitting quarterly payment requests and project reports.

The first main Tumwater project is the old Olympia Brewery property with most

TUMWATER PUBLIC WORKS COMMITTEE
MINUTES OF VIRTUAL MEETING
May 9, 2024 Page 6

of the efforts building off the draft feasibility report currently in progress by the City to explore alternatives for redevelopment options of the properties. The ultimate goal of Phase 1 is to complete an alternatives analysis with future phases of funding targeting design and construction from the same funding source.

A second project is E Street wetland restoration with a goal to complete design and required permitting to restore the wetland.

Another project is the implementation of the Tumwater Valley Regional Stormwater Facility. The project is a constructed wetland located at the M Street outfall, which drains approximately two hundred acres of stormwater and discharged directly into Deschutes River untreated. The project has completed 90% design and funding would enable an update of the design, permitting, and construction. The project has been included in the Capital Facilities Plan for several years.

The last project is located within the golf course area for riparian buffer and wetland restoration. Staff has been developing a restoration plan for the golf course due to seasonal flooding. The funding source would fund implementation of the plan for tree plantings and wetland restoration to protect the golf course during severe storm events.

Of the \$12.5 million request, the City of Tumwater would receive approximately \$3.7 million in funding. The City's Stormwater Utility is providing some of the match requirement of approximately \$175,000. The Department of Ecology is considering withdrawal of the match requirement for the project. Tumwater projects in combination with other partner projects will help restore 124 acres of floodplain with completion of project designs restoring another 450 acres of floodplains for future basins. Approximately 160 acres of land will be conserved by Capitol Land Trust to help reduce flooding downstream and over 200 acres of stormwater runoff will be treated from the Tumwater Valley Regional Stormwater Facility. Within the middle watershed, agricultural landowners will be engaged by the Thurston Conservation District with the ultimate goal of completing Phase 1 and providing a proof of concept to Department of Ecology and the project sponsors demonstrating that the group and planned projects are sustainable to complete during future phases. The funding program enables project sponsors to apply for funding every two years. The goal is to submit another grant application to continue moving projects forward.

Ms. Greer reviewed the timeline of the submission of the project application. Department of Ecology is scheduled to release a ranked funding list in August. Some of the funding is also reliant on legislative action, and if successful, projects would receive funding on July 1, 2025 enabling implementation of the City's projects from July 2025 through June 2029.

Councilmember Althausen inquired as to the funding nexus with the Legislature. Ms. Greer advised of a dedicated funding source for the program. The

TUMWATER PUBLIC WORKS COMMITTEE**MINUTES OF VIRTUAL MEETING****May 9, 2024 Page 7**

Legislature's role is a formality of agreement to fund the program at a specific amount for the year. Additionally, a proposal has been submitted for the program to receive funding from the Climate Commitment Act to increase the total amount of funds available for project sponsors. The proposal is on the November ballot, which would depend on voter approval.

Ms. Greer responded to questions about the tie to the Deschutes Estuary Restoration project. The intent is combining the estuary project with sponsor projects through close coordination with the Deschutes Estuary Restoration project team at the Department of Enterprise Services to track timelines. The project team is seeking national funding sources because of the cost of the project. The focus of both efforts is holistic, as the upper watershed affects the Deschutes River estuary.

**PALERMO
SUPERFUND
PROJECT
UPDATE:**

Director Smith reported the Palermo Wellfield was identified as a Superfund project in the 1990s when Tumwater initiated work on a wellhead protection program. Through that effort, the City identified contamination at the Palermo wellfield, the City's major producing wellfield at the time. The plan established the foundation for the City's protection of groundwater.

Recent efforts by the Environmental Protection Agency (EPA) included a public meeting to inform the community of changes and the status of efforts. He introduced Stephen Lukas, EPA Project Manager with EPA Region 10. Staff works closely with EPA, WSDOT, and the Department of Ecology.

The EPA is splitting the Superfund project into two units of Operable Unit 1 and Operable Unit 2. Operable Unit 2 addresses tetrachloroethylene (PCE). The source of the contamination was identified as Southgate Dry Cleaners.

In the 1990s the source of PCE was identified and investigations initiated to identify the extent of the contamination and plumb. Extensive testing was completed and remedies identified for implementation at the wellfield and at Southgate Mall. Responsibilities were defined for the EPA, Southgate Mall, and the City.

WSDOT was later identified as a source of contamination of trichloroethylene (TCE). Aeration systems were installed at the wellfield to protect groundwater and drinking water. A soil vapor extraction system was also installed at Southgate Mall as early mitigation efforts to address contamination.

Over the next 20 years, the City implemented wellhead protection area inspections of local businesses, updated codes and planning, and enforced non-conforming uses. Within the six-month and one-year time of travel zones, the City no longer allowed dry cleaners using PCE. As a non-conforming use, staff worked with the business to ensure the facilities were replaced with environmentally processes and PCE was no longer utilized on site.

TUMWATER PUBLIC WORKS COMMITTEE
MINUTES OF VIRTUAL MEETING
May 9, 2024 Page 8

Other businesses subject to the non-conforming ordinance are primarily gas stations located within the six-month or one-year time of travel.

Every five years, EPA reviews the system and conducts monitoring to ascertain the effectiveness of the treatment systems and whether they continue to be effective in treating the water as expected. During the last inspection, EPA determined additional work was required because concentrations were not diminishing to a level sufficient to meet EPA goals. After completion of alternative analysis and more extensive research, EPA determined more efforts were required to continue to reduce the concentrations of contaminants within groundwater. Additional work identified alternatives and a proposed clean up plan.

Operable Unit 2 addresses TCE contamination with the source identified as the WSDOT Material Lab off Trosper Road.

Director Smith displayed a graphic depicting a cross section of the contamination from the dry cleaners floor drains which leached into the soil, contaminated the soil and soil vapor, and percolated to the groundwater as it flows to the wellfield. Early mitigation identified the dry cleaner as the source and installed a soil vapor extraction system that pumps soil vapor from the ground into a treatment system to enable the flow of cleaned air.

Last year, staff worked on the aeration lagoon to increase the depth and the treatment volume. Upstream, subdrains are located that are networked through the Palermo neighborhood to capture shallow groundwater as it moves to the treatment lagoon. Both systems are in place. The previous soil vapor extraction system was effective and disconnected in 2001. EPA determined that disconnecting the system occurred too soon. Data at that time suggested treatment was successful with concentrations reducing and stabilizing. However, the plume continued to travel to the subdrain water system because PCE is a shallow water contaminant. Once the contaminant reaches the subdrain system the system captures contamination and moves it to the aeration lagoon for final treatment. As EPA conducted its alternatives analysis to determine the best treatment system moving forward, the agency determined soil vapor extraction continues to work well but changed the position to a horizontal vapor extraction system to capture any remaining contaminant plume.

The second action is installation of an underground wall of carbon and iron through a series of injection wells with the materials injected into the groundwater system and remaining in place to bind with surrounding soils as groundwater flows through the soil. The system effectively captures PCE adhering the contaminant to carbon and iron and stabilizing the contaminant with no further release of the material from the curtain system.

Director Smith identified locations of the curtain barriers throughout the system.

TUMWATER PUBLIC WORKS COMMITTEE**MINUTES OF VIRTUAL MEETING****May 9, 2024 Page 9**

The revised clean up process is undergoing a public comment period. Several days remain prior to the City finalizing the review and forwarding comments to the EPA. The City is confident of efforts by EPA and the technical approaches recommended for the wellfield. Later in the year, EPA will install the soil vapor system and pilot the work with Southgate Mall. Next year, the EPA will examine the totality of both operating systems for any final recommendations to update the Record of Decision completed in 1999. Beginning in 2026 and moving forward, EPA will enter into agreements as needed to continue operations and maintenance of the treatment system.

Councilmember Althausen inquired as to the funding sources for both operating systems as private business contributed to the contamination in addition to WSDOT. Director Smith explained that treatment is funded from the Superfund program and WSDOT as a responsible party. The City assumed the role of project manager as it is the City's system but the EPA funded the project. Collaboration continues between EPA and the responsible parties. Because the funding level is above the capacity of the dry cleaners, Superfund dollars assist the City to cover those costs.

Mr. Lukas added that since WSDOT is a state agency, cost recovery of the treatment for TCE is through the state. The dry cleaners settled with EPA in 2007 with some funding from the settlement and the remaining from federal Superfund dollars. EPA estimates the cost of the treatment of approximately \$10 million for PCE clean up and a higher amount for TCE clean up, which is still in the feasibility study phase.

Director Smith noted that the alternatives under review are for the treatment process for PCE with TCE scheduled to be addressed later this year or next year.

ADJOURNMENT: With there being no further business, Chair Swarthout adjourned the meeting at 9:06 a.m.

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services, psmsoly@earthlink.net

TUMWATER PUBLIC WORKS COMMITTEE**MINUTES OF VIRTUAL MEETING****May 23, 2024 Page 1****CONVENE:** 8:00 a.m.**PRESENT:** Chair Eileen Swarthout and Councilmembers Michael Althausen and Angela Jefferson.

Staff: City Attorney Karen Kirkpatrick, Finance Director Troy Niemeyer, Water Resources and Sustainability Director Dan Smith, Transportation and Engineering Director Brandon Hicks, Assistant Transportation and Engineering Director Mary Heather Ames, Engineering Services Manager Bill Lindauer, Water Resources & Sustainability Program Manager Patrick Soderberg, Construction Engineer Colby Fletcher, and Administrative Assistant Bonnie Hale.

**CONSTRUCTION
CONTRACT WITH
ACTIVE
CONSTRUCTION, INC.
FOR THE INTERSTATE
5/TROSPER
ROAD/CAPITOL
BOULEVARD
RECONFIGURATION
PROJECT, REQUEST
FOR ADDITIONAL
CONSTRUCTION
FUNDS:**

Manager Lindauer reported the proposal is a request for additional funds for the I-5/Troster Road/Capitol Boulevard Reconfiguration project specific to a change order authority increasing from 10 percent to 20 percent.

The project consists of three roundabouts on Troster Road and 6th Avenue, Troster and Capitol Boulevard, and Troster Road and the I-Ramps, Linda Street improvements, construction of a new roadway (6th Avenue) from Troster Road to Lee Street, construction of the I-5 northbound on and off ramps, and a complete rebuild of the storm, sewer, and water system within project limits. The project included full utility undergrounding of all dry utilities, street lighting, crosswalk beacon systems at roundabouts, and landscaping and irrigation.

The construction project was awarded to Active Construction Company for \$12,150,150.00. The standard 10 percent change order authority provided by Tumwater Municipal Code 2.14.060 is ten percent for a total construction budget of \$13,365,165.00. The project is approximately one month from substantial completion. Staff anticipates completion by the end of July enabling an accurate projection of the total cost of the project. It is likely the budget will exceed the change order percentage by an additional four percent bringing the project total to approximately \$13,851,171.00. Staff requests the committee authorize change order authority to 20 percent to ensure any remaining project issues could be accommodated. At a 20 percent change order authority, the project total would be \$14,580,180.00. The difference between the original bid was approximately \$2,300,000.00 based on a 20 percent change order. However, the projection of a 14 percent change order would equate to an increase of approximately \$1,500,000.00.

The project was extremely complex with many components with cost increases attributed to project quantity increases. Because the project is based on unit bid pricing, each unit the contractor bids and installs needs to be compensated. In some instances, an increase in quantities occurred because of an estimating shortfall or installation of the product was not identified in the national bid item, which required rectification. As a rule,

TUMWATER PUBLIC WORKS COMMITTEE
MINUTES OF VIRTUAL MEETING
May 23, 2024 Page 2

the majority of quantity increases were attributed to rock and asphalt as a function of more material needs to build the project than originally forecasted. Some of the reasons were due to construction phasing and how the contractor performed the work, such as temporary pavement. In those particular instances, the means and methods were required to ensure proper completion of the project. Staff addressed some quantity issues on the project.

Another unanticipated increase pertained to the unknowns of undergrounding utilities, which were challenging in an area of an old roadway with many existing undergrounded utilities. The project encountered a large number of unknown existing utilities and utility conflicts during the project.

The project team pursued due diligence to explore existing utilities locations and potholes for further investigation. However, following investigation, many utilities were installed in the ground either unknown or at another location. Upon trenching and further investigation, redesign was necessary as well as adjustments in a number of locations to avoid existing underground utilities, which also was impacted by phasing of the project with sewer, water, and storm drain installed first followed by Puget Sound Energy (PSE) trenches. The phasing aspect of the project added complexity to the work. Additionally, the project encountered unknown obstructions and obstacles discovered during digging of the trenches. During trenching, a void was discovered under Linda Street of a sizable size likely caused by an ongoing water leak. The void required over-excavation and remediation to avoid future issues. Other remnants were discovered of old foundations and structures (storm structures) requiring removal to include an old retaining wall. Many obstructions and obstacles were discovered during excavation activities for the project.

The fiber optic installation was an added cost because the fiber optic system was installed many years ago often reusing old conduit at that time. The system was not installed correctly requiring rerouting of the fiber to reposition it away from other utilities installed as part to the project. Although a cost was incurred, the fiber optic system in the project area is now installed correctly and should have a lifespan of many years without service interruptions. Additionally, staff was able to identify the location of the fiber optic system in the project area because the location was undetermined prior to the project.

Schedule 74 commercial and private conversions throughout the project site begins with the typical installation of all main utilities followed by installation of dry utilities, such as power and other utility purveyors. The project encountered conflicts when construction activities based on PSE plans encountered challenges in setting the required vaults and identifying locations for the equipment, as well as rerouting of the mainline trench to

TUMWATER PUBLIC WORKS COMMITTEE
MINUTES OF VIRTUAL MEETING
May 23, 2024 Page 3

avoid contact with other utilities. The issue resulted in a cascading affect as any design change for sewer or water can affect other components constructed later in the process. Connections into existing buildings both commercial and residential encountered some difficulties, as well as the final connection to a former restaurant recently acquired by the City. Existing antiquated and non-conforming connection points at the restaurant required additional work to bring the connection point to current standards to complete the final connection.

City storm pond modifications were required because infiltration rates were lower than required. Additional investigation identified poor soil strata in parts of the pond. Staff developed a remediation plan to address the issue by excavating the pond an additional 18 inches to increase the storage of the pond and the required infiltration rate. Additionally several smaller infiltration areas will be added inside the pond.

The original plan did not call for repaving Lee and Linda Streets. However, because of design changes on Lee Street and the poor condition of an asbestos watermain, the contractor was concerned about damaging the line during construction. Staff completed some redesigns, which increased the utility cuts within the roadway necessitating a repaving rather than patching the roadway. Repaving extends the life of the road and avoids infiltration of water through pavement cuts. Extra work on Linda Street included extending the roadway improvements to the end of Linda Street.

During the work on the sewer main along Capitol Boulevard at the southern terminus of the project site, an existing manhole in poor condition, the discovery of a utility trench filled with concrete, and the presence of a gas line impacted the ability to connect the sewer at that location necessitating the extension of the sewer line by approximately 180 feet south to connect to a manhole in better condition. The extension of the sewer main resulted in the removal of the concrete panels under Capitol Boulevard. The City benefitted from the additional work as the Capitol Boulevard Corridor Plan includes plans to upgrade the sewer main along the corridor with a portion of the sewer main replaced as part of the project, as well as removal of the concrete panels. Although the work resulted in an increase in the cost, it was a net benefit to the City.

Manager Lindauer explained that the examples represented the major changes in addition to other smaller issues that contributed to the increase in the cost of the project.

Councilmember Althausen questioned the electrical upgrade of the restaurant building if the City owns the building. Manager Lindauer advised that PSE is unable to serve a property that has an outdated electrical connection point.

TUMWATER PUBLIC WORKS COMMITTEE
MINUTES OF VIRTUAL MEETING
May 23, 2024 Page 4

Director Hicks explained that within the purchase and sale agreement the City negotiated with the future purchasers of the property, the City is required to connect the property to all utilities. He believes the new owners plan to retain the building and repurpose its use. It is possible that the work completed as part of the project will be changed in order to serve the new use. However, the City is responsible for reconnecting utility services to the property.

Councilmember Jefferson asked about the major reasons for the cost increase. Manager Lindauer commented on the difficulty of identifying any one item attributing to the cost overrun. Any time a project change occurs, it tends to incur a cost implication, which could be minimal or major. All changes add up. For undergrounding utility work on an old roadway, the outcome was acceptable as costs will be incurred when trenching and replacing utilities because of the uncertainty of what might exist in the ground. Most unanticipated costs for roadway projects are associated with underground work.

Manager Lindauer reported the additional costs will be paid through the Capital Facilities Plan (CFP) for Transportation, Water, Sewer, and Storm. The majority of the cost will be allocated to the Transportation and Storm CFPs with some costs allocated to Water and Sewer CFPs as applicable. Staff will quantify the costs and allocate the costs to each CFP.

Councilmember Althaus requested information on the specific amounts of the overruns between the different CFPs. Manager Lindauer explained that the costs have not been allocated between the different CFPs; however, the majority of the cost would be allocated to the Transportation CFP followed by the Storm CFP for the pond costs with the majority of the costs for sewer attributed to the sewer extension. Costs to the Water CFP would be minimal. When staff calculates pay applications for the contractor, all units are segregated into different categories identifying the amount for allocation to each CFP.

