



**PUBLIC WORKS COMMITTEE
AGENDA**

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

**Thursday, August 04, 2022
8:00 AM**

1. Call to Order
2. Roll Call
- [3.](#) Approval of Minutes: Public Works Committee, May 19, 2022, June 9, 2022, July 7, 2022 & July 21, 2022
- [4.](#) Preserve Park (Don Carney)
- [5.](#) Deschutes River Flood Reduction Study Service Provider Agreement (Dan Smith)
- [6.](#) East Linwood Basin Stormwater Retrofit Discussion (Dan Smith)
- [7.](#) FY 2021-2023 Water Quality Stormwater Capacity Agreement (Dan Smith)
8. Additional Items
9. 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/86771941889?pwd=d3E0MzU1NFRuazZCdUF6dDRRNIB0UT09>

Listen by Telephone

Call (253) 215-8782, listen for the prompts and enter the Webinar ID 867 7194 1889 and Passcode 628578.

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 19, 2022 Page 1**

CONVENE: 8:00 a.m.

PRESENT: Chair Eileen Swarthout and Councilmembers Michael Althausen and Charlie Schneider.

Staff: City Administrator John Doan, Transportation and Engineering Director Brandon Hicks, Water Resources and Sustainability Director Dan Smith, Communications Manager Ann Cook, Transportation Manager Mary Heather Ames, and Administrative Assistant Cathy Nielsen.

Others: Consultant Meridith Greer.

CHANGES TO AGENDA: There were no changes to the agenda.

**APPROVAL OF
MINUTES: PUBLIC
WORKS COMMITTEE,
APRIL 7, 2022:**

MOTION: Councilmember Schneider moved, seconded by Councilmember Althausen, to approve the minutes of April 7, 2022. A voice vote approved the motion unanimously.

City Administrator Doan provided an update on the outcome of the community meeting for the City's proposed Maintenance and Operations Facility on property owned by the City located off 79th Avenue. Attendees received tickets for specific times to avoid exceeding the capacity of the room. Three groups of individuals were hosted during the meeting featuring different stations staffed by staff on information about traffic issues, design of the facility and an updated layout and schematic sketch of the facility, and information on the proposed park. Attendees were encouraged to submit comments and ideas for the park. The purpose of the meeting was to exchange information with residents about the project and learn about concerns and potential ways to address concerns within the design of the facility. The meeting provided an opportunity for participants to fill out comment forms. Staff is scheduling a review during a Council worksession to share the results from the meeting. The next step of the project is seeking the Council's authorization to proceed with negotiations with the architect on the project design.

Councilmember Schneider thanked staff from public works for providing a tour of the Trails End property as it afforded an opportunity to learn about the area. As he was previously very skeptical of the meeting format, he was surprised as to the outcome of the meeting. Staff was instrumental in designing the format and many of the participants conveyed appreciation for having their questions answered.

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May 19, 2022 Page 2**

**INTERLOCAL
AGREEMENT
BETWEEN THE CITY
OF TUMWATER AND
THE WASHINGTON
DEPARTMENT OF
TRANSPORTATION
FOR MAINTENANCE
OF PALERMO
TREATMENT:**

Manager Cook added that the meeting format was well designed with coverage provided by many staff members. Much follow-up will be necessary with the neighborhood to address questions and concerns.

Director Smith reported the project is a continuing collaboration with the Department of Ecology, Environmental Protection Agency (EPA), and the Washington State Department of Transportation (WSDOT) to support efforts addressing contamination discovered at the Palermo Wellfield through the City's Wellhead Protection Monitoring Program in the mid-90s. The protection program defines captures zones around City wells that are monitored to protect wells from contamination. The decade-long collaboration with Department of Ecology and the EPA began with EPA assisting the City assess contamination and identify the contaminants of trichloroethylene (TCE), a volatile solvent commonly used in industrial activities, and perchloroethylene (PCE), commonly used in dry cleaning activities.

The monitoring and investigation effort identified three plumes of contamination culminating in the area surrounding the Palermo Wellfield. The wellfield aeration treatment system has been capturing the contamination as it moves through the system. The system has been effective in capturing and treating the plumes to ensure any water delivered to customers is free of contamination. Both PCE and TCE are volatile organic chemicals introduced in the environment by human activity.