Councilmember Althaus commented that the initial project approval also include a contingency, which likely would cover some of the overrun. Director Hicks affirmed that when the budgeting was completed for the Transportation CFP, staff included additional funding because the bidding environment continues to be extremely unpredictable in terms of inflation, cost of materials, and labor. The Transportation CFP is fully funded with sufficient budget to cover additional costs. Additionally, the project was the City's most complex project ever undertaken. Staff was prepared for the potential of overruns.

Councilmember Althaus asked about the potential of affecting sewer projects with the increased costs incurred by the project. Director Hicks affirmed the possibility as utility capital funds are somewhat constrained in

TUMWATER PUBLIC WORKS COMMITTEE**MINUTES OF VIRTUAL MEETING****May 23, 2024 Page 5**

capacity to absorb additional costs because of large projects. Director Smith is working with Director Niemeyer to consider financing for completing some large utility projects.

Chair Swarthout asked about the anticipated timeline for completion of the project. Manager Lindauer advised that substantial completion is expected in July with all components completed enabling full operation of the project site. The project will be essentially completed in September with final project completion with the contractor scheduled for the end of the year.

Councilmember Jefferson inquired about the official opening date to document the project historically. Director Hicks said he plans to follow up on previous discussions with City Administrator Parks with follow up to the committee at a future meeting.

Construction Engineer Fletcher reported on the final paving operation during the first week in June during the night along with all utility valve adjustments, site cleanup, and landscaping. Once pavement markings are completed, all lanes of the roundabouts will be open to traffic.

Discussion ensued on the increased safety associated with roundabouts because of lower vehicle speeds.

Director Hicks responded to questions about the timing of a comprehensive briefing to the Council on the project and suggested including an update during a Council meeting at the time of the project's official opening date announcement.

Chair Swarthout inquired about the status of repaving Israel Road. Manager Lindauer explained some of the complications of repaving Israel Road because of federal funding and the requirement for WSDOT approval. The project will be released for bid soon, but roadwork would not be initiated prior to the 4th of July holiday.

Chair Swarthout reviewed the request to the committee.

MOTION:

Councilmember Jefferson moved, seconded by Councilmember Althaus, to place the request to increase the change authority provided to the Transportation and Engineering Director under Tumwater Municipal Code 2.14.060 from 10 percent to 20 percent for the Interstate 5/Trosper Road/Capitol Boulevard Reconfiguration Project on the June 4, 2024, City Council Consent calendar with a recommendation to authorize and approve. A voice vote approved the motion unanimously.

**INTERLOCAL
AGREEMENT WITH**

Assistant Director Ames briefed the committee on the proposed interlocal agreement with the City of Olympia for the Mottman Road Pedestrian and

**TUMWATER PUBLIC WORKS COMMITTEE
MINUTES OF VIRTUAL MEETING
May 23, 2024 Page 6**

**CITY OF OLYMPIA
FOR THE MOTTMAN
ROAD PEDESTRIAN
AND STREET
IMPROVEMENTS
PROJECT:**

Street Improvements project setting the framework for completion of the project.

The project, developed several years ago, is a joint project between the City of Tumwater and City of Olympia bordering the South Puget Sound Community College campus on the north side following Mottman Road from R.W. Johnson Boulevard to the east for approximately 3,700 feet. One-fourth of the distance is located within the limits of the City of Tumwater with the remaining project site located in the City of Olympia. The project improves Mottman Road to a standard serving all modes of transportation. The road experiences all types of transportation modes ranging from bicyclists, pedestrians, cars, and trucks. The project adds sidewalk, bike lanes, channelization, and striping.

Conceptual design for the project has been completed and next steps include final design, specifications, and a construction cost estimate followed by permitting and construction. Each component of the project is covered by the interlocal agreement. The City of Olympia is the lead on the project with support by Tumwater staff as needed. Construction is scheduled to begin in 2027 with completion in 2028. Preliminary design of Olympia's project site indicates that the existing culvert at Percival Creek will not require replacement; however, if determined the culvert requires replacement and that the project could be extended. If right-of-way is required for storm facilities and the City of Olympia encounters difficulties obtaining right-of-way, it could extend the project by another year as well.

The project is funded by Connecting Washington Program, a legislative funding source. The project total is \$7.6 million with Tumwater's total of \$1.748 million or 25% of the total. No matching funds are required for the project. The City of Olympia's cost is \$5.68 million or 75% of the project cost.

Staff recommends the committee place the interlocal agreement with the City of Olympia for Mottman Road Improvements Project on the June 4, 2024 City Council consent calendar with a recommendation to approve and authorize the Mayor to sign the agreement.

Councilmember Althaus asked whether the project would include two project management teams by both cities. Assistant Director Ames advised that City of Olympia staff would serve as the project manager for the project. Staff is working with the City of Olympia to streamline the process to enable the City of Olympia to receive grant funding directly with any Tumwater staff time submitted to the City of Olympia for reimbursement from the grant. The overall plan is for a cohesive process.

MOTION:

Councilmember Althaus moved, seconded by Councilmember Jefferson, to place the interlocal agreement with the City of Olympia

TUMWATER PUBLIC WORKS COMMITTEE

MINUTES OF VIRTUAL MEETING

May 23, 2024 Page 7

for Mottman Road Improvements Project on the June 4, 2024 City Council consent calendar with a recommendation to approve and authorize the Mayor to sign the agreement. A voice vote approved the motion unanimously.

OTHER BUSINESS:

Committee and staff discussed the Public Works picnic scheduled at Tumwater Historical Park later in the day at 11:30 a.m. and the status of the move by the Water Resources and Sustainability Department's to office space at South Puget Sound Community College.

ADJOURNMENT:

With there being no further business, Chair Swarthout adjourned the meeting at 8:54 a.m.

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services, psmsoly@earthlink.net

TO: Public Works Committee
FROM: Bill Lindauer, Engineering Services Manager
DATE: June 6, 2024
SUBJECT: Authority to Solicit Bids and Recommend Award for the Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave project.

1) Recommended Action:

Staff requests the Public Works Committee authorize staff to: (1) solicit bids for the Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave project, (2) recommend City Council award and authorize the Mayor to sign a Public Works Contract with the lowest responsible bidder and place on the June 25, 2024, City Council consent calendar with a recommendation to approve and authorize the Mayor to sign.”

2) Background:

This project will focus on multi-modal improvements on Linwood Avenue from Susitna Lane to 2nd Avenue with primary focus on pedestrian and bicycle safety improvements. The project will construct new sidewalk and fill-in sections of missing sidewalk along Linwood Avenue and adjacent streets to complete a walkable path between residential neighborhoods and Michael T. Simmons elementary school. Traffic curb bulb-outs will be constructed at select locations to identify parking areas, provide traffic calming, and reduce vehicle travel speeds. Other improvements will include upgrades to existing sidewalk ramps to new ADA standards, concrete driveways, stormwater improvements, asphalt pavement overlay, roadway pavement marking, and signage upgrades.

The Engineer’s estimate for construction is in the range of \$1,300,000 to \$1,600,000.

3) Policy Support:

Create and Maintain a Transportation System Safe for All Modes of Travel – Bike and Pedestrian System Improvements.

4) Alternatives:

- ☐ Revise the project.
 - ☐ Do not authorize staff to solicit bids.
-

5) Fiscal Notes:

The project is funded in part by the Transportation Improvement Board (TIB) Fuel Tax Agreement. A total of \$393,750 has been awarded to this project. Local funding match comes from the TBD and Transportation CFP.



6) Attachments:

A. Project Overview

B. Public Works Contract Draft

LINWOOD AVENUE SIDEWALK, SUSITNA LANE TO 2ND AVENUE



- LEGEND
-  SIDEWALK/DRIVEWAY/ADA RAMP IMPROVEMENTS
 -  MILL AND INLAY

**BID AND CONTRACT DOCUMENTS
AND SPECIFICATIONS
FOR**

**Linwood Avenue Sidewalk,
Susitna Ln to 2nd Ave**



**— CITY OF —
TUMWATER**



**TUMWATER CITY HALL
555 ISRAEL ROAD SW
TUMWATER, WASHINGTON 98501
360-754-4140**

This page intentionally left blank.

TABLE OF CONTENTS

	PAGE
<u>Request for Bids</u>	3
<u>Bidding Checklist</u>	7
<u>Instructions to Bidders</u>	9
<u>Bid Proposal, Schedule of Prices, Bid Signature Page</u> (Attachment A).....	15
<u>Statements of Bidder's Qualifications</u> (Attachment B)	19
<u>Bid Bond Form</u> (Attachment C)	21
<u>Subcontractor List</u> (Attachment D).....	23
<u>Combined Affidavit and Certification Form</u> (Attachment E).....	25
<u>Non-Discrimination in Benefits Affidavit</u> (Attachment F)	27
<u>Non-Discrimination Certificate</u> (Attachment G)	29
<u>Contractor Certification Wage Law Compliance</u> (Attachment H)	31
<u>Public Works Contract</u>	33
Exhibit A <u>Notice of Completion</u>	47
Exhibit B <u>Contract Change Order Agreement</u>	49
Exhibit C <u>Notice to Labor Unions or Other Employment Organizations of</u> <u>Nondiscrimination in Employment</u>	51
Exhibit D <u>Certificate(s) of Insurance Form</u>	53
Exhibit E-1 <u>Performance Bond</u>	57
Exhibit E-2 <u>Payment Bond</u>	61
Exhibit F <u>Contractor's Retainage Agreement</u>	63
Exhibit G <u>Retainage Bond to City of Tumwater</u>	65
<u>Special Provisions</u>	71

APPENDICES

- A. State Prevailing Wages, Supplement, and Benefit Code Key
- B. Construction Stormwater General Permit Transfer of Coverage
- C. Stormwater Pollution Prevention Plan (SWPPP)
- D. Washington State Department of Transportation (WSDOT) Standard Plans
- E. City of Tumwater Standard Plans

This page intentionally left blank.

REQUEST FOR BIDS LINWOOD AVENUE SIDEWALK, SUSITNA LN TO 2ND AVE

SUBMITTAL OF SEALED BIDS:

Notice is hereby given that sealed bids shall be hand-delivered to the Transportation and Engineering Department front counter, located downstairs at Tumwater City Hall, 555 Israel Road SW, Tumwater, Washington. Bids will be accepted from **10:00 a.m. until 11:00 a.m. Thursday, July 9, 2024**, for the Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave project. Proposals received after the time fixed for opening will not be considered. Bid deliveries other than hand-delivered (i.e., faxed or emailed) will not be accepted.

BID OPENING:

All bids will be opened and publicly read aloud at **11:00 a.m., Thursday, July 9, 2024**, at Tumwater City Hall, 555 Israel Road SW, Tumwater, Washington, for this request for bids.

DESCRIPTION OF WORK:

The work to be performed will include the furnishing of all labor, materials, services, equipment and incidentals necessary to complete the project including **construction of cement conc. sidewalks, curb ramps, and driveways, curb and gutter, planing bituminous pavement, HMA inlay and pavement/roadway repair, stormwater infiltration galleries, fences, walls, roadway channelization, stormwater BMPs, traffic control, clean-up and other work**; all in accordance with the Contract Documents.

Cost estimate range: \$2,000,000 - \$2,200,000

BID DOCUMENTS:

Free-of-charge access to project bid documents (plans, specifications, addenda, and Bidders List) is provided to Prime Bidders, Subcontractors, and Vendors by going to www.bxwa.com and clicking on "Posted Projects", "Public Works", and "City of Tumwater." This online plan room provides Bidders with fully usable online documents with the ability to: download, view, print, order full/partial plan sets from numerous reprographic sources, and a free online digitizer/take-off tool. It is recommended that Bidders "Register" in order to receive automatic e-mail notification of future addenda and to place themselves on the "Self-Registered Bidders List". Bidders that do not register will not be automatically notified of addenda and will need to periodically check the on-line plan room for addenda issued on this project. Contact Builders Exchange of Washington at (425) 258-1303 should you require assistance with access or registration.

All bid proposals shall be in accordance with the Instructions to Bidders and all other contract documents which may be obtained through Builders Exchange of Washington.

Any questions regarding work description or the explanation or interpretation of the bid documents must be directed to Joseph Norman, Engineer III, in writing at 555 Israel Road SW, Tumwater, Washington 98501 or via email at jnorman@ci.tumwater.wa.us with a cc to tumwaterprojects@ci.tumwater.wa.us. All correspondence (written and email) shall contain the Subject Line "**Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave – Bidding Question**". All questions must be received a minimum of 48 hours prior to bid opening. No addendums will be issued within 24 hours of bid opening.

RESERVATION OF RIGHTS:

The City of Tumwater reserves the right to reject any or all bids and/or any portion of any bid, and to waive any informalities or irregularities in the bid or in the bidding, and determine which

bid or bidder meets the criteria set forth in the bid documents. The City shall reserve the right to reject single items or combinations of bid items.

No bidder may withdraw their proposal after the hour set for the opening thereof, or before award of contract, unless said award is delayed for a period exceeding thirty (30) days.

NOTICE TO BIDDERS – TITLE VI

The City of Tumwater in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252,42 U.S.C. 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The Contractor shall comply with the following nondiscrimination provisions, and the Contractor shall ensure the nondiscrimination provisions are included in all subcontracts:

a. Nondiscrimination Requirement. During the term of this Contract, the Contractor, including all subcontractors, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, the Contractor, including all subcontractors, shall give written notice of this nondiscrimination requirement to any labor organizations with which the Contractor, or subcontractor, has a collective bargaining or other agreement.

b. Obligation to Cooperate. The Contractor, including all subcontractors, shall cooperate and comply with any Washington state agency investigation regarding any allegation that the Contractor, including any subcontractor, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).

c. Default. Notwithstanding any provision to the contrary, the Contracting Agency may suspend the Contract in accordance with Section 1-08.6, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until the Contracting Agency receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event the Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), the Contracting Agency may terminate this Contract in whole or in part in accordance with Section 1-08.10(1), and in addition to the sanctions listed in Section 1-07.11(5), the Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. The Contractor or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.

d. Remedies for Breach. Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, the Contractor, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed

under Chapter 49.60, RCW. The Contracting Agency shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe Contracting Agency for default under this Provision.

Dated this 19th day of June 2024.

This page intentionally left blank.

BIDDING CHECKLIST

The Following Forms Must Be Executed In Full Prior to Submittal of the Bid

- ☐ **Bid Proposal, Schedule of Prices, and Bid Signature Page**
The lump sum or unit prices must be shown in the spaces provided. Bidders must bid on all bid items contained in the Bid Proposal. The omission or deletion of any bid item will be considered non-responsive and shall be cause for rejection of the bid. The proposal must be signed and the execution date shall be indicated on the proposal.
- ☐ **Statement of Bidder's Qualifications**
This form must be filled in and signed. The City reserves the right to check all statements and to judge the adequacy of the bidder's qualifications.
- ☐ **Bid Bond**
The Bid Bond must be executed by the bidder and the surety company unless a certified check is submitted with the bid. The amount of the Bid Bond or certified check shall be no less than five percent (5%) of the total amount bid and may be shown in dollars or on a percent basis.
- ☐ **Subcontractor List** Subcontractor list shall meet the requirements of RCW 39.30.060.
- ☐ **Contractor Certification Wage Law Compliance**
Shall be completed and sworn before a notary public by the bidder.
- ☐ **Non-Discrimination in Benefits Affidavit**
Shall be completed and sworn before a notary public by the bidder
- ☐ **Non-Discrimination Certificate**
Shall be completed and sworn before a notary public by the bidder.
- ☐ **Certification of Compliance with Wage Payment Statutes**
Must be signed and dated.

The Following Forms Are To Be Executed After The Contract Is Awarded:

1. **Public Works Contract**
This agreement is to be executed by the successful bidder.
2. **Retainage Agreement**
3. **Retainage Bond with Certificate as to Corporate Principals**
4. **Notice to Labor Unions** (if applicable) the successful Bidder will sign and post copies of this notice in conspicuous places available to employees or applicants for employment.
5. **Certificates of Insurance**
To be executed by an acceptable Insurance Company.
6. **Contract Performance and Payment Bonds with Certificates as to Corporate Principals**
To be executed by the successful Bidder and Bidder's Surety Company.
7. **Construction Schedule**
An approved construction schedule, in accordance with the Specifications.
8. **Construction Maintenance of Traffic Plans (MOT)**
Approved construction MOT plans, in accordance with the Specifications.
9. **Statement of Intent to Pay Prevailing Wages**
A copy of the affidavit filed with the State Department of Labor and Industries.

INSTRUCTIONS TO BIDDERS

1. **Time and Place for Submission and Opening of Bids**

Notice is hereby given that sealed bids shall be hand-delivered to the Transportation and Engineering Department front counter, located downstairs at Tumwater City Hall, 555 Israel Road SW, Tumwater, Washington. Bids will be accepted from **10:00 a.m. until 11:00 a.m. Tuesday, July 9, 2024**, for the Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave project. Proposals received after the time fixed for opening will not be considered. Bid deliveries other than hand-delivered (i.e., faxed or emailed) will not be accepted.

All bids will be opened and publicly read aloud at **11:00 a.m., Thursday, July 9, 2024**, at Tumwater City Hall, 555 Israel Road SW, Tumwater, Washington, for this request for bids.