Following the construction of the facility with assistance by the EPA in 2000 at a cost of nearly \$10 million, ongoing treatment responsibility was transferred to the City comprised of routine maintenance of the aeration system, as well as some neighborhood landscape issues. The plumes of industrial solvents originated from WSDOT's former and current testing labs and Southgate Dry Cleaners. Since then, the City adopted a nonconforming use ordinance for wellhead protection areas for businesses using chemicals. The City worked with Southgate Dry Cleaners to ensure the retailer was no longer using the chemicals. The retailer dismantled the equipment that utilized the chemical. Any dry cleaning provided to customers is completed using safe chemicals or clothing is shipped off site for cleaning.

Today, the City, EPA, and WSDOT are regularly monitoring specific locations. WSDOT is now the primary responsible party with the EPA stepping back from the process but continuing to provide oversight of the project. The City is working directly with WSDOT rather than with the EPA.

WSDOT completed a number of reviews to evaluate the effectiveness of the historic treatment and identify future treatment needs.

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Director Smith reviewed the movement of water through the system, the analysis, and the current treatment process. Prior treatment methods have been effective in reducing contamination over time. However, some contamination at the wellfield continues to exist. Analysis completed in 2011 determined the extent of the PCE plume, as well as the extent of the TCE plume. Since implementation of the treatment, concentrations of both contaminants have declined. Although, contamination remains in the groundwater, the City continues to participate with Department of Ecology, WSDOT, and the EPA on clean-up activities.

A large extent of the contamination work was in the proximity of the Palermo neighborhood. Today, additional work is underway on Palermo Avenue to install a treatability pilot project through the installation of piezometers and wells for injection of a product that creates a wall to absorb contaminants. The pilot project will determine the effectiveness of the treatment program for clean-up of the contamination within the neighborhood. The product is safe for groundwater. French drain systems were installed near homes to capture any surface water before it enters the crawlspace of homes. The water is captured and discharged to the Palermo treatment lagoon. Additionally, a ditch conveys surface water through the Palermo Wellfield to a wetland, which discharges to the north through the aeration lagoon. A number of monitoring locations were installed throughout the Palermo neighborhood and monitored by the EPA and WSDOT. Additionally, a number of properties in the neighborhood were selected for air quality evaluations. No findings of significance for impacts to air quality were documented.

Councilmember Althausen asked whether the French drain system is designed to handle storm flows the region often experiences during the year. Director Smith said that flooding the City experiences during peak storm events can impact the area of the future Tumwater Valley Regional Stormwater Facility as the area is narrow with shallow conveyance of stormwater that can overflow during major storm events. Flooding has not been experienced in the Palermo neighborhood beyond a rise in groundwater. To date, the systems have been effective in handling flows. The French drain system is also included in the routine maintenance program for the City as part of the treatment systems at the wellfield. City crews also monitor and maintain the aeration lagoon and ensure pumps are working. The system includes three pumps. The system was intended to serve as an aesthetic water feature for the golf course, as well as aerating the water to treat contamination.

In 2018, WSDOT conducted a sediment buildup analysis of the treatment lagoon. Sediments have accumulated over time totaling several feet in some places. WSDOT requested maintenance by the City of the lagoon. At that time, the City and WSDOT agreed the lagoon was not representative of a routine maintenance project and that there was the potential of exposure to

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hazardous materials within the sediment. City staff worked with WSDOT representatives on the request and the extent of the project. In 2019, WSDOT's geoengineer consultant evaluated the sediments and determined the sediment was not considered hazardous or dangerous waste. Staff agreed the project could be managed by contracting with a vendor to provide assistance to the City; however, as the work is not considered routine, WSDOT agreed to pay for third-party costs with the City providing staff time and management of the overall project. Under the scope of work, WSDOT notifies the City of the timing for required work conducts water quality and sediment assessments to assist City staff in determining the scope of work for bidding. WSDOT agreed to fund the work at a not to exceed amount of \$100,000. The original plan was to start the project in 2020 but with the advent of COVID, the work was delayed. The goal is to complete the project within the next 30 days unless some unforeseen circumstances arise.

Director Smith reported the request to the Public Works Committee is to recommend the City Council approve a motion authorizing the Mayor to sign the Interlocal Agreement between the City of Tumwater and the Washington Department of Transportation for maintenance of the Palermo Treatment Lagoon.