2. **Bid Proposal**

Bids shall be made on the “Bid Proposal”, Attachment “A” issued by the City as part of these contract documents, without reservation or amendment. Bids must be typewritten or printed in ink. Upon completion, the Bid Proposal and any requested information shall be placed in a sealed envelope. On the outside of the envelope, place the name of the project being bid and the date and time bids are due.

3. **Bid Signature**

All bids shall give the total bid price and shall be signed in ink by the bidder or their authorized representative, with the address. If the bid is made by an individual, the name, signature, and address must be shown. If the bid is made by a firm or partnership, the name and address of the firm or partnership and the signature of at least one of the general partners must be shown. If the bid is made by a corporation, the bid shall show the title of the person authorized to sign on behalf of the corporation, his or her title and the address. The City reserves the right to request documentation showing the authority of the individual signing the bid to execute contracts on behalf of anyone, or any entity, other than himself/herself. Refusal to provide such information upon request may cause the bid to be rejected as nonresponsive.

4. **Bid Withdrawal Due to Error**

A bidder who wishes to claim error after the bids have been publicly opened and read as required by RCW 47.28.090 shall promptly notify the City that an error occurred. The bidder shall submit a notarized affidavit or declaration under penalty of perjury signed by the bidder and accompanied by the work sheets used in the preparation of the bid, requesting relief from the responsibilities of award. The affidavit or declaration shall describe the specific error(s) and certify that the work sheets are the ones used in preparing the bid.

The affidavit or declaration shall be submitted no later than 5:00 p.m. on the first business day after bid opening or the claim will not be considered. The City will review the affidavit or declaration and the certified work sheets to determine the validity of the claimed error and if the error is of the kind for which the law allows relief from forfeiture of the bid deposit. If the City concurs in the claim of error and determines

that the error is of the kind that allows relief from forfeiture, the bidder will be relieved of responsibility and the bid deposit of the bidder will be returned. If the City does not concur in the error or determines that the error is not the kind for which the law allows relief, the City may award the contract. A written award mailed or otherwise furnished to a Contractor within the time for acceptance shall be a binding contract.

5. Withdrawal or Revision of Proposal

After submitting a bid proposal to the City, the bidder may withdraw or revise it if:

- A. The bidder submits a written request signed by an authorized person, and
- B. The City receives the request before the time for accepting bids.

The original bid proposal may be revised and resubmitted as the official bid proposal if the City receives it before the time for accepting bids.

6. Examination of Plans, Specifications and Site of Work

The submission of a bid shall constitute an acknowledgement upon which the City may rely that the Bidder has thoroughly examined and is familiar with the Request for Bid (RFB), including any work site identified in the RFB, and has reviewed and inspected all applicable statutes, regulations, ordinances and resolutions addressing or relating to the goods or services to be provided hereunder, and:

- A. Has taken steps reasonably necessary to ascertain the nature and location of the work;
- B. Has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to:
 - a. Conditions bearing upon acquisition, transportation, disposal, handling, and storage of materials;
 - b. The availability of labor, materials, water, electric power, and roads;
 - c. Uncertainties of weather, river stages, tides, or similar physical conditions at the site;
 - d. The conformation and condition of the ground;
 - e. The character of equipment and facilities needed preliminary to and during work performance; and
 - f. The site biological hazards and associated physical hazards.
- C. Has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonable ascertainable from an inspection of the work site (including material sites) as well as from the bid documents and other information made a part of this contract; and
- D. Has satisfied itself as to the adequacy of time allowed for the completion of the physical work on the contract.

The failure of a Bidder to comply with above requirement shall in no way relieve the Bidder from any obligations with respect to its bid or to any Contract awarded pursuant to this RFB. No claim for additional compensation shall be allowed which is based upon a lack of knowledge or misunderstanding of this RFB.

The Bidder agrees that the City shall not be liable to it on any claim for additional payment or additional time or any claim whatsoever if the claim directly or indirectly results from the bidder's failure to investigate and familiarize itself sufficiently with the conditions under which the contract is to be performed.

The Bidder shall be familiar and comply with all Federal, State and local laws, ordinances, and regulations that might affect those engaged in the work. The City will not consider any plea of misunderstanding or ignorance of such requirements.

No claim shall be allowed because of any ambiguity in the contract if:

- A. The Bidder discovers an ambiguity but fails to notify the City; or
- B. The Bidder failed to discover a patent ambiguity that would be discovered by a reasonably prudent Contractor in preparing its bid.

Bid prices shall reflect what the bidder anticipates to be the cost of completing the work, including methods, materials, labor, and equipment. Except as the contract may provide, the bidder shall receive no payment of any cost that exceeds those in the bid prices.

Any prospective Bidder desiring an explanation or interpretation of the bid documents must request the explanation or interpretation in writing soon enough to allow a written reply to reach all prospective bidders before the submission of their bids.

7. Interpretation of Bid and Contract Documents

Oral explanations, interpretations, or instructions given by anyone before the award of a contract will not be binding on the City. Any information given a prospective bidder concerning any of the bid documents will be furnished to all prospective bidders as an addendum if that information is deemed by the City to be necessary in submitting bids or if the City concludes that the lack of the information would be prejudicial to other prospective bidders.

8. Addenda

In the space provided on the signature sheet, the Bidder shall confirm that all addenda have been received.

9. Bid Price

The bid price shall include everything necessary for the completion of the contract including, but not limited to, furnishing all materials, equipment, tools, freight charges, facilities and all management, superintendence, labor and service, except as may be provided otherwise in the contract documents.

Bid prices shall include all freight charges, FOB to the designated delivery point(s).

All Washington State sales tax and all other government taxes, assessments and charges shall be as required under Washington State Department of Revenue Rule 171 and WAC 458-20-171, and its related rules.

10. Postponement of Bid Opening

The City reserves the right to postpone the date and time for the opening of bids by announcing such postponement by addenda at any time prior to the date and time announced in these documents.

11. Non-Collusion Declaration

As required by Section 112(c) Title 23, United States Code, all bidders shall submit the Combined Affidavit and Certification Form (Attachment E) with their bids.

The Code of Federal Regulations [23 CFR 635.112(f)(1)] requires that: “Each bidder shall file a sworn and unsworn statement executed by, or on behalf of the person, firm, association, or corporation submitting the bid, certifying that such persons, firm association or corporation has not either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. Failure to submit the sworn or unsworn statement as part of the bid proposal package will make the bid nonresponsive and not eligible for award consideration.” In addition, 23 CFR 635.112(f)(1) requires that the City provide the form for the declaration to prospective bidders and that the declaration shall be executed by such persons, firm, association, or corporation under penalty of perjury under the laws of the United States.

12. **Disqualification of Bidder**

The City will consider all the material submitted by the Bidder and other evidence it may obtain to determine whether the Bidder is in compliance with the terms and conditions set forth in this RFB.

A. In determining the responsibility of the bidder, the City may consider:

- a. the ability, capacity and skill to perform the Contract or provide the service required;
- b. the character, integrity, reputation, judgment and efficiency;
- c. financial resources to perform the Contract properly and within the times specified;
- d. the quality and timeliness of performance on previous contracts with the City and other agencies including by not limited to the effort necessarily expended by the City and other agencies in securing satisfactory performance and resolving claims;
- e. compliance with federal state and local laws and ordinances relating to public contracts;
- f. other information having bearing on the decision to award the Contract. A bidder will be deemed not responsible or responsive and the proposal rejected if the bidder does not meet the responsibility criteria in RCW 39.04.
- g. More than one proposal is submitted for the same project from a bidder under the same or different names;
- h. Evidence of collusion exists with any other bidder or potential bidder. Participant of collusion will be restricted from submitting further bids. All bidders are required to submit the Combined Affidavit and Certification Form (Attachment E) with their bids;
- i. The bidder, in the opinion of the Contracting Agency, is not qualified for the work or to the full extent of the bid, or to the extent that the bid exceeds the authorized prequalification amount as may have been determined by a prequalification of the bidder;
- j. An unsatisfactory performance record exists based on past or current Contracting Agency work or for work done for others, as judged from the standpoint of conduct of the work; workmanship; progress; affirmative action; equal employment opportunity practices; or Disadvantaged Business Enterprise, Minority Business Enterprise, or Women’s Business Enterprise utilization;
- k. There is uncompleted work (City or otherwise) which might hinder or prevent the prompt completion of the work bid upon;
- l. The bidder failed to settle bills for labor or materials on past or current contracts;

- m. The bidder has failed to complete a written public contract or has been convicted of a crime arising from a previous public contract;
- n. The bidder is unable, financially or otherwise, to perform the work;
- o. There are any other reasons deemed proper by the City.

Failure of a bidder to be deemed responsible or responsive may result in the rejection of a bid.

13. Bid Documents

Bidders are required to submit with the bid package the following:

<i>Attachment A</i>	Bid Proposal, Schedule of Prices, and Bid Signature Page
<i>Attachment B</i>	Statement of Bidder's Qualifications
<i>Attachment C</i>	Bid Bond Form
<i>Attachment D</i>	Subcontractor List
<i>Attachment E</i>	Combined Affidavit and Certification Form
<i>Attachment F</i>	Non-Discrimination in Benefits Affidavit
<i>Attachment G</i>	Non-Discrimination Certificate
<i>Attachment H</i>	Contractor Certification Wage Law Compliance

14. Bid Effective Date

All bids submitted shall be a firm bid for a minimum period of 90 days after the bid opening date, unless otherwise stated in writing in the bid. The City may request a Bidder grant an extension of the bid effective period.

15. Bid Deposit

A deposit of at least five percent (5%) of the total bid shall accompany each bid. This deposit may be by cash, certified check, cashier's check, or a proposal bond (surety bond). Any proposal bond shall be on a form acceptable to the City and shall be signed by the bidder and the surety. A proposal bond shall not be conditioned in any way to modify the minimum 5 percent required. The surety shall: (1) be registered with the Washington State Insurance Commissioner, and (2) appear on the current Authorized Insurance List in the State of Washington published by the Office of the Insurance Commissioner.

The failure to furnish a bid deposit of a minimum of five (5%) percent shall make the bid nonresponsive and shall cause the bid to be rejected by the City.

The bidder must use the Bid Bond form included in the bid documents (Attachment C).

16. Return of Bid Deposit

When proposals have been examined and corrected as necessary, proposal bonds and deposits accompanying proposals ineligible for further consideration will be returned. All other proposal bonds and deposits will be held until the contract has been properly executed. When the contract has been properly executed, all remaining deposits or bonds, except those subject to forfeiture, will be returned.

17. Performance Bond and Payment Bond / Contract Bonds

- A. The successful bidder shall provide an executed Performance Bond and an executed Payment Bond for the full contract amount. These Bonds shall:
- B. Use the Bond forms (Exhibit E-1 & E-2);

- C. Be signed by an approved surety (or sureties) that:
 - a. Is registered with the Washington State Insurance Commissioner, and
 - b. Appears on the current Authorized Insurance List in the State of Washington published by the Office of the Insurance Commissioner,
- D. Be conditioned upon the faithful performance of the contract by the Contractor within the prescribed time;
- E. Guarantee that the surety shall indemnify, defend and protect the City against any claim of direct or indirect loss resulting from the failure:
 - a. Of the Contractor (or any of the employees, subcontractors, or lower tier subcontractors of the Contractor) to faithfully perform the contract, or
 - b. Of the Contractor (or the subcontractors or lower tier subcontractors of the Contractor) to pay all laborers, mechanics, subcontractors, lower tier subcontractors, material person, or any other person who provides supplies or provisions for carrying out the work;
- F. Be accompanied by a power of attorney for the Surety's officer empowered to sign the bond; and
- G. Be signed by an officer of the Contractor empowered to sign official statements (sole proprietor or partner). If the Contractor is a corporation, the bond must be signed by the president or vice-president, unless accompanied by written proof of the authority of the individual signing the bond to bind the corporation (e.g., corporate resolution, power of attorney or a letter to such effect by the president or vice-president).

The City may require sureties or surety companies on the contract bond to appear and qualify themselves. Wherever the City deems the surety or sureties to be inadequate, it may, upon written demand, require the Contractor to furnish additional surety to cover any remaining work. Until the added surety is furnished, payments on the contract will stop.

18. Contract Award

Contract award, if any, will be made by the City to the low, responsive, responsible Bidder. The City will have no obligations until an award is made and an order placed with the Contractor. The City reserves the right to award one or more contracts as determined to be in the City's best interest. The City may accept any individual item, or group of items, or schedules of any bid, unless otherwise stated herein.

A written award mailed or otherwise furnished to a Contractor within the time for acceptance shall be a binding contract.

Attachment A

(Page 1 of 4)

CITY OF TUMWATER BID PROPOSAL**LINWOOD AVENUE SIDEWALK, SUSITNA LN TO 2ND AVE**

Bidder: _____

Date: _____

BID AMOUNT**TOTAL BID AMOUNT** \$ _____

TO: City Clerk, City of Tumwater,
555 Israel Road SW, Tumwater, WA 98501

Pursuant to and in compliance with your advertisement for bids for construction of the **Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave** project and other documents relating thereto, the undersigned has carefully examined all of the bid and contract documents as well as the premises and conditions affecting the delivery, supply and maintenance of the **Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave** project, and hereby proposes to furnish all labor, materials and perform all work as required in strict accordance with the contract documents, for the above-referenced amount, of Washington State sales tax and all other government taxes, assessments and charges as required by law under Washington State Department of Revenue Rule 170 and WAC 458-20-170, Washington State Department of Revenue Rule 171 and WAC 458-20-171 and its related rules (**Rule 171 applies to this project**). The required bid security consisting of a certified check, bid bond, or cashier's check in an amount of not less than five percent (5%) of the total amount bid is attached hereto, which it is agreed shall be collected and retained by the City as liquidated damages in the event this bid is accepted by the City within forty-five (45) calendar days after the day of the bid opening and the undersigned fails to execute the **Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave** Public Works Contract and to provide the required certificate of insurance to the City, under the conditions thereof, within the required time frame after the Notice of Award; otherwise said Bid Security will be returned to the undersigned.

Bond or Certified Check _____ **Dollars (\$** _____ **)**

The undersigned bids for complete construction of the following described project: **Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave** the following prices which shall include all materials, labor, tools, and necessary equipment. The Bidder shall complete this entire Bid Proposal or this bid may be considered non-responsive. The City may correct obvious mathematical errors.

Attachment A
(Page 2 of 4)

SCHEDULE OF PRICES

Item No.	Spec No.	Item Description	Quantity	Unit	Unit Price	Total/Extension
1	1-05	Construction Surveying, Staking, and Record Drawings	1	L.S.		
2	1-07	SPCC Plan	1	L.S.		
3	1-09	Mobilization	1	L.S.		
4	1-09	Minor Change	40,000	EST	\$ 1.00	\$ 40,000.00
5	1-10	Project Temporary Traffic Control	1	L.S.		
6	1-10	Flaggers	1,280	HR		
7	1-10	Traffic Control Supervisor	1	L.S.		
8	1-10	Portable Changeable Message Sign	6,720	HR		
9	2-01	Clearing, Grubbing, and Roadside Cleanup	1	L.S.		
10	2-02	Removal of Structures and Obstructions	1	L.S.		
11	2-02	Removing Fence	120	L.F.		
12	2-03	Roadway Excavation Incl. Haul	370	C.Y.		
13	4-04	Crushed Surfacing Top Course	230	TON		
14	4-04	Crushed Surfacing Base Course	540	TON		
15	5-04	HMA Class 1/2 In. PG 58V-22, Fiber Reinforced	1,200	TON		
16	5-04	HMA for Repair Cl. 1/2 In. PG 58V-22	270	TON		
17	5-04	Planing Bituminous Pavement	7,700	S.Y.		
18	5-04	Pavement Repair Excavation Incl. Haul	300	S.Y.		
19	5-04	Roadway Repair Excavation Incl. Haul	450	S.Y.		
20	7-05	Catch Basin Type 1	3	EA		
21	7-05	Bio-Infiltration Gallery	1	L.S.		
22	7-05	Adjust Manhole	13	EA		
23	7-05	Removing Drainage Structure	2	EA		
24	7-12	Adjust Valve Box	18	EA		
25	8-01	ESC Lead	40	DAY		
26	8-01	Inlet Protection	7	EA		
27	8-02	Seeding and Fertilizing	0.04	ACRE		

Attachment A
(Page 3 of 4)

28	8-04	Cement Conc. Traffic Curb and Gutter	2,700	L.F.		
29	8-04	Cement Conc. Traffic Curb	570	L.F.		
30	8-04	Cement Conc. Pedestrian Curb	390	L.F.		
31	8-14	Cement Conc. Sidewalk, Driveways, and Curb Ramps	2,010	S.Y.		
32	8-22	Plastic Line	3,500	L.F.		
33	8-23	Plastic Wide Line	2,900	L.F.		
34	8-22	Plastic Crosswalk Line	704	S.F.		
35	8-22	Plastic Stop Line	97	L.F.		
36	8-22	Plastic Traffic Arrow	1	EA		
37	8-22	Plastic Bicycle Lane Symbol	18	EA		
38	9-14	High Visibility Silt Fence	440	L.F.		
39	9-16	Install Fence #1	85	L.F.		
40	9-16	Install Fence #2	45	L.F.		
		Subtotal	XXX	XXX	XXXX	
		Sales Tax @ 0% (Tax Rule 171)	XXX	XXX	XXXX	\$ -
		TOTAL BID AMOUNT	XXX	XXX	XXXX	

The City of Tumwater reserves the right to reject any and all bids, waive any informalities or minor irregularities in the bidding, and determine which bid or bidder meets the criteria set forth in the bid documents.

Receipt of the following Addendums is hereby acknowledged:

Corporation / Partnership / Individual
(Circle One)

Addendum No. ____ Date Issued: ____

Addendum No. ____ Date Issued: ____

Firm Name

Title

Bidder's State License No.

Signature

Bidder's State Tax No.

Type/Print Name

Attachment A

(Page 4 of 4)

BID SIGNATURE PAGE

Date: _____

The undersigned bidder hereby proposes and agrees to deliver the equipment and/or services pursuant to the **Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave** Bid Specifications and Contract Documents and all other terms and conditions of this bid proposal.

No bidder may withdraw his/her bid for a period of ninety (90) days after the day of bid opening.

The undersigned individual represents and warrants that he or she is dully authorized to execute the bid on behalf of any partnership, joint venture or corporation.

Company_____
Corporation/Partnership/Individual
(Circle one)By: _____
(Signature)_____
Type/Print NameIts: _____
(Title)

(Address)_____
(Telephone Number)

*Attachment B***STATEMENTS OF BIDDER'S QUALIFICATIONS**

NAME OF FIRM: _____

ADDRESS: _____

Number of years the Contractor has been engaged in the construction business under the present firm name, as indicated above: _____

Gross dollar amount of work under contract _____

Gross dollar amount of contracts not completed: _____

General character of work performed by firm: _____

List five (5) major projects of a similar nature which have been completed by the Contractor within the last five (5) years and the gross dollar amount of each project:

Project Name	Amount	Owner/Phone #	Engineer's Name/Phone #

List three major pieces of equipment which are anticipated to be used on this Project by the Contractor and note which items are owned by the Contractor and which are to be leased or rented from others: _____

Bank Reference: _____

How many general superintendents or other responsible employees in a supervisory position do you have at this time, and how long has each of them been with the firm?

Have you ever been sued by the client or have you ever sued the client on any public works contract for a special district, municipality, county or state government? _____

For what reason? _____

Disposition of case: _____

(Firm)_____
By_____
(Title)_____
Type/Print Name

This page intentionally left blank.

Attachment C**BID BOND FORM**

Herewith find deposit in the form of a certified check, cashier's check, cash, or bid bond in the amount of \$ _____, which amount is not less than five percent (5%) of the total bid.

BID BOND

KNOW ALL PERSONS BY THESE PRESENTS that we, _____, as Principal, and _____, as Surety, are held and firmly bound unto the City of Tumwater, as Oblige, in the penal sum of _____ and ___/100 dollars (\$_____), for the payment of which the Principal and the Surety bond themselves, their heirs and executors, administrators, successors and assigns, jointly and severally, by these presents.

The condition of this obligation is such that if the Oblige shall make any award to the Principal for:

LINWOOD AVENUE SIDEWALK, SUSITNA LN TO 2ND AVE

according to the terms of the proposal or bid made by the Principal therefore, and the Principal shall duly make and enter into a contract with the Oblige in accordance with the terms of said proposal or bid and award and shall give bond for the faithful performance thereof, with Surety or Sureties approved by the Oblige; or if the Principal shall in case of failure so to do, pay and forfeit to the Oblige the penal amount of the deposit specified in the call for bids, then this obligation shall be null and void; otherwise, it shall be, and remain in full force and effect, and the Surety shall forthwith pay and forfeit to the Oblige as penalty and liquidated damages, the amount of this bond.

SIGNED, SEALED AND DATED THIS _____ DAY OF _____, 2024.

Principal

Surety

Type/Print Name

Type/Print Name

Date: _____, 2024.

Received return of deposit in the sum of \$ _____.

This page intentionally left blank.

*Attachment D***SUBCONTRACTOR LIST**

Prepared in Compliance with RCW 39.30.060

Project Name: **LINWOOD AVENUE SIDEWALK, SUSITNA LN TO 2ND AVE**

Subcontractors that are proposed to perform the work of heating, ventilation and air conditioning, plumbing, as described in Chapter 18.106 RCW, and electrical as described in Chapter 19.28 RCW must be named below, or name the bidder for the work.

Failure to list subcontractors who are proposed to perform the work of heating, ventilation and air conditioning, plumbing, as described in Chapter 18.106 RCW and electrical as described in Chapter 19.28 RCW, or identify the bidder for the work will result in your bid being non-responsive and therefore void.

The categories of work and estimated value of the work are to be listed below the Subcontractor's name.

Subcontractor Name_____

Subcontractor Name_____

Subcontractor Name_____

Subcontractor Name_____

Subcontractor Name_____

Subcontractor Name_____

This page intentionally left blank.

Attachment E

(Page 1 of 2)

COMBINED AFFIDAVIT AND CERTIFICATION FORM

Non-Collusion, Anti-Trust, Prevailing Wage,
Debarment and Certification of Lawful Employment

NON-COLLUSION AFFIDAVIT

Being first duly sworn, the undersigned deposes and says, that he/she is the identical person who submitted the foregoing proposal or bid, and that such bid is genuine and not sham or collusive or made in the interest or on behalf of any person not therein named, and further, that the deponent has not directly induced or solicited any other Bidder on the foregoing work equipment to put in a sham bid, or any other person or corporation to refrain from bidding, and that deponent has not in any manner sought by collusion to secure to himself/herself or to any other person any advantage over other Bidder or Bidders; and

**CERTIFICATION REGARDING ASSIGNMENT OF
ANTI-TRUST CLAIMS TO PURCHASER**

Vendor and purchaser recognize that in actual economic practice, overcharges resulting from anti-trust violations are, in fact, usually borne by the purchaser. Therefore, vendor hereby assigns to purchaser any and all claims for such overcharges as to goods and materials purchased in connection with this order or contract, except as to overcharges resulting from anti-trust violations commencing after the date of the bid, quotation, or other event establishing the price under this order or contract. In addition, vendor warrants and represents that each of his suppliers and subcontractors shall assign any and all such claims to purchaser, subject to the aforementioned exception; and

PREVAILING WAGE AFFIDAVIT FORM

I, the undersigned, having been duly sworn, deposes, says and certifies that in connection with the performance of the work of this project, will pay each classification of laborer, workperson, or mechanic employed in the performance of such work, not less than the prevailing rate of wage or not less than the minimum rate of wage as specified in the principal contract; that I have read the above and foregoing statement and certificate, know the contents thereof and the substance as set forth therein, is true to my knowledge and belief; and

DEBARMENT AFFIDAVIT

I certify that, except as noted below, the firm, association or corporation or any person in a controlling capacity associated therewith or any position involving the administration of federal funds; is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against said person, firm, association or corporation by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Attachment E

(Page 2 of 2)

CERTIFICATION OF LAWFUL EMPLOYMENT

The bidder hereby certifies that it has complied with all provisions of the Immigration and Nationality Act, now or as herein after amended, 8 USC Section 1101 et. seq., and that all employees, including subcontractor employees, are lawfully permitted to perform work in the United States as provided in this agreement with the City of Tumwater.

FOR: Non-Collusion Affidavit, Assignment of Anti-Trust Claims to Purchaser, Minimum Wage Affidavit, Debarment Affidavit and Certification of Lawful Employment.

LINWOOD AVENUE SIDEWALK, SUSITNA LN TO 2ND AVE

 Name of Bidder's Firm

 Signature of Authorized Representative of Bidder

 Type/Print Name

Subscribed and sworn to before me this ____ day of _____, 20____.

 Type/Print Name

Notary Public in and for the State of Washington
My commission expires: _____

*Attachment F***NON-DISCRIMINATION IN BENEFITS AFFIDAVIT**

(Must Be Completed for All Bids in Excess of \$50,000.00)

State of Washington)

) ss

County of)

Chapter 3.46 of the Tumwater Municipal Code provides for non-discrimination in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse by contractors providing supplies or services to the city estimated to cost fifty thousand dollars (\$50,000) or more.

_____, being first duly sworn, on their oath, states that they have reviewed Chapter 3.46 of the Tumwater Municipal Code and hereby certifies that _____ is in compliance
(Name of Firm)
with TMC 3.46.

Signed_____
Type/Print Name

Subscribed and sworn to before me this _____ day of _____, 20____.

Type/Print NameNotary Public in and for the State of
Washington.

My commission expires _____.

This page intentionally left blank.

*Attachment G***NON-DISCRIMINATION CERTIFICATE**

State of Washington)
) ss
 County of _____)

The bidder hereby covenants, stipulates and agrees that no person shall be discriminated against in the bidding of the services and/or materials hereunder and that the bidder shall not refuse to hire any person therefore because of such person's race, religion, creed, color, national origin, sex, marital status, disability, sexual orientation, age or other basis prohibited by state or federal law, unless based on a bona fide occupational qualification. Also, the bidder will in no manner discriminate against any person because of such person's race, religion, creed, color, national origin, sex, marital status, disability, sexual orientation, age or other basis prohibited by state or federal law. Any such discrimination shall be deemed a violation of this bid and shall render this bid subject to forfeiture.

LINWOOD AVENUE SIDEWALK, SUSITNA LN TO 2ND AVE

 Name of Bidder's Firm

 Signature of Authorized Representative of
 Bidder

 Type/Print Name

Subscribed and sworn to before me this _____ day of _____, 20____.

 Type/Print Name
 Notary Public in and for the State of Washington.
 My Commission expires:_____

This page intentionally left blank.

*Attachment H***CONTRACTOR CERTIFICATION WAGE LAW COMPLIANCE**

I hereby certify, under penalty of perjury under the laws of the State of Washington, on behalf of the firm identified below that, to the best of my knowledge and belief, this firm has NOT been determined by a final and binding citation and notice of assessment issued by the Washington State Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of RCW chapters 49.46, 49.48, or 49.52 within three (3) years prior to the date of the Call for Bids.

 Bidder

 Signature of Authorized Official*

 Printed Name

 Title

 Date

 City

 State

Check One:
Individual ☐Partnership ☐Joint Venture ☐Corporation ☐

State of Incorporation, or if not a corporation, State where business entity was formed:

If a co-partnership, give firm name under which business is transacted:

** If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign).
If a co-partnership, proposal must be executed by a partner.*

This page intentionally left blank.

**PUBLIC WORKS CONTRACT
FOR
LINWOOD AVENUE SIDEWALK, SUSITNA LN TO 2ND AVE
Tumwater Project No. 3042202**

THIS PUBLIC WORKS CONTRACT ("Contract") is dated effective this ____ day of _____, 20__ and is made by and between the City of Tumwater, a Washington municipal corporation ("City or Owner"), and _____, a _____ corporation ("Contractor").

A. The City desires to retain an independent contractor to furnish all labor and materials necessary to perform work necessary to complete the **Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave** project; and

B. The Contractor has the requisite skill and experience to perform such work.

NOW, THEREFORE, the parties ("Parties") agree to the following terms and conditions:

1. SERVICES BY CONTRACTOR

1.1 Description of Work. Contractor shall perform all work and furnish all tools, materials, supplies, equipment, labor and other items incidental thereto necessary for the construction and completion of the work, more particularly described as the **Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave** project. The Project includes, without limitation, **construction of cement conc. sidewalks, curb ramps, and driveways, curb and gutter, planing bituminous pavement, HMA inlay and pavement/roadway repair, stormwater infiltration galleries, fences, walls, roadway channelization, stormwater BMPs, traffic control, clean up and other work**; as shown on the Plans and as described in these Specifications, all in accordance with the Contract Documents ("Work"). Work shall be performed and completed as described in the Contract Documents, which include without limitation, this Contract, Bid Proposal, Schedule of Prices, Bid Signature Page as attached as Attachment A; Statement of Bidder's Qualifications as Attachment B; Bid Bond Form as Attachment C; Subcontractor List as Attachment D; Combined Affidavit and Certification Certificate at Attachment E; Non-Discrimination in Benefits Affidavit as Attachment F; Contractor's Non-Discrimination Certificate as Attachment G;

Contractor Certification Wage Law Compliance as Attachment H; Notice of Completion of Public Works Contract attached as Exhibit A; Contract Change Order Agreement attached as Exhibit B; Notice to Labor Unions or Other Employment Organizations of Nondiscrimination in Employment attached as Exhibit C; Certificate(s) of Insurance Form attached hereto as Exhibit D; Performance Bond attached as Exhibit E-1; Payment Bond attached as Exhibit E-2; Contractor's Retainage Agreement attached as Exhibit F; Retainage Bond to City of Tumwater attached as Exhibit G; Special Provisions; *WSDOT Standard Plans and Details for Road, Bridge and Municipal Construction, 2024*; *WSDOT Standard Specifications for Road, Bridge and Municipal Construction* ("Standard Specifications"), current State Prevailing Wage Rates attached as Appendix A; Construction Stormwater General Permit Transfer of Coverage as Appendix B; Stormwater Pollution Prevention Plan (SWPPP) as Appendix C; Washington State Department of Transportation (WSDOT) Standard Plans as Appendix D; City of Tumwater Standard Plans as Appendix E; incorporated herein by this reference (collectively the "Contract Documents"). Work shall be

completed to the City's satisfaction, within the time period prescribed by the City and pursuant to the direction of the City Administrator or his or her designee.

1.2 Completion Date. The Work shall be physically completed within **forty (40)** working days. The Work shall commence within ten (10) days of the issuance by the City of the Notice to Proceed or as described in Section 1-08.5 of the WSDOT Standard Specifications as amended by the project Special Provisions. In the event the Work is not substantially completed within the time specified, Contractor agrees to pay to the City liquidated damages in the amount set forth in Section 1.3 of this Contract. The Work shall not be deemed physically completed until the City has accepted the Work and delivered a written Notice of Completion of Public Works Contract in the form attached hereto as Exhibit A.

1.3 Liquidated Damages. Time is of the essence of the Contract. Delays inconvenience the public and cost taxpayers undue sums of money, adding time needed for administration, inspection, and supervision. It is impractical for the City to calculate the actual cost of delays. Accordingly, the Contractor agrees to pay liquidated damages calculated based on WSDOT standard Specifications per section 1-08.9 as amended by the project Special Provisions herein.

- (1) To pay liquidated damages for each working day beyond the number of working days established for completion, and
- (2) To authorize the City to deduct these liquidated damages from any money due or coming due to the Contractor.

LIQUIDATED DAMAGES FORMULA

$$LD = \frac{0.15C}{T}$$

Where: LD = Liquidated damages per working day
(rounded to the nearest dollar).

C = Original Contract amount.

T = Original time for completion.

When the Work is completed to the extent that the City has full and unrestricted use and benefit of the facilities, both from an operational and safety standpoint, the City may determine the Work is complete. Liquidated damages will not be assessed for any days for which an extension of time is granted. No deduction or payment of liquidated damages will, in any degree, release the Contractor from further obligations and liabilities to complete this entire Contract.

1.4 Performance Standard. Contractor shall perform the Work in a manner consistent with accepted practices for other properly licensed contractors.

1.5 Compliance with Laws. Contractor shall perform the Work in accordance with all applicable federal, state and City laws, including but not limited to all City ordinances, resolutions, standards or policies, as now existing or hereafter adopted or amended, and obtain all necessary permits and pay all permit, inspection or other fees, at its sole cost and expense.

1.6 Change Orders. The City may, at any time, without notice to sureties, order changes within the scope of the Work. Contractor agrees to fully perform any such alterations or additions to the Work. All such change orders shall be in the form of the

Contract Change Order Agreement attached hereto as Exhibit B, which shall be signed by both the Contractor and the City, shall specifically state the change of the Work, the completion date for such changed Work, and any increase or decrease in the compensation to be paid to Contractor as a result of such change in the Work. Oral change orders shall not be binding upon the City unless confirmed in writing by the City. If any change hereunder causes an increase or decrease in the Contractor's cost of, or time required for, the performance or any part of the Work under this Contract, an equitable adjustment will be made and the Contract modified in writing accordingly.

If the Contractor intends to assert a claim for an equitable adjustment hereunder, it shall, within five (5) days after receipt of a written change order from the City or after giving the written notice required above, as the case may be, submit to the City a written statement setting forth the general nature and monetary extent of such claim; provided the City, in its sole discretion, may extend such five (5) day submittal period upon request by the Contractor. The Contractor shall supply such supporting documents and analysis for the claims as the City may require to determine if the claims and costs have merit. No claim will be allowed for any costs incurred more than five (5) days before the Contractor gives written notice as required. No claim by the Contractor for an equitable adjustment hereunder will be allowed if asserted after final payment under this Contract.

1.7 Work and Materials Omitted. The Contractor shall, when directed in writing by the City, omit work, services and materials to be furnished under the Contract and the value of the omitted work and materials will be deducted from the Total Compensation and the delivery schedule will be reviewed if appropriate. The value of the omitted work, services and materials will be a lump sum or unit price, as mutually agreed upon in writing by the Contractor and the City. If the parties cannot agree on an appropriate deduction, the City reserves the right to issue a unilateral change order adjusting the price and the delivery schedule.

1.8 Utility Location. Contractor is responsible for locating any underground utilities affected by the Work and is deemed to be an excavator for purposes of Chapter 19.122 RCW, as amended. Contractor shall be responsible for compliance with Chapter 19.122 RCW, including utilization of the "one call" locator system before commencing any excavation activities.