Councilmember Schneider asked whether there a timeline exists when PCE and TCE contamination is no longer an issue. Director Smith advised that the question has been continuously asked but is subject to many variables, such as the pumping and treating capacity of the City. Concentrations of the contaminants continue to decline although still present. The EPA, Department of Ecology, WSDOT, and GeoEngineers are unwilling to commit to a point in time when contamination is no longer an issue. The current treatability study will help identify a timeline. The innovative process injects a liquid containment wall that attracts the contaminants and de-mobilizes the contaminants in both groundwater and soil. If the treatment is effective, it likely would expedite the overall completion of the project. The treatment system will continue to be maintained regardless of the situation with TCE and PCE contamination.

Chair Swarthout said she was surprised to learn WSDOT was a contributor of the contaminants. She asked how the contamination occurred and measures the agency has implemented to prevent future contamination. Director Smith explained that the contamination is from a previous time when products were discarded because hazardous material laws did not exist. Today, WSDOT's practices are overseen by the EPA because of its role as a primary party to the contamination of the Palermo Wellfield Superfund Site.

MOTION:

Councilmember Althaus moved, seconded by Councilmember Schneider, to recommend the City Council approve a motion authorizing the Mayor to sign the Interlocal Agreement between the

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City of Tumwater and the Washington Department of Transportation for maintenance of the Palermo Treatment Lagoon. A voice vote unanimously approved the motion.

**SIX-YEAR
TRANSPORTATION
IMPROVEMENT
PROGRAM (TIP) 2023-
2028:**

Manager Ames reported each year cities prepare a list of transportation projects for the next six years. The list serves as the City's Six-Year Transportation Improvement Program (TIP), which is submitted to the Local Planning Organization (Thurston Regional Planning Council (TRPC)) and to the state to be added to the Statewide Transportation Improvement Program (STIP). The TIP/STIP process is the foundation of transportation funding within the state. The TIP is not a financially constrained document and includes both funded projects and projects that may receive funding.

Changes to the TIP this year are in the categories of removal of projects, modified projects, and added projects. Projects completed this year have been removed from the list. The Capitol Boulevard Corridor Plan for the M Street Design project has been removed. Two other projects that involved some property acquisitions have been removed from the list. Those projects were the 93rd Avenue at Case Road Roundabout project and the Capitol Boulevard Linwood Avenue Roundabout project. Other projects in progress will continue with the program reflecting a reduction in funding amounts accordingly, such as the I-5/Trospen Road/Capitol Boulevard Reconfiguration project. New projects this year include the Capitol Boulevard and Dennis Street Roundabout (not funded) and the Sapp Road Pedestrian and Bicycle Improvements project (transportation portion of a fish passage project currently in design).

The program totals \$27.6 million in grant funds and over \$50 million in local funds for a total program of \$78 million. The program serves as the framework to enable the City to pursue grant funds and complete projects as funds become available. Most of the projects are located within major City corridors.

Manager Ames asked for feedback from the committee. A public hearing before the City Council is scheduled on Tuesday, June 7, 2022 to receive public testimony and consider a resolution adopting the 2023-2028 Transportation Improvement Program.

Councilmember Althausen asked for additional details pertaining to the Second Avenue pedestrian improvements project. Manager Ames said the improvements would extend the pedestrian path along the westside of Second Avenue and add crossings for bus stops. Director Hicks added that another larger component of the project would improve ADA curb ramps and repaving for a lane reconfiguration.

Chair Swarthout asked about the timing associated with adding a project to the list. Manager Ames explained that the program is updated annually.

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Any projects recommended for inclusion in the program this year could be explored and discussed prior to the Council's public hearing on June 7, 2022. Chair Swarthout referred to the Rural Road project included on the list. She noted that the properties off Linwood and Rural Road were recently annexed to the City. She supported moving forward with a project to improve the shoulder or continue a sidewalk for access by residents. Manager Ames explained that the timing of the project is dependent upon funding availability. A funding source for the project has not been identified at this time. The annexation of the properties would likely not affect eligibility to receive funding as existing right-of-way was City right-of-way prior to the annexation. Chair Swarthout supported adding the project as she has witnessed many senior citizens experiencing difficulty accessing and walking through the area.

Councilmember Schneider asked about the process for moving forward when a project is only partially funded. Manager Ames responded that since the program is not financially constrained, some important projects are included on the list to enable staff to pursue funding sources. Fully funded projects are added to the Regional Transportation Program (RTIP) and to the STIP. In many instances, such as the X Street Roundabout project, staff was able to secure funds for one phase of the project and is confident other funding will be identified for future phases of the project. Often, it is possible to move a project forward that is partially funded. In most circumstances, full funding of a project is desired to ensure the project is completed.