1.9 Air Environment. Contractor shall fully cover any and all loads of loose construction materials including without limitation, sand, dirt, gravel, asphalt, excavated materials, construction debris, etc., to protect said materials from air exposure and to minimize emission of airborne particles to the ambient air environment within the City.

2. TERM

This Contract shall commence on the effective date of this Contract and continue until the completion of the Work as described in the Plans and Specifications, and final acceptance by the City, and the expiration of all warranties contained in the Contract Documents ("Term").

3. WARRANTY

3.1 Requisite Skill. The Contractor warrants that it has the requisite skill to complete the Work, and is appropriately accredited and licensed by all applicable agencies and governmental entities, including but not limited to being licensed to do business in the City of Tumwater by obtaining a City of Tumwater business license. Contractor represents that

it has visited the site and is familiar with all of the plans and specifications in connection with the completion of the Work.

3.2 Defective Work. The Contractor shall, at its sole cost and expense, correct all Work which the City deems to have defects in workmanship and material discovered within one (1) year after the City's final acceptance of the Work as more fully set forth in the General Special Provisions. This warranty shall survive termination of this Contract. Conducting of tests and inspections, review of specifications or plans, payment for goods or services, or acceptance by the City does not constitute waiver, modification or exclusion of any express or implied warranty or any right under this Contract or law.

4. COMPENSATION

4.1 Total Compensation. In consideration of the Contractor performing the Work, the City agrees to pay the Contractor in accordance with Attachment A, Schedule of Prices, which amount shall constitute full and complete payment by the City ("Total Compensation").

4.2 Contractor Responsible for Taxes. The Contractor shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Contract, including the City of Tumwater Business and Occupation taxes. Washington State Department of Revenue Rule 171 applies.

4.3 Nonpayment. The City shall have the right to withhold payment to the Contractor for any of the Work not completed in a satisfactory manner, in the City's sole discretion, which shall be withheld until such time as Contractor modifies or repairs the Work so that the Work is acceptable to the City.

4.4 Method of Payment. The basis of payment will be the actual quantities of work performed according to the contract and as specified for payment. Payments will be made for work and labor performed and materials furnished under the contract according to the price in the proposal unless otherwise provided. Partial payments will be made once each month, based on partial estimates prepared by the Engineer. Failure to perform any obligation under this Contract may be adequate reason for the City to withhold payments until the obligation is performed.

Upon completion of all work and after final inspection, the amount due the Contractor under the contract will be paid based upon the Final Voucher made by the Engineer and signed by the Contractor.

Payment to the Contractor for partial estimates, final estimates, and retained percentages shall be subject to controlling laws.

5. NONDISCRIMINATION

A. The City is an equal opportunity employer.

B. Nondiscrimination in Employment

The Contractor shall comply with the following nondiscrimination provisions, and the Contractor shall ensure the nondiscrimination provisions are included in all subcontracts:

(a) Nondiscrimination Requirement. During the term of this Contract, the Contractor, including all subcontractors, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, the Contractor, including all subcontractors, shall give written notice of this nondiscrimination requirement to any labor organizations with which the Contractor, or subcontractor, has a collective bargaining or other agreement.

(b) **Obligation to Cooperate.** The Contractor, including all subcontractors, shall cooperate and comply with any Washington state agency investigation regarding any allegation that the Contractor, including any subcontractor, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).

(c) **Default.** Notwithstanding any provision to the contrary, the Contracting Agency may suspend the Contract in accordance with Section 1-08.6, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until the Contracting Agency receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event the Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), the Contracting Agency may terminate this Contract in whole or in part in accordance with Section 1-08.10(1), and in addition to the sanctions listed in Section 1-07.11(5), the Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. The Contractor or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.

(d) **Remedies for Breach.** Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, the Contractor, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. The Contracting Agency shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe Contracting Agency for default under this Provision.

C. Nondiscrimination in Services. The Contractor will not discriminate against any recipient of any services or benefits provided for in this Contract on the grounds of race, religion, creed, color, national origin, sex, marital status, disability, sexual orientation, age or other basis prohibited by state or federal law.

D. Nondiscrimination in Contractors / Subcontractors. The City of Tumwater, in accordance with RCW 49.60.530 requires all covered contractors or subcontractors to actively pursue a diverse and inclusive workforce. Discriminatory actions such as the ones listed here are prohibited:

(a) Refusing to hire any person because of age, sex, marital status, sexual orientation, gender identity, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, unless based upon a bona fide occupational qualification: PROVIDED, That the prohibition against discrimination because of such disability shall not apply if the particular disability prevents the proper performance of the particular worker involved: PROVIDED, That this section shall not be construed to require an employer to establish employment goals or quotas based on sexual orientation;

(b) Discharging or barring any person from employment because of age, sex, marital status, sexual orientation, gender identity, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability;

(c) Discriminating against any person in compensation or in other terms or conditions of employment because of age, sex, marital status, sexual orientation, gender identity, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, the presence of any sensory, mental, or physical disability, the use of a trained dog guide or service animal by a person with a disability: PROVIDED, That it shall not be an unfair practice for an employer to segregate washrooms or locker facilities on the basis of sex, or to base other terms and conditions of employment on the sex of employees where the commission by regulation or ruling in a particular instance has found the employment practice to be appropriate for the practical realization of equality of opportunity between the sexes; or

(d) Printing or circulating, or causing to be printed or circulated, any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification, or discrimination as to age, sex, marital status, sexual orientation, gender identity, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability, the use of a trained dog guide or service animal by a person with a disability, or any intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification: PROVIDED, That nothing contained herein shall prohibit advertising in a foreign language.”

6. INDEPENDENT CONTRACTOR/CONFLICT OF INTEREST

It is the intention and understanding of the Parties that the Contractor shall be an independent contractor and that the City shall be neither liable nor obligated to pay Contractor sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax which may arise as an incident of employment. The Contractor shall pay all income and other taxes due. Industrial or any other insurance which is purchased for the benefit of the City, regardless of whether such may provide a secondary or incidental benefit to the Contractor, shall not be deemed to convert this Contract to an employment contract. It is recognized that Contractor may or will be performing work during the Term for other parties; provided, however, that such performance of other work shall not conflict with or interfere with the Contractor's ability to perform the Work. Contractor agrees to resolve any such conflicts of interest in favor of the City.

7. CITY'S RIGHT TO TERMINATE CONTRACT

7.1 Termination Without Cause. Prior to the expiration of the Term, this Contract may be terminated without cause upon oral or written notice delivered to Contractor from the City. Upon termination, all supplies, materials, labor and/or equipment furnished prior to such date shall, at the City's option, become its property. In the event Contractor is not in breach of any of the provisions of this Contract, Contractor will be paid for any portion of the Work which has been completed to the City's satisfaction, calculated by the percentage amount that portion of the Work completed and accepted by the City bears to the Total Compensation.

7.2 Termination For Cause. The City may immediately terminate this Contract, take possession of the Property and all materials thereon and finish the Work by whatever methods it may deem expedient, upon the occurrence of any one or more of the following events:

- (1) If the Contractor should be adjudged as bankrupt.

- (2) If the Contractor should make a general assignment for the benefit of its creditors.
- (3) If a receiver should be appointed on the account of insolvency of the Contractor.
- (4) If the Contractor should persistently or repeatedly refuse or fail to supply a sufficient number of properly skilled workmen or proper materials for completion of the Work.
- (5) If the Contractor should fail to complete the Work within the time specified in this Contract.
- (6) If the Contractor should fail to complete the Work in compliance with the plans and specifications, to the City's satisfaction.
- (7) If the Contractor should fail to make prompt payment to subcontractors or for material labor.
- (8) If the Contractor should persistently disregard laws, ordinances or regulations of federal, state, or municipal agencies or subdivisions thereof.
- (9) If the Contractor should persistently disregard instructions of the City Administrator or his or her representative.
- (10) If the Contractor shall be in breach or violation of any term or provision of this Contract, or
- (11) If the Work is not being performed pursuant to RCW 49.28.050 or 49.28.060.

7.3 Result of Termination. In the event that this Contract is terminated for cause by the City, the City may do any or all of the following:

- (1) Stop payments. The City shall cease any further payments to Contractor and Contractor shall be obligated to repay any payments it received under this contract.
- (2) Complete Work. The City may, but in no event is the City obligated to, complete the Work, which Work may be completed by the City's agents, employees or representatives or the City may retain independent persons or entities to complete the Work. Upon demand, Contractor agrees to pay to the City all of its costs and expenses in completing such Work.
- (3) Take Possession. The City may take possession of the Property and any equipment and materials on the Property and may sell the same, the proceeds of which shall be paid to the City for its damages.
- (4) Remedies Not Exclusive. No remedy or election under this Contract shall be deemed an election by the City but shall be cumulative and in addition to all other remedies available to the City at law, in equity or by statute.

8. INDEMNIFICATION

8.1 Contractor Indemnification. The Contractor agrees to indemnify, defend, and hold the City, its elected officials, officers, employees, agents, and volunteers harmless from any and all claims, demands, losses, actions and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives, arising from, resulting from, or connected with this Contract to the extent caused by the negligent acts, errors or omissions of the Contractor,

its partners, shareholders, agents, employees, or by the Contractor's breach of this Contract. Contractor waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW. Contractor's indemnification shall not be limited in any way by any limitation on the amount of damages, compensation or benefits payable to or by any third party under workers' compensation acts, disability benefit acts or any other benefits acts or programs.

8.2 City Indemnification. The City agrees to indemnify, defend, and hold the Contractor, its officers, directors, shareholders, partners, employees, and agents harmless from any and all claims, demands, losses, actions and liabilities (including costs and attorney fees) to or by any and all persons or entities, including without limitation, their respective agents, licenses, or representatives, arising from, resulting from or connected with this Contract to the extent solely caused by the negligent acts, errors, or omissions of the City, its employees or agents.

8.3 Survival. The provisions of this Section shall survive the expiration or termination of this Contract with respect to any event occurring prior to such expiration or termination.

9. INSURANCE

9.1 Minimum Limits. The Contractor agrees to carry as a minimum, the following insurance, in such forms and with such carriers who have a rating which is satisfactory to the City:

- (1) Workers' compensation and employer's liability insurance in amounts sufficient pursuant to the laws of the State of Washington;
- (2) Commercial General Liability insurance shall be written with limits no less than \$3,000,000 each occurrence, and, per project, in the aggregate for each period (may be substituted with \$2,000,000 Commercial General Liability insurance per occurrence and in the aggregate with a minimum of \$1,000,000 Excess or Umbrella Liability insurance per occurrence and in the aggregate as detailed in APWA GSP Section 1-07.18(5)D included in these Contract Documents);
- (3) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

9.2 Endorsements. Each insurance policy shall contain, or be endorsed to contain, the following provisions:

- (1) The City, its officers, officials, employees, volunteers and agents shall each be named as additional insured.
- (2) Coverage may not be terminated or reduced in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, to the City.
- (3) Coverage shall be primary insurance as respects the City, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees or volunteers shall be in excess of Contractor's insurance.
- (4) Coverage shall apply to each insured separately against whom claim is made or suit is brought.
- (5) Coverage shall be written on an "occurrence" form as opposed to a "claims made" or "claims paid" form.

9.3 Verification. Contractor shall furnish the City with certificates of insurance on an ACORD™ Certificate of Liability Insurance form or an equivalent format attached hereto as Exhibit F, which certificate must be executed by a person authorized by the insurer to bind coverage on its behalf. The City reserves the right to require complete certified copies of all required insurance policies, at any time.

9.4 Subcontractors. Contractors shall include all subcontractors as additional insured under its policies or shall furnish separate certificates for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

9.5 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be disclosed by Contractor and approved in writing by the City. At the option of the City, Contractor shall either reduce or eliminate such deductibles or self-insured retentions or procure a bond guaranteeing payment for any amounts not covered by the insurance by reason of such deductibles or self-insured retentions.

9.6 Asbestos Abatement or Hazardous Materials. If asbestos abatement or hazardous materials work is performed, Contractor shall review coverage with the City's Risk Manager and provide scope and limits of coverage that are appropriate for the scope of Work and are satisfactory to the City. Contractor shall not commence any Work until its coverage has been approved by the Risk Manager.

9.7 Termination. The Contractor's failure to provide the insurance coverage required by this Section shall be deemed to constitute non-acceptance of this Contract by the Contractor and the City may then award this Contract to the next lower bidder.

10. PERFORMANCE AND PAYMENT BONDS

Pursuant to RCW 39.08.010, Contractor shall post both a Performance Bond, attached to this Contract as Exhibit E-1, and a Payment Bond, attached to this Contract as Exhibit E-2, in favor of the City, and incorporated by this reference, in a dollar amount satisfactory to the City; to guarantee Contractor's performance of the Work to the City's satisfaction; to insure Contractor's performance of all of the provisions of this Contract; and to guarantee Contractor's payment of all laborers, mechanics, subcontractors and material persons. Contractor's obligations under this Contract shall not be limited to the dollar amount of the bonds.

11. SAFETY

Contractor shall take all necessary precautions for the safety of employees on the work site and shall comply with all applicable provisions of federal, state and municipal safety and health laws and codes, including without limitation, all OSHA/WISHA requirements, Safety and Health Standards for Construction Work (Chapter 296-155 WAC), General Safety and Health Standards (Chapter 296-24 WAC), and General Occupational Health Standards (Chapter 296-62 WAC). Contractor shall erect and properly maintain, at all times, all necessary guards, barricades, signals and other safeguards at all unsafe places at or near the Work for the protection of its employees and the public, safe passageways at all road crossings, crosswalks, street intersections, post danger signs warning against any known or unusual hazards and do all other things necessary to prevent accident or loss of any kind. Contractor shall protect from danger all water, sewer, gas, steam or other pipes or conduits, and all hydrants and all other property that is likely to become displaced or damaged by the execution of the Work. The Contractor shall, at its own expense, secure and maintain a safe storage place for its materials and equipment and is solely responsible for the same.

12. PREVAILING WAGES

12.1 Wages of Employees. This contract is subject to the minimum wage requirements of Chapter 39.12 RCW and Chapter 49.28 RCW (as amended or supplemented). On Federal-aid projects, Federal wage laws and rules also apply. The Hourly minimum rates for wages and fringe benefits are listed in Appendix A. When Federal wage and fringe benefit rates are listed, the rates match those identified by the U.S. Department of Labor's "Decision Number" shown in Appendix A.

The Contractor, any subcontractor, and all individuals or firms required by Chapter 39.12 RCW, Chapter 296-127 WAC, or the Federal Davis-Bacon and Related Acts (DBRA) to pay minimum prevailing wages, shall not pay any worker less than the minimum hourly wage rates and fringe benefits required by Chapter 39.12 RCW or the DBRA. Higher wages and benefits may be paid.

When the project is subject to both State and Federal hourly minimum rates for wages and fringe benefits and when the two rates differ for similar kinds of labor, the Contractor shall not pay less than the higher rate unless the State rates are specifically preempted by Federal law.

The Contractor shall ensure that any firm (Supplier, Manufacturer, or Fabricator) that falls under the provisions of Chapter 39.12 RCW because of the definition "Contractor" in Chapter 296-127-010 WAC, complies with all the requirements of Chapter 39.12 RCW.

12.2 Exemptions to Prevailing Wage. The prevailing wage requirements of Chapter 39.12 RCW, and as required in this Contract, do not apply to:

- (1) Sole owners and their spouses;
- (2) Any partner who owns at least 30% of a partnership;
- (3) The President, Vice President and Treasurer of a corporation if each one owns at least 30% of the corporation.

12.3 Reporting Requirements. On forms provided by the Industrial Statistician of State L&I, the Contractor shall submit to the Engineer the following for itself and for each firm covered under Chapter 39.12 RCW that provided work and materials of the contract:

- (1) A copy of an approved "Statement of Intent to Pay Prevailing Wages" State L&I form number F700-029-000. The City will make no payment under this contract for the work performed until this statement has been approved by State L&I and a copy of the approved form has been submitted to the City.
- (2) A copy of an approved "Affidavit of Prevailing Wages Paid," State L&I form number F700-007-000. The City will not release to the Contractor any funds retained under Chapter 60.28.011 RCW until all of the "Affidavit of Prevailing Wages Paid" forms have been approved by State L&I and a copy of all the approved forms have been submitted to the City.

The Contractor shall be responsible for requesting these forms from the State L&I and for paying any approval fees required by State L&I.

Certified payrolls are required to be submitted weekly by the Contractor to the City, for the Contractor and all subcontractors or lower tier subcontractors.

12.4 Disputes. In the event any dispute arises as to what are the prevailing rates of wages for work of a similar nature and such dispute cannot be resolved by the City and the

Contractor, the matter shall be referred for arbitration to the Director of the Department of Labor and Industries of the State of Washington and the decision therein shall be final and conclusive and binding on all parties involved in the dispute.

13. FAILURE TO PAY SUBCONTRACTORS

In addition to any other remedies provided herein, in the event the Contractor shall fail to pay any subcontractors or laborers, fail to pay for any materials, or fail to pay any insurance premiums, the City may terminate this Contract and/or the City may withhold from the money which may be due the Contractor an amount necessary for the payment of such subcontractors, laborers, materials or premiums.

14. OWNERSHIP OF DOCUMENTS

All originals and copies of work product, including plans, sketches, layouts, designs, design specifications, records, files, computer disks, magnetic media, all finished or unfinished documents or material which may be produced or modified by Contractor while performing the Work shall become the property of the City and shall be delivered to the City at its request.