Chair Swarthout noted the Mottman Road project has been included on the list for many cycles and is funded. She asked about the status of the project. Manager Ames advised that the joint project with Olympia is scheduled to move forward as the funding has a time limit. The project should be completed during 2023-2024. The City of Olympia is the lead on the project and is working on the design of the project.

Chair Swarthout mentioned the possibility of the City receiving federal funds per information shared by TRPC, which has received additional federal funding and that it might be possible to help fund the City's E Street Connection project. Manager Ames reported the federal funds received by TRPC require obligation of the funds within the next several months. Staff proposed adding some partially funded projects, such as the X Street Roundabout project, as well as planning projects that could be quickly obligated. The Interchange Improvement Study for 93rd Avenue was submitted for some of the funds. Non-shovel projects are not eligible to receive those particular federal funds.

PERCIVAL CREEK
FISH PASSAGE
BARRIER
REPLACEMENT

Consultant Meridith Greer briefed members on the Percival Creek Fish Passage Barrier Replacement project. Percival Creek is a four-mile creek originating at Trosper Lake and ending at Capitol Lake and includes approximately 10 fish barriers with one fully blocked barrier at Sapp Road.

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UPDATE:

The barrier has been identified by the WRIA 13 Salmon Recovery Lead Entity as one of seven barriers throughout the watershed that are included within an implementation plan to complete by 2032. The barrier is a high priority for many of the City's regional partners.

eDNA testing was completed by extracting DNA from the water in 2019 to identify fish within the system. The test revealed the presence of Coho salmon, a threatened species that is unable to swim beyond the blocked culvert.

The City of Tumwater owns the majority of the land for the project with ownership of right-of-way and 30 feet on each side of the barrier, as well 12 acres of the creek downstream of the site. Securing several easements is necessary for the project from several landowners for temporary and permanent easements along the creek. The City has received support for the project from other landowners.

In 2015, the Department of Fish and Wildlife (WDFW) determined that the site is a considered a full fish passage barrier due to the slope. Project funding hinges on the project identified as a salmon related project, which speaks to the importance of documenting salmon in the system. WDFW identified the presence of Chinook, Coho, steelhead, sea run cutthroat, and resident trout within the system. The proposal is to install a 4-sided, 19-foot box culvert to replace a smaller round culvert to enable the stream to pass unencumbered under Sapp Road. The project also includes stream re-grading to enable fish passage and installation of large woody debris structures downstream on City property to provide habitat. The multi-benefit project supports salmon as well as improving transportation through widening of the road and adding sidewalks and bike lanes. Project benefits include upstream habitat improvements of 2,225 meters of main stem stream, 841 square meters of spawning habitat, 82,008 square meters of rearing habitat, and pedestrian and bicycle access across the culvert.

Over the last six months, work proceeded to complete 60% design. The current project cost estimate is \$1.8 million. A majority of the project is funded by grants from the Salmon Recovery Funding Board (14%) and the Fish Barrier Removal Board. The project is scheduled for construction in summer 2024. Final design should be completed by October 2022. Staff is pursuing permitting for the project and waiting for feedback from the technical review committees of the grant funding agencies. Grant funding from those sources is not applicable for the transportation improvement portion of the project. Staff is seeking funding for the transportation elements of the project. The fish passage portion of the project could move forward with transportation improvements completed later when funding becomes available.

One issue for review by the committee is the proposed alternative to close

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the road during construction of the project as it is the easiest and most cost effective option. The option would close the road up to two months during the summer of 2024. A test run closure was conducted on Sapp Road in November 2021 for one day during some testing activities. The same process of notification of local neighborhoods and others would be utilized by staff. Mailings were sent to all properties located off Sapp Road, as well as project signage and portable changeable message signs at the entry of Sapp Road.

Chair Swarthout commented that closure of the road is the most plausible action because of the nature and location of the project.

ADJOURNMENT:

With there being no further business, Chair Swarthout adjourned the meeting at 9:02 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

June 9, 2022 Page 1

CONVENE: 8:00 a.m.

PRESENT: Chair Eileen Swarthout and Councilmembers Michael Althausen and Charlie Schneider.