15. CONFIDENTIALITY

Any records, reports, information, data or other documents or materials given to or prepared or assembled by the Contractor under this Contract will be kept as confidential and shall not be made available to any individual or organization by the Contractor without prior written approval of the City.

16. BOOKS AND RECORDS

The Contractor agrees to maintain books, records, and documents which sufficiently and properly reflect all direct and indirect costs related to the performance of this Contract and such accounting procedures and practices as may be deemed necessary by the City to assure proper accounting of all funds paid pursuant to this Contract. These records shall be subject at all reasonable times to inspection, review or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Contract.

17. CLEAN UP

At any time ordered by the City and immediately after completion of the Work, the Contractor shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the Work. In the event the Contractor fails to perform the necessary clean up, the City may, but in no event is it obligated to, perform the necessary clean up and the costs thereof shall be immediately paid by the Contractor to the City and/or the City may deduct its costs from any remaining payments due to the Contractor.

18. GENERAL PROVISIONS

18.1 Entire Contract. The Contract Documents contain all of the agreements of the Parties with respect to any matter covered or mentioned in this Contract and no prior agreements or understandings pertaining to any such matters shall be effective for any purpose.

18.2 Modification. No provisions of this Contract, including this provision, may be amended or added to except by agreement in writing signed by the Parties or their respective successors in interest.

18.3 Full Force and Effect. Any provision of this Contract, which is declared invalid, void or illegal, shall in no way affect, impair, or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

18.4 Assignment. The Contractor shall not transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the City. In the event the City consents to any such assignment or transfer, such consent shall in no way release the Contractor from any of its obligations or liabilities under this Contract.

18.5 Successors in Interest. Subject to the preceding Subsection, this Contract shall be binding upon and inure to the benefit of the Parties' successors in interest, heirs and assigns.

18.6 Attorney Fees. In the event the City or the Contractor defaults on the performance of any terms in this Contract, and the Contractor or City places the enforcement of the Contract or any part thereof, or the collection of any monies due, or to become due hereunder, or recovery of possession of any belongings, in the hands of an attorney, or file suit upon the same, each Party shall pay all its own attorneys' fees, costs and expenses. The venue for any dispute related to this Contract shall be Thurston County, Washington.

18.7 No Waiver. Failure of the City to declare any breach or default immediately upon occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default.

18.8 Governing Law. This Contract shall be made in and shall be governed by and interpreted in accordance with the laws of the State of Washington.

18.9 Authority. Each individual executing this Contract on behalf of the City and Contractor represents and warrants that such individuals are duly authorized to execute and deliver this Contract on behalf of the Contractor or City.

18.10 Notices. Any notices required to be given by the City to the Contractor or by the Contractor to the City shall be delivered to the Parties at the addresses set forth below. Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the address set forth herein. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.

18.11 Captions. The respective captions of the Sections of this Contract are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect in any respect any of the provisions of this Contract.

18.12 Performance. Time is of the essence of this Contract and each and all of its provisions in which performance is a factor. Adherence to completion dates is essential to the Contractor's performance of this Contract.

18.13 Conflicting Provisions. In the event of a conflict between the terms and provisions of any of the Contract Documents, the City Administrator or his or her designee shall issue an interpretation of the controlling document, which interpretation shall be final and binding.

*** Signatures on Following Page ***

IN WITNESS WHEREOF, the parties have caused this contract to be executed the day and year first hereinabove written.

CITY OF TUMWATER
555 Israel Road SW
Tumwater, WA 98501-6515

CONTRACTOR

Debbie Sullivan, Mayor

Telephone: _____
Tax ID# _____

Attest:

By: _____
Type/Print Name: _____
Title: _____

Melody Valiant, City Clerk

Approved as to Form:

Karen Kirkpatrick, City Attorney

STATE OF WASHINGTON)
) ss
COUNTY OF _____)

On this day personally appeared before me _____, to me known to be the _____ of _____ that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said corporation.

GIVEN my hand and official seal this _____ day of _____ 20__.

Type/Print Name
Notary Public in and for the State of Washington
My commission expires: _____.

This page intentionally left blank.

Exhibit A

CITY OF TUMWATER

NOTICE OF COMPLETION OF PUBLIC WORKS CONTRACT

Contractor:

Project:

The City of Tumwater has determined that the _____[Project]
has been Physically Completed per Section 1-08.5 of the Standard Specifications as of
_____, 20____, for all work that the contract requires.

This date shall constitute physical completion of the contract but shall not imply the City's
acceptance of the work or contract.

Sincerely,

Manager

This page intentionally left blank.

Exhibit B

CONTRACT CHANGE ORDER AGREEMENT



DATE:	CHANGE ORDER NO:	
PROJECT:		
PROJECT #:	ORIGINAL CONTRACT AMOUNT:	
CONTRACTOR:	UNDER PAY ESTIMATE NO:	

This change order agreement shall be full compensation for implementing the proposed change in the Work, including any adjustment in the Contract Sum or Contract Time, and including compensation for all delays in connection with such change in the Work and for any expense or inconvenience, disruption of schedule, or loss of efficiency or productivity occasioned by the change in the Work.

[illegible]

SUMMARY OF PROPOSED CHANGE:

Following describes the proposed change in the Work:

A.

B. The amount of working/calendar days that will be added to the total authorized contract days as a result of this

APPROVED BY:

CONTRACTOR: _____ DATE: _____

PW DIRECTOR _____ DATE: _____

This page intentionally left blank.

Exhibit C**NOTICE TO LABOR UNIONS OR OTHER EMPLOYMENT ORGANIZATIONS OF
NONDISCRIMINATION IN EMPLOYMENT**

TO: ALL EMPLOYEES

AND TO: _____
(Name of Union or Organization)

The undersigned currently holds contract(s) with _____
involving funds or credit of the City of Tumwater, Washington, or (a) subcontract(s) with a
prime contractor holding such contract(s).

You are advised that, under the provisions of the above contract(s) or subcontract(s) and in
accordance with Section 202 of Executive Order 11246 dated September 24, 1965, the
undersigned is obliged not to discriminate against any employee or applicant of
employment because of race, religion, creed, color, national origin, sex, marital status,
disability, sexual orientation, age or other basis prohibited by state or federal law. This
obligation not to discriminate in employment includes, but is not limited to, the following:

EMPLOYMENT, UPGRADING, TRANSFER OR DEMOTION

RECRUITMENT AND ADVERTISING

RATES OF PAY OR OTHER FORMS OF COMPENSATION

SELECTION FOR TRAINING INCLUDING APPRENTICESHIP, LAYOFF OR
TERMINATION

This notice is furnished to you pursuant to the provisions of the above contract(s) or
subcontractor(s) and Executive Order 11246.

Copies of this Notice will be posted by the undersigned in conspicuous places available to
employees or applicants for employment.

Complaints may be submitted to the City Engineer,
City of Tumwater, 555 Israel Road SW, Tumwater, WA 98501

Signed_____
(Contractor or Subcontractor)_____
Type/Print Name_____
Date

This page intentionally left blank.

Exhibit D**CERTIFICATE OF INSURANCE**

This is to certify to the City of Tumwater, Washington that the following policies are in force for:

Name of Insured _____

Address _____

Contract Title and/or Description of Job _____

1. GENERAL LIABILITY

A. Commercial, General Liability Insurance, and Business Automobile Liability Insurance with limits of not less than:

- (1) Commercial General Liability insurance shall be written with limits no less than \$3,000,000 each occurrence, \$3,000,000 general aggregate, and a \$2,000,000 products-completed operations aggregate limit (or as allowed in Public Works Contract Section 9 affording total liability limits of not less than stated).
- (2) Business Automobile Liability Coverage (including any and all leased, owned, hired or non-owned vehicles used in any activities associated with this contract) with combined single limits of not less than One Million Dollars (\$1,000,000.00) for bodily injury, including personal injury or death, and property damage.

B. The following coverages are included in both Primary and Excess Liability Contracts.

- | | |
|---|--|
| (1) Broad Form Property Damage Coverage | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| (2) Blanket Broad Form Contractual | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| (3) Stop-Gap Employer's Contingent Liability | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| (4) Underground Damage, Collapse and Blasting
or Explosion | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| (5) Contractor's Protective | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| (6) Personal Injury Liability
(Libel, Slander, Defamation, etc.) | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| (7) Products and Completed Operations | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| (8) Non-owned and Hired Auto Coverage | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| (9) Mobile Equipment | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| (10) _____ | YES <input type="checkbox"/> NO <input type="checkbox"/> |

C. General Requirements of Policy(ies) shall include, but not be limited to:

- (1) City of Tumwater is an additional named insured by endorsement as respects this contract and such insurance as is carried by the contractor is primary.
- (2) In the event of non-renewal, cancellation or material change in the coverage provided, thirty (30) days written notice shall be furnished the City of Tumwater prior to the date of non-renewal, cancellation or change, such notice to be sent to City of Tumwater Risk Manager, 555 Israel Road SW, Tumwater, WA 98501.

- (3) City of Tumwater has no obligation to report occurrences unless a claim is filed with the City of Tumwater; and City of Tumwater has no obligation to pay premiums.
- (4) The contractor's insurance policies contain a "cross liability" endorsement substantially as follows:

The inclusion of more than one Insured under this policy shall not affect the rights of any Insured as respects any claim, suit or judgment made or brought by or for any other Insured or by or for any employee of any other Insured. This policy shall protect each Insured in the same manner as though a separate policy had been issued to each, except that nothing herein shall operate to increase the company's liability beyond the amount or amounts for which the company would have been liable had only one Insured been named.

<u>Insurance Company(ies)</u>	<u>Policy No.</u>	<u>Effective</u>	<u>Expires</u>

I, _____, hereby certify that I am an Authorized Representative of the above named insurance company(ies); that I have read the foregoing Certificate of Insurance and know the contents thereof; and that the policies of Insurance listed above provide the insurance coverage required by this Certificate of Insurance.

Authorized Representative

Type/Print Name

Subscribed and sworn to before me this _____ day of _____, 20____.

Type/Print Name
Notary Public in and for the State of Washington
My commission expires: _____

The undersigned further certifies that the above signed is his authorized insurance representative.

Contractor

Type/Print Name

2. COMPENSATION INSURANCE

The following coverages are provided as indicated:

A. Workman's Compensation Act of the State of Washington
(Account No. _____)

B. United States Longshoremen's and Harborworker's Compensation Act:

YES ☐ NO ☐

Insurance Company(ies)	Policy No.	Effective	Expires

I, _____, hereby certify that I am an Authorized Representative of the above named insurance company(ies); that I have read the foregoing Certificate of Insurance and know the contents thereof; and that the policies of insurance listed above provide the insurance coverage required by this Certificate of Insurance.

Authorized Representative

Type/Print Name

Subscribed and sworn to before me this ____ day of _____, 20____.

Type/Print Name
Notary Public in and for the State of Washington
My commission expires: _____

The undersigned further certifies that the above signed is his authorized insurance representative.

Contractor

Type/Print Name

This page intentionally left blank.

Exhibit E-1**CITY OF TUMWATER
PERFORMANCE BOND**

KNOW ALL PEOPLE BY THESE PRESENTS:

We, the undersigned _____, (“Principal”) and _____, the undersigned corporation organized and existing under the laws of the State of _____ and legally doing business in the State of Washington as a surety (“Surety”), are held and firmly bonded unto the City of Tumwater, a Washington municipal corporation (“City”) in the penal sum of _____ Dollars and no/100 (\$_____) for the payment of which we firmly bind ourselves and our legal representatives, heirs, successors and assigns, jointly and severally.

This obligation is entered into pursuant to the statutes of the State of Washington and the ordinances, regulations, standards and policies of the City, as now existing or hereafter amended or adopted.

The Principal has entered into a Contract with the City dated _____, 2024 for the Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave project.

NOW, THEREFORE, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall well and faithfully perform all of the Principal's obligations under the Contract and fulfill all terms and conditions of all duly authorized modifications, additions, and changes to said Contract that may hereafter be made, at the time and in the manner therein specified; and shall indemnify and hold the City harmless from any damage or expense by reason of failure of performance as specified in the Agreement within a period of one (1) year after its final acceptance thereof by the City, then this obligation shall be void; but otherwise, if such performance obligations have not been fulfilled, this bond shall remain in full force and effect.

And the Surety, for value received, hereby further stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any change, extension of time, alterations or additions to the terms of the Contract or to the Work.

The Surety hereby agrees that modifications and changes may be made in terms and provisions of the Contract without notice to Surety, and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this Performance Bond in a like amount, such increase, however, not to exceed twenty-five percent (25%) of the original amount of this bond without the consent of the Surety.

Within forty-five (45) days of receiving notice that the Principal has defaulted on all or part of the terms of the Contract, the Surety shall make a written commitment to the City that it will either: (a) cure the default itself within a reasonable time period, or (b) tender to the

City, the amount necessary for the City to remedy the default, including legal fees incurred by the City, or (c) in the event that Surety's evaluation of the dispute is not complete or in the event the Surety disputes the City's claim of default, the Surety shall notify the City of its finding and its intent, if any, to interplead. The Surety shall then fulfill its obligations under this bond, according to the option it has elected. Should Surety elect option (a) to cure the default, the penal sum of the Bond shall be reduced in an amount equal to the costs actually incurred by the Surety in curing the default. If the Surety elects option (b), then upon completion of the necessary work, the City shall notify the Surety of its actual costs. The City shall return, without interest, any overpayment made by the Surety and the Surety shall pay to the City any actual costs which exceed the City estimate, limited to the bond amount. Should the Surety elect option (c), the Parties shall first complete participation in mediation, described in the below paragraph, prior to any interplead action.

In the event a dispute should arise between the Parties to this Bond with respect to the City's declaration of default by the Principal, the Parties agree to participate in at least four hours of mediation in accordance with the mediation procedures of Washington Arbitration and Mediation Services - Tacoma ("WAMS"). The Parties shall proportionately share in the cost of the mediation. The mediation shall be administered by the Tacoma WAMS office, 3600 Port of Tacoma Road, Suite 304, Tacoma, WA 98424, www.usamwa.com. The Surety shall not interplead prior to completion of the mediation.

DATED this _____ day of _____, 2024.

CORPORATE SEAL OF PRINCIPAL: [PRINCIPAL]

By _____

Type/Print Name

Title

Address

CERTIFICATE AS TO CORPORATE SEAL

I hereby certify that I am the (Assistant) Secretary of the Corporation named as Principal in the within bond; that _____, who signed the said bond on behalf of the Principal, was _____ of the said Corporation; that I know his or her signature thereto is genuine, and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing body.

Type/Print Name

Secretary or Assistant Secretary

CORPORATE SEAL OF SURETY: [SURETY]

By: _____
Attorney-in-Fact
(Attach Power of Attorney)

Name of Person Executing Bond

Address

Phone

APPROVED AS TO FORM:

Karen Kirkpatrick, City Attorney

This page intentionally left blank.

Exhibit E-2**CITY OF TUMWATER
PAYMENT BOND**

KNOW ALL PEOPLE BY THESE PRESENTS:

We, the undersigned _____, ("Principal") and _____, the undersigned corporation organized and existing under the laws of the State of _____ and legally doing business in the State of Washington as a surety ("Surety"), are held and firmly bonded unto the City of Tumwater, a Washington municipal corporation ("City") in the penal sum of _____ Dollars and no/100 (\$_____) for the payment of which we firmly bind ourselves and our legal representatives, heirs, successors and assigns, jointly and severally.

This obligation is entered into pursuant to the statutes of the State of Washington and the ordinances, regulations, standards and policies of the City, as now existing or hereafter amended or adopted.

The Principal has entered into a Contract with the City dated _____, 2024 for the Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave project.

NOW, THEREFORE if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW 39.08, 39.12, and 60.28 including all workers, laborers, mechanics, subcontractors, and materialmen, and all persons who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work, and all taxes incurred on said Contract under Titles 50 and 51 RCW and all taxes imposed on the Principal under Title 82 RCW in the manner and within the time period prescribed by the City, or within such extensions of time as may be granted under the Contract, this statutory Payment Bond shall become null and void, and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect.

And the Surety, for value received, hereby further stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any change, extension of time, alterations or additions to the terms of the Contract or to the Work.

The Surety hereby agrees that modifications and changes may be made in terms and provisions of the Contract without notice to Surety, and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this Performance Bond in a like amount, such increase, however, not to exceed twenty-five percent (25%) of the original amount of this bond without the consent of the Surety.

Within forty-five (45) days of receiving notice that the Principal has defaulted on all or part of the terms of the Contract, the Surety shall make a written commitment to the City that it will either: (a) cure the default itself within a reasonable time period, or (b) tender to the City, the amount necessary for the City to remedy the default, including legal fees incurred by the City, or (c) in the event that Surety's evaluation of the dispute is not complete or in the event the Surety disputes the City's claim of default, the Surety shall notify the City of its finding and its intent, if any, to interplead. The Surety shall then fulfill its obligations under this bond, according to the option it has elected. Should Surety elect option (a) to cure the default, the penal sum of the Bond shall be reduced in an amount equal to the costs actually incurred by the Surety in curing the default. If the

Surety elects option (b), then upon completion of the necessary work, the City shall notify the Surety of its actual costs. The City shall return, without interest, any overpayment made by the Surety and the Surety shall pay to the City any actual costs which exceed the City estimate, limited to the bond amount. Should the Surety elect option (c), the Parties shall first complete participation in mediation, described in the below paragraph, prior to any interplead action.

In the event a dispute should arise between the Parties to this Bond with respect to the City's declaration of default by the Principal, the Parties agree to participate in at least four hours of mediation in accordance with the mediation procedures of Washington Arbitration and Mediation Services - Tacoma ("WAMS"). The Parties shall proportionately share in the cost of the mediation. The mediation shall be administered by the Tacoma WAMS office, 3600 Port of Tacoma Road, Suite 304, Tacoma, WA 98424, www.usamwa.com. The Surety shall not interplead prior to completion of the mediation.

DATED this _____ day of _____, 2024.

CORPORATE SEAL OF PRINCIPAL: [PRINCIPAL]

By

Type/Print Name

Title

Address

CERTIFICATE AS TO CORPORATE SEAL

I hereby certify that I am the (Assistant) Secretary of the Corporation named as Principal in the within bond; that _____, who signed the said bond on behalf of the Principal, was _____ of the said Corporation; that I know his or her signature thereto is genuine, and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing body.

Type/Print Name

Secretary or Assistant Secretary

CORPORATE SEAL OF SURETY: [SURETY]

By: _____
Attorney-in-Fact
(Attach Power of Attorney)

Name of Person Executing Bond

Address

Phone

APPROVED AS TO FORM:

Karen Kirkpatrick, City Attorney

This page intentionally left blank.

Exhibit F**CITY OF TUMWATER****CONTRACTOR'S DECLARATION OF OPTION FOR MANAGEMENT
OF STATUTORY RETAINED PERCENTAGE****(Choose ONLY One)**

The owner shall withhold the retained percentage for this contract from time-to-time as such retained percentage accrues and in accordance with RCW 60.28.011, 021, and 051.

I hereby elect to have the retained percentage for this contract held in a fund by the owner until sixty (60) days following final acceptance of the work. (No interest will be earned on the retained percentage amount under this election).

Contractor_____
By_____
Type/Print Name_____
Date

➤ ➤ ➤ ➤ ➤ ➤ **OR** ➤ ➤ ➤ ➤ ➤ ➤ ➤ ➤

I hereby elect to have the owner deposit the retained percentage for this contract, from time-to-time, as such retained percentage accrues and in accordance with RCW 60.28.011, 021, and 051.

I hereby designate _____ as the depository for said funds, which shall be deposited in an interest earning account subject to joint control by owner and the contractor. All interest earned on said deposits shall belong to the contractor. If contractor fails to designate the depository, then the owner designates _____, which is the owner's depository under contract between said bank and the City of Tumwater.

I hereby further agree to be fully responsible for payment of all costs or fees incurred as a result of establishing said depository account and depositing the retained percentage as authorized by statute. The owner shall not be liable in any way for any costs or fees in connection therewith.

Contractor_____
By_____
Type/Print Name_____
Date

➤ ➤ ➤ ➤ ➤ ➤ ➤ **OR** ➤ ➤ ➤ ➤ ➤ ➤ ➤ ➤

Complete, with appropriate signatures, the following **Exhibit G RETAINAGE BOND TO CITY OF TUMWATER**, if choosing to bond for retainage.

CERTIFICATION FOR RELEASE OF CONTRACT RETAINAGE

Project Title: Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave

I hereby certify that all work required by the above cited contract was completed on _____, and final acceptance by the City was granted on _____.

I also certify that no liens have been received within 60 days from the above date from any person, persons, mechanics, subcontractors or materialmen who has performed any work or provided any material of subject contract.

Contract Manager

Type/Print Name

Department Director

Type/Print Name

Also, please find attached certifications by the applicable state agencies of the receipt of: 1) Washington State Business Taxes (Washington State Dept. of Revenue); 2) Industrial Insurance Premiums (State Dept. of Labor & Industries); and 3) Employment Security, Unemployment Insurance Premiums (State of Washington Employment Security Dept.).

Exhibit G**RETAINAGE BOND TO CITY OF TUMWATER**

KNOW ALL PERSONS BY THESE PRESENTS that we, the undersigned,
 _____, as principal ("Principal"), and
 _____, a Corporation organized and existing under the
 laws of the State of _____, as a surety Corporation, and qualified under the laws
 of the State of Washington to become surety upon bonds of Contractors with Municipal
 Corporations, as surety ("Surety"), are jointly and severally held and firmly bonded to the City of
 Tumwater ("City") in the penal sum of:

_____ (\$ _____) for the payment of which sum we
 bind ourselves and our successors, heirs, administrators or personal representatives, as the case
 may be.

A. This obligation is entered into in pursuant to the statutes of the State of Washington and the
 ordinances, regulations, standards and policies of the City, as now existing or hereafter amended or
 adopted; and

B. Pursuant to proper authorization, the Mayor is authorized to enter into a certain contract
 with the Principal, providing for the Linwood Avenue Sidewalk, Susitna Ln to 2nd Ave project, which
 contract is incorporated herein by this reference ("Contract"), and

C. Pursuant to State law, Chapter 60.28 RCW, the City is required to reserve from the monies
 earned by the Principal pursuant to the contract, a sum not to exceed five percent (5%), said sum to
 be retained by the City as a trust fund for the protection and payment of any person or persons,
 mechanic, subcontractor or materialmen who shall perform any labor upon such contract or the
 doing of such work, and all persons who shall supply such person or persons or subcontractors with
 provisions and supplies for the carrying on of such work, and the State with the respect to taxes
 imposed pursuant to Title 82 RCW which may be due from said Principal. Every person performing
 labor or furnishing supplies towards completion of said improvement or work shall have a lien on
 said monies so reserved, provided that such notice of the lien of such claimant shall be given in the
 manner and within the time provided in RCW 39.08.030 as now existing and in accordance with any
 amendments that may hereafter be provided thereto; and

D. State law further provides that with the consent of the City, the Principal may submit a bond
 for all or any portion of the amount of funds retained by the public body in a form acceptable to the
 public body conditioned upon such bond any proceeds therefrom being made subject to all claims
 and liens and in the same manner and priority as set forth retained percentages pursuant to
 Chapter 60.28 RCW; and

E. The Principal has accepted, or is about to accept, the Contract, and undertake to perform the
 work therein provided for in the manner and within the time set forth, for the amount of
 \$ _____; and

F. The City is prepared to release any required retainage money previously paid by the
 Principal prior to acceptance and successful operation and fulfillment of all other terms of said
 contract upon being indemnified by these presents,

NOW, THEREFORE, if the Principal shall perform all the provisions of the Contract in the
 manner and within the time period prescribed by the City, or within such extensions of time as may
 be granted under the Contract, and shall pay all laborers, mechanics, subcontractors and material
 men or women, and all persons who shall supply the Principal or subcontractors with provisions and
 supplies for the carrying on of said work, and if the Principal shall pay to the State all taxes
 imposed pursuant to Title 82 RCW which may be due from such Principal as a result of this contract

then and in the event this obligation shall be void; but otherwise it shall be and remain in full force and effect.

And the Surety, for value received, hereby further stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any change, extension of time, alterations or additions to the terms of the Contract or to the Work.

The Surety hereby agrees that modifications and changes may be made in the terms and provisions of the Contract without notice to Surety, and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this Retainage Bond in a like amount, such increase, however, not to exceed twenty-five percent (25%) of the original amount of this bond without consent of the Surety.

Within forty-five (45) days of receiving notice that the Principal has defaulted on all or part of the terms of the Contract, the Surety shall make written commitment to the City that it will either: (a) cure the default itself within a reasonable time period, or (b) tender to the City, the amount necessary for the City to remedy the default, including legal fees incurred by the City, or (c) in the event that Surety's evaluation of the dispute is not complete or in the event the Surety disputes the City's claim of default, the Surety shall notify the City of its finding and its intent, if any, to interplead. The Surety shall then fulfill its obligations under this bond, according to the option it has elected. Should Surety elect option (a) to cure the default, the penal sum of the Bond shall be reduced in an amount equal to the costs actually incurred by the Surety in curing the default. If the Surety elects option (b), then upon completion of the necessary work, the City shall notify the Surety of its actual costs. The City shall return, without interest, any overpayment made by the Surety and the Surety shall pay to the City any actual costs which exceed the City estimate, limited to the bond amount. Should the Surety elect option (c), the Parties shall first complete participation in mediation, described in the below paragraph, prior to any interplead action.

In the event a dispute should arise between the Parties to this Bond with respect to the City's declaration of default by the Principal, the Parties agree to participate in at least four hours of mediation in accordance with the mediation procedures of Washington Arbitration and Mediation Services - Tacoma ("WAMS"). The Parties shall proportionately share in the cost of the mediation. The mediation shall be administered by the Tacoma WAMS office, 3600 Port of Tacoma Road, Suite 304, Tacoma, WA 98424, www.usamwa.com. The Surety shall not interplead prior to completion of the mediation.

The parties have executed this instrument under their separate seals this ____ day of _____, 2024, the name and corporate seal of each corporate party hereto affixed, and these presents duly signed by its undersigned representatives pursuant to authority of its governing body.

CORPORATE SEAL OF PRINCIPAL: [PRINCIPAL]
By: _____

Type/Print Name
Title: _____
Address: _____

CORPORATE SEAL OF SURETY: [SURETY]
By: _____
Attorney-in-Fact
(Attach Power of Attorney)

Type/Print Name
Title: _____
Address: _____

CERTIFICATES AS TO CORPORATE SEAL

I hereby certify that I am the (Assistant) Secretary of the Corporation named as Principal in the within bond; that _____, who signed the said bond on behalf of the Principal, was _____ of said Corporation; that I know his or her signature thereto is genuine, and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing body.

Secretary or Assistant Secretary

Type/Print Name

I hereby certify that I am the (Assistant) Secretary of the Corporation named as Surety in the within bond; that _____, who signed the said bond on behalf of the Surety, was _____ of the said Corporation; that I know his or her signature thereto is genuine, and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing body.

Secretary or Assistant Secretary

Type/Print Name

APPROVED AS TO FORM:

Karen Kirkpatrick, City Attorney

TO: Public Works Committee
 FROM: Dan Smith, Water Resources & Sustainability Director
 DATE: June 6, 2024
 SUBJECT: Golf Course Stormwater Retrofit Grant Agreement with Dept of Ecology Amendment 1

1) Recommended Action:

Place the Golf Course Stormwater Retrofit Grant Agreement with Dept of Ecology Amendment 1 on the July 2, 2024, City Council consent calendar with a recommendation to approve and authorize the Mayor to sign.”

2) Background:

The City of Tumwater received a grant from the Department of Ecology to design and construct a system to treat stormwater runoff from the golf course parking lot. Currently, rain water that runs off the parking lot goes directly into the Deschutes River untreated. New studies have shown that chemicals found in tire dust create toxic water for coho salmon, a species that has been struggling to survive in the Deschutes River. This funding would allow Tumwater to construct a bioretention facility to treat that water, meeting requirements for the Salmon-Safe certification at the golf course.

This grant amendment extends the grant agreement deadline from January 31, 2024 until October 16, 2025.

3) Policy Support:

Strategic Priority B – Be a Leader in Environmental Sustainability

4) Alternatives:

☐ Request changes to the proposed grant agreement amendment.

5) Fiscal Notes:

The City of Tumwater received a \$123,717.33 grant from the Department of Ecology. A 25% match was required, with Ecology providing \$92,788.00 towards the design and construction of this project. In total, design and permitting is anticipated to \$194,681.08. The Parks Department is covering the remaining design and construction costs as part of the Golf Course Parking Lot Resurfacing project outlined under General Government Projects number 17 in the Tumwater Capital Improvement Plan 2024-2029.

6) Attachments:

A. WQC-2023-Tumwat-00051 Amendment #1



DEPARTMENT OF
ECOLOGY
State of Washington

Agreement No. WQC-2023-Tumwat-00051

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:	Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design
Total Cost:	\$123,717.33
Total Eligible Cost:	\$123,717.33
Ecology Share:	\$92,788.00
Recipient Share:	\$30,929.33
The Effective Date of this Agreement is:	07/01/2022
The Expiration Date of this Agreement is no later than:	01/31/2024
Project Type:	Stormwater Facility

Project Short Description:

This project will improve water quality in the Deschutes River through design and installation of stormwater best management practices (BMPs) in two locations at the Tumwater Valley Golf Course parking lot in the City of Tumwater. This project will provide treatment for total suspended solids (TSS), dissolved copper, dissolved zinc, and total phosphorus. Additional benefits of this project include improved water quality for Coho Salmon runs in the Deschutes River.

Project Long Description:

This project will design stormwater facility best management practices (BMPs) that will reduce and treat stormwater runoff from the Tumwater Valley Golf Course parking lot in the City of Tumwater. Runoff from the existing asphalt paved parking lot is collected via existing catch basins and directed to outfalls that discharge to the Deschutes River. One outfall drains directly to the Deschutes River, while four other outfalls drain into a separate stream, running

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

north-south along the eastern edge of the parking lot. This stream discharges into a pond before flowing north to a separate outfall that also discharges directly into the Deschutes River.

The project area consists of two subbasins. The north subbasin includes paved surfaces surrounding the existing clubhouse building where stormwater runoff is collected via catch basins and conveyed to the outfall with a total impervious area of approximately 2.23 acres. Where the parking lot merges with the Valley Athletic Club parking lot, the south subbasin drains via sheet flow towards the east. The total impervious area of the south subbasin is approximately 0.20 acres. The parking lot is visited by approximately 18,000 vehicles each year. All of the subsequent pollution from these vehicles is washed into the Deschutes River during rain events. No existing water quality BMPs are located at the site, therefore this runoff receives no treatment before entering the Deschutes River, a 303(d) listed water body with a declining run of Coho salmon.

Through consideration of necessary treatment requirements, space to accommodate the facility, integration with the existing storm system, relative construction costs, and maintenance requirements, the following stormwater treatment BMP is considered the most feasible option for both the North and the South subbasin: BMP T7.30: Bioretention. The stormwater BMP facilities designed through this grant will treat for total suspended solids (TSS), dissolved copper, total phosphorous, and dissolved zinc.

Overall Goal:

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

Agreement No: WQC-2023-Tumwat-00051
Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design
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
Tumwater, Washington 98501

Contacts

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

Project Manager	Dan Smith Director 555 Israel Road SW Tumwater, Washington 98501 Email: desmith@ci.tumwater.wa.us Phone: (360) 754-4140
Billing Contact	Christina Choate Accountant 555 Israel Road SW Tumwater, Washington 98501 Email: cchoate@ci.tumwater.wa.us Phone: (360) 754-4180
Authorized Signatory	Dan Smith Director 555 Israel Road SW Tumwater, Washington 98501 Email: desmith@ci.tumwater.wa.us Phone: (360) 754-4140

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

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

Project Manager	Charlie Hohlbein PO Box 47775 Olympia, Washington 98504-7775 Email: CHOH461@ecy.wa.gov Phone: (360) 485-2474
Financial Manager	Melissa Conger PO Box 47600 Olympia, Washington 98504-7600 Email: MECO461@ecy.wa.gov Phone: (360) 706-4204
Technical Advisor	Doug Howie Senior Stormwater Engineer PO Box 47600 Olympia, Washington 98504-7600 Email: doho461@ecy.wa.gov Phone: (360) 870-0983

Washington Department of Ecology

Agreement No:

WQC-2023-Tumwat-00051

Project Title:

Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name:

City of Tumwater

AUTHORIZING SIGNATURES

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

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

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

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

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

The signatories to this Agreement represent that they have the authority to execute this Agreement and bind their respective organizations to this Agreement.

Washington State
Department of Ecology

City of Tumwater

DocuSigned by:
By:  1/18/2023
On behalf of
2B0A6B00046746E...

DocuSigned by:
By:  1/18/2023
87FAEFB262D6414...

Vincent McGowan, P.E.

Date

Dan Smith

Date

Water Quality

Director

Program Manager

Template Approved to Form by
Attorney General's Office

Item 5.

Envelope ID: 779A19DE-A837-4DDC-B747-A92A93413D2B

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051
Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design
Recipient Name: City of Tumwater

Debbie Sullivan

DocuSigned by:
Debbie Sullivan 1/18/2023
945DD645DF7D4C0...

Mayor Date

Agreement No: WQC-2023-Tumwat-00051
Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design
Recipient Name: City of Tumwater

SCOPE OF WORK

Task Number: 1 **Task Cost: \$2,500.00**

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). In the event that 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, Recipient Closeout Report, and two-page outcome summary report.
- * Properly maintained project documentation.

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)	

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

SCOPE OF WORK

Task Number: 2

Task Cost: \$500.00

Task Title: Cultural and Environmental Review, and Permitting

Task Description:

The RECIPIENT shall ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

A. The RECIPIENT will submit the documents listed below to initiate ECOLOGY's cultural resources review. Property acquisition and above and below ground activities proposed at any project site must be reviewed by ECOLOGY for potential affects to cultural resources.

The RECIPIENT must receive written notice from ECOLOGY prior to proceeding with work. Examples of work may include (but are not limited to) geotechnical work, acquisition, site prep work, and BMP installations. Work done prior to written notice to proceed shall not be eligible for reimbursement.

To initiate cultural resources review:

1. The RECIPIENT will submit the Cultural Resources Review Form to ECOLOGY, using the ECOLOGY template. Any supporting materials must conform to the Department of Archeology and Historic Preservation's (DAHP) Washington State Standards for Cultural Resource Reporting. The Cultural Resources Review Form template may be found on the ECOLOGY website.

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

B. The RECIPIENT will submit the State Environmental Policy Act (SEPA) checklist for ECOLOGY project manager review and notify the ECOLOGY project manager when the official comment period begins. The RECIPIENT will also upload the final SEPA determination.

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

Task Goal Statement:

The RECIPIENT will complete all cultural and environmental reviews and permitting tasks in a timely manner.

Task Expected Outcome:

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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

Cultural and Environmental Review, and Permitting**Deliverables**

Number	Description	Due Date
2.1	ECOLOGY Cultural Resources Review Form. Email the form and any supplemental cultural resources documentation directly to the ECOLOGY Project Manager. DO NOT upload the cultural resources form or documentation to EAGL.	
2.2	Inadvertent Discovery Plan (IDP). Email the form directly to the ECOLOGY Project Manager for review. Upload to EAGL once review is complete.	
2.3	SEPA Checklist. Upload the checklist, or other documentation for projects considered exempt from SEPA review, to EAGL and notify ECOLOGY when official comment period begins.	
2.4	Final SEPA Determination. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.5	List of permits acquired. Upload to EAGL and notify ECOLOGY when upload is complete.	

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

SCOPE OF WORK

Task Number: 3

Task Cost: \$25,000.00

Task Title: Design Plans and Specifications

Task Description:

The RECIPIENT shall ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

The RECIPIENT will develop a stormwater project design. The design submittals must conform to the Deliverables for Stormwater Projects with Ecology Funding Document. Projects must be designed in accordance with the Stormwater Management Manual for Eastern Washington, Stormwater Management Manual for Western Washington, or equivalent manual. Refer to the ECOLOGY website for specific guidance. Project must be reviewed and accepted in writing by ECOLOGY to be eligible for reimbursement.

The RECIPIENT will upload the design submittals listed below to EAGL for ECOLOGY review. Reduce design figures to 11x17 inches in size and ensure they are legible.

A. The RECIPIENT will submit a map that shows the adjacent wetland delineation and proposed project area for review.

B. The RECIPIENT will submit a Design Report to ECOLOGY for review and acceptance. Allow 45 calendar days for ECOLOGY review.

The RECIPIENT agrees to respond to ECOLOGY comments. The RECIPIENT must receive an Ecology Design Report Acceptance Letter prior to proceeding to 90 Percent Design.

C. The RECIPIENT will submit a 90 Percent Design Package to ECOLOGY for review and acceptance. At a minimum, this package must include 90 percent plans, specifications, engineer's opinion of cost including a schedule of eligible costs, and project construction schedule. The current required bid inserts and specifications may be found on the Ecology website. Allow 45 calendar days for ECOLOGY review.

The RECIPIENT agrees to respond to ECOLOGY comments. The RECIPIENT must receive an Ecology 90 Percent Design Acceptance Letter prior to proceeding to Final Bid Package.

D. The RECIPIENT will calculate and submit a preliminary equivalent new/re-development area for the completed design using the methods outlined in the Design Deliverables Document.

E. The RECIPIENT will submit a preliminary GIS compatible project area as a shapefile, geodatabase file, or ECOLOGY-approved equivalent. The project area should include polygon features for stormwater facilities and contributing areas.

F. The RECIPIENT will submit a Final Bid Package to ECOLOGY for review and acceptance prior to advertising the project. The Final Bid Package includes: project plans, specifications, engineer's opinion of cost including a schedule of eligible

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

costs, and project construction schedule. Allow 15 calendar days for ECOLOGY review.

The RECIPIENT agrees to respond to ECOLOGY comments. The RECIPIENT must receive an Ecology Final Bid Package Acceptance Letter prior to advertising the project.

Task Goal Statement:

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

Task Expected Outcome:

The project will meet the requirements set forth by ECOLOGY water quality facility design standards and all other applicable federal, state, and local laws, and regulations.

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

Design Plans and Specifications**Deliverables**

Number	Description	Due Date
3.1	Contract documents (if contracting out for design). Upload to EAGL and notify ECOLOGY when upload is complete.	
3.2	Map of wetland delineation and proposed project area. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.3	Design Report. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.4	Responses to ECOLOGY Design Report comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.5	ECOLOGY Design Report Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.6	90 Percent Design Package. Upload to EAGL and notify ECOLOGY when complete.	
3.7	Responses to ECOLOGY 90 Percent Design Package comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.8	ECOLOGY 90 Percent Design Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.9	Preliminary equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.10	Preliminary project area shapefile, geodatabase file, or ECOLOGY-approved equivalent. Upload to EAGL and notify ECOLOGY when upload is complete. Upload ECOLOGY acceptance documentation.	
3.11	Final Bid Package. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.12	Responses to ECOLOGY Final Bid Package comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.13	Ecology Final Bid Package Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.14	Bid documents (e.g. bid announcement, bid tabulations, and bid award). Upload to EAGL and notify ECOLOGY when upload is complete.	

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

SCOPE OF WORK

Task Number: 4

Task Cost: \$3,500.00

Task Title: Construction Management

Task Description:

The RECIPIENT shall ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

- A. The RECIPIENT will provide construction oversight and management of the project.
- B. The RECIPIENT will submit a detailed Construction Quality Assurance Plan (CQAP) to ECOLOGY for review and acceptance before the start of construction. This plan must describe how the RECIPIENT will perform adequate and competent construction oversight. Guidance for CQAP development is located in the Design Deliverables Document available on the ECOLOGY website. Allow 15 calendar days for ECOLOGY review.
- C. The RECIPIENT will conduct a pre-construction conference meeting and invite ECOLOGY to attend.
- D. The RECIPIENT will submit a project schedule prior to the start of construction and whenever major changes occur.
- E. Prior to execution, the RECIPIENT will submit to ECOLOGY any eligible change orders that deviate from ECOLOGY-accepted plans and specifications. ECOLOGY must review and accept all change orders that affect grant eligible activities prior to implementation. Allow 10 calendar days for ECOLOGY review.

Task Goal Statement:

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

Task Expected Outcome:

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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

Construction Management**Deliverables**

Number	Description	Due Date
4.1	Construction Quality Assurance Plan. Upload to EAGL and notify ECOLOGY when upload is complete. Upload ECOLOGY acceptance documentation.	
4.2	Pre-Construction Conference Meeting Minutes. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.3	Project Schedule. Submit prior to construction and when changes occur. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.4	Change Order(s). Upload to EAGL and notify ECOLOGY when upload is complete. Upload ECOLOGY acceptance documentation.	

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

SCOPE OF WORK

Task Number: 5

Task Cost: \$92,017.33

Task Title: Construction

Task Description:

The RECIPIENT shall ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

A. The RECIPIENT will complete construction of the project in accordance with ECOLOGY-accepted plans and specifications. The construction project will include installation of Bioretention facilities to mitigate runoff from approximately 2.43 acres of pollution-generating impervious surfaces.

B. Stormwater Construction Completion Form signed by a professional engineer indicating that the project was completed in accordance with the plans and specifications, and major change orders approved by ECOLOGY's Project Engineer and shown on the Record Drawings. The Stormwater Construction Completion Form can be found on the ECOLOGY website.

Task Goal Statement:

Construction of the project in accordance with ECOLOGY-accepted plans and specifications.

Task Expected Outcome:

Constructed project will provide water quality benefits including reductions in total suspended solids (TSS), dissolved copper, dissolved zinc, and total phosphorous.

Construction**Deliverables**

Number	Description	Due Date
5.1	Signed and dated construction contract. Upload to EAGL and notify ECOLOGY when upload is complete.	
5.2	Stormwater Construction Completion Form. Upload to EAGL and notify ECOLOGY when upload is complete.	

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

SCOPE OF WORK

Task Number: 6

Task Cost: \$200.00

Task Title: Project Close Out

Task Description:

The RECIPIENT shall ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

A. The RECIPIENT will operate and maintain the constructed facility for the design life of the facility. The RECIPIENT will develop and submit an Operations and Maintenance (O&M) plan for all facilities constructed with ECOLOGY funding to ECOLOGY for review. The O&M plan must address long-term activities to assure ongoing pollutant removal and flow-control capability of the project in accordance with the design manual. O&M plan development guidance is located in the Design Deliverables Document available on the ECOLOGY website. Allow 15 calendar days for ECOLOGY review.

B. The RECIPIENT will calculate and submit a final equivalent new/re-development area for the completed retrofit project(s) using the methods outlined in the Design Deliverables Document.

C. The RECIPIENT will submit the final GIS compatible project area in shapefile, geodatabase file, or ECOLOGY-approved equivalent. The project area should include polygon features for stormwater facilities and contributing areas.

D. The RECIPIENT will submit the Recipient Closeout Report (RCOR) in EAGL in accordance with Task 1.

E. The RECIPIENT will submit an Outcomes Summary using the ECOLOGY template.

Task Goal Statement:

The RECIPIENT will complete all close out submittals in a timely manner.

Task Expected Outcome:

* Timely and complete submittal of O&M plan, equivalent area calculation, GIS, Recipient Closeout Report, and Outcomes Summary Report.

* Proper maintenance of the constructed facility to maintain water quality benefits.

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

Project Close Out**Deliverables**

Number	Description	Due Date
6.1	Facility Operation and Maintenance Plan. Upload to EAGL and notify ECOLOGY when upload is complete. Upload ECOLOGY acceptance documentation.	
6.2	Final, as constructed, equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY when upload is complete.	
6.3	Final, as constructed, project area shapefile, geodatabase file, or ECOLOGY-approved equivalent. Upload to EAGL and notify ECOLOGY when upload is complete. Upload ECOLOGY acceptance documentation.	
6.4	Outcomes Summary. Upload to EAGL and notify ECOLOGY when upload is complete.	

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

BUDGET**Funding Distribution EG230029**

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: SFAP

Funding Type:

Grant

Funding Effective Date: 07/01/2022

Funding Expiration Date:

01/31/2024

Funding Source:

Title: SFAP - SFY23

Fund: FD

Type: State

Funding Source %: 100%

Description: Model Toxics Control Capital Account(MTCCA) Stormwater

Approved Indirect Costs Rate:

Approved State Indirect Rate: 0%

Recipient Match %:

25%

InKind Interlocal Allowed:

No

InKind Other Allowed:

No

Is this Funding Distribution used to match a federal grant?

No

SFAP	Task Total
Grant and Loan Administration	\$ 2,500.00
Cultural and Environmental Review, and Permitting	\$ 500.00
Design Plans and Specifications	\$ 25,000.00
Construction Management	\$ 3,500.00
Construction	\$ 92,017.33
Project Close Out	\$ 200.00

Total: \$ 123,717.33

Item 5.

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
SFAP	25.00 %	\$ 30,929.33	\$ 92,788.00	\$ 123,717.33
Total		\$ 30,929.33	\$ 92,788.00	\$ 123,717.33

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

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

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

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

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

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

“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.

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

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

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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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

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

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

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

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

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

“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 interest on the loan from the Project Start Date through the Project Completion Date.

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

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

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

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

“Gross Revenue” means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to 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.

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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

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

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

“Loan Fund” means the special fund 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.

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

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

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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

“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.

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

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

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

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

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

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

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

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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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 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.

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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.

C. 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.

D. 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.

E. 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.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3.B for Section

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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

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

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

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

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

K. Project Status Evaluation: ECOLOGY may evaluate the status 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.

L. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State 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: THE FOLLOWING 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, available on the Water Quality Program website. (This form is used for Section 319 funds only)
2. "Section 319 Initial Data Reporting" form in EAGL.

A. Data Reporting: The RECIPIENT must complete the "Section 319 Initial Data Reporting" form in EAGL before this

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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

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

B. Acquisitions: Section 319 and SRF Equivalency project 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.

C. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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/>.

D. Archaeological Resources and Historic Properties (Section 106): The RECIPIENT shall comply with the additional requirements under section 106 of the National Historic Preservation Act (NHPA, 36 CFR 800).

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

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

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

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.

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.

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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

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

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

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

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

1. Financial Capability Assessment Documentation
2. Opinion of RECIPIENT's Legal Council
3. Authorizing Ordinance or Resolution
4. Federal Funding Accountability and Transparency Act (FFATA) Form (Required for SRF Equivalency projects only)
5. CWSRF Federal Reporting Information form available in EAGL
6. Fiscal Sustainability Plan (Asset Management) Certification Form in EAGL (Only required if the project includes construction of a wastewater or stormwater facility construction)
7. Cost and Effectiveness Analysis Certification Form in EAGL (Required for all projects receiving SRF Loan funding)
8. State Environmental Review Process (SERP) Documentation (Required for facility projects only)

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.

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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

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

D. Equivalency Projects: (For designated equivalency projects only)

1. The RECIPIENT must procure architectural and engineering services in accordance with the federal requirements in Chapter 11 of Title 40, U.S.C. (see www.gpo.gov/fdsys/pkg/USCODE-2011-title40/pdf/USCODE-2011-title40-subtitleI-chap11.pdf).

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: In addition to Section 2.F of these Terms and Conditions, the RECIPIENT agrees to comply with the EPA SRF Signage Guidance in order to enhance public awareness of EPA assistance agreements nationwide. The signage guidance can be found at: <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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or

(iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or

(iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence, or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

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 of the covenants, agreements, and attachments contained herein.

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

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

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

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

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

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

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

(i) The Loan Amount with interest

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

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

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

Method and Conditions on Repayments

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

Thereafter, equal payments shall be due every six months.

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

Payments shall be mailed to:

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

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

No change to the amount of the semiannual principal and interest payments shall be made without a 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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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 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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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 sub contracts in excess of \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act, and make such records available for review upon request.

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

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 verify 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 (If applicable)
- Washington State Prevailing Wage Rate, Chapter 39.12 RCW (Pertaining to all recipients)
- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33”

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.

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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

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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

ECOLOGY or RECIPIENT funds.

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

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

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

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

Termination and Default Remedies

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

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

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

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

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

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

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance,

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

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

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

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

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

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

GENERAL FEDERAL CONDITIONS

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

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 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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

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

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:

1. Procure or obtain;

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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.

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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

06/24/2021 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/1701004.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.

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

- For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 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.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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.

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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

- 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.

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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

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.

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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 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

Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

Project Title: Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design

Recipient Name: City of Tumwater

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



**AMENDMENT NO. 1
TO AGREEMENT NO. WQC-2023-Tumwat-00051
BETWEEN
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND THE
CITY OF TUMWATER**

PURPOSE: To amend the above-referenced agreement (AGREEMENT) between the state of Washington Department of Ecology (ECOLOGY) and the City of Tumwater (RECIPIENT) for the Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design (PROJECT).

This amendment will extend the expiration date of the AGREEMENT from January 31, 2024, to October 16, 2025, to provide the RECIPIENT with additional time to complete design and construction deliverables. The PROJECT experienced delays due to the need to coordinate concurrent projects in the same location while ensuring the PROJECT's scope of work meets ECOLOGY criteria. To ensure sufficient time for construction, a copy of the signed construction contract must be submitted by April 11, 2025. This project milestone is subject to the non-performance clause in our agreed upon Terms and Conditions (28.a.). This amendment does not impact the scope of work or budget.

IT IS MUTUALLY AGREED that the AGREEMENT is amended as follows:

Effective Date:

Original: 07/01/2022 Amended: 01/31/2024

Expiration Date:

Original: 01/31/2024 Amended: 10/16/2025

CHANGES TO THE BUDGET

Funding Distribution EG230029

Funding Title: SFAP

Funding Type: Grant

Funding Effective Date: 01/31/2024

Funding Expiration Date: 10/16/2025

Funding Source:

Title: SFAP - SFY23

Tumwater city of

Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design Project

Agreement No. WQC-2023-Tumwat-00051

Fund: FD
Type: State
Funding Source %: 100%
Description: Model Toxics Control Capital Account(MTCCA) Stormwater

Approved Indirect Costs Rate: Approved State Indirect: 0%

Recipient Match %: 25%

InKind Interlocal Allowed: No

InKind Other Allowed: No

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

SFAP	Task Total
Grant and Loan Administration	\$ 2,500.00
Cultural and Environmental Review, and Permitting	\$ 500.00
Design Plans and Specifications	\$ 25,000.00
Construction Management	\$ 3,500.00
Construction	\$ 92,017.33
Project Close Out	\$ 200.00

Total: \$ 123,717.33

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
SFAP	25 %	\$ 30,929.33	\$ 92,788.00	\$ 123,717.33
Total		\$ 30,929.33	\$ 92,788.00	\$ 123,717.33

Tumwater city of

Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design Project

Agreement No. WQC-2023-Tumwat-00051

AUTHORIZING SIGNATURES

All other terms and conditions of the original Agreement including any Amendments remain in full force and effect, except as expressly provided by this Amendment.

The signatories to this Amendment represent that they have the authority to execute this Amendment and bind their respective organizations to this Amendment.

This amendment will be effective 01/31/2024.

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

Washington State
Department of Ecology

Tumwater city of

By: _____

Vincent McGowan, P.E.

Date

Water Quality

Program Manager

By: _____

Dan Smith

Date

Director

Debbie Sullivan

Mayor

Date

Template Approved to Form by
Attorney General's Office