Staff: City Attorney Karen Kirkpatrick, Transportation and Engineering Director Brandon Hicks, Water Resources & Sustainability Director Dan Smith, Water Resources and Sustainability Utilities Operations Manager Steve Craig, Transportation Manager Mary Heather Ames, Engineering Services Manager Bill Lindauer, Water Resources Specialist Dave Kangiser, and Administrative Assistant Cathy Nielsen.

Others: Meredith Greer, Consultant.

APPROVAL OF MINUTES - MAY 5, 2022

MOTION: Councilmember Althausen moved, seconded by Councilmember Schneider, to approve the minutes of May 5, 2022, as published. A voice vote approved the motion unanimously.

DRAINAGE DESIGN AND EROSION CONTROL MANUAL REVISIONS:

Specialist Kangiser reported the update of the Tumwater Drainage Design and Erosion Control Manual (DDECM) includes revisions required by the Department of Ecology and revisions discussed internally by staff and deemed important to include in the update. He reviewed some of the required revisions:

- Text throughout the Department of Ecology's 2019 Stormwater Management Manual for Western Washington (SWMMWW) was updated to require continuous simulation models to include:
 - The ability to directly model best management practices (BMPs) that may be used in LID (Low Impact Development) applications, such as bioretention, permeable pavement, and green roofs.
 - 15-minute time steps
 - Incorporation of algorithms to model water movement through soil.
- Redevelopment Project Thresholds were updated to allow a project proponent to provide Stormwater Management BMPs for an equivalent area. The equivalent area may be on-site or off-site if the area drains to the same receiving water and the guidance for in-basin transfers is followed.
- Several source control BMPs updated include:
 - Nurseries and Greenhouses
 - Irrigation
 - Color Events BMP

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- Goose Waste
- Concrete
- Wash out areas
- Concrete floors

- Updated in Volume 1 Section 2.4.9 - Minimum Requirement #8: Wetlands Protection to model wetlands for stormwater treatment.

An update deemed important by staff included:

- The bond amount changed from 15% to 25% for stormwater construction costs to align with other jurisdictions in the region.

Specialist Kangiser requested the committee recommend the City Council approve a motion adopting the revisions to the Drainage Design Erosion Control Manual effective July 2022 to meet Department of Ecology's deadline.

Chair Swarthout questioned the timeline for regular updates of the manual. Specialist Kangiser explained that updates to the manual are prompted by the Department of Ecology when the agency revises the SWMMWW, which is currently in progress. The update includes BMPS to address climate change. Updating is a continuous process monitored by staff.

CONSENSUS:

The Public Works Committee recommended the City Council approve a motion as part of the consent calendar to adopt the revisions to the Drainage Design Erosion Control Manual as presented.

PSE SCHEDULE 74 PROJECT PLAN:

Manager Lindauer reported that as part of the I-5/Troster Road/Capitol Boulevard Reconfiguration Project, all overhead utilities including power will be converted to underground systems. The proposed agreement between Puget Sound Energy (PSE) and the City of Tumwater outlines the scope of work required to complete the work. The agreement was prepared by PSE and includes a scope of work to complete undergrounding of the distribution system, construction documents (plans and specifications), operating rights for PSE to access private property to complete undergrounding to businesses, information regarding construction scheduling, and general construction cost estimates completed by PSE for City construction costs. The project cost is a 60/40 split between PSE (60) and the City (40). The project includes specific responsibilities by each party to the agreement. PSE is responsible for supplying the conduits and transformers to install the underground system. PSE will install the electrical system and is the only party to work on any energized system on the project. PSE will coordinate and complete the cutover and transfers to new service for nine businesses and tie-ins to adjacent businesses. PSE will remove and deactivate the existing overhead electrical system and provide inspection services during the project to ensure work by City contractors meet PSE requirements.

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The City is responsible for constructing the utility trench and conduits and installing surface transformers for final wiring connections.

Manager Lindauer displayed an aerial map of the project site, which is one component of the larger roundabout project.

The work is funded through the Transportation Capital Facilities Plan (CFP). The City's estimated cost per the agreement is \$165,000 to \$195,000 dependent upon the actual work and the amount of inspection time. The City's construction cost estimate for trenching and other work is part of the overall project construction contract for the roundabouts of approximately \$240,500 with the total estimated City cost for the underground conversion estimated at \$405,500 to \$435,000.

Councilmember Schneider asked about the timeline for the project and impact to traffic in the area. Manager Lindauer said the intent is to maintain one open traffic lane (minimum) with night work scheduled for undergrounding work to minimize traffic impacts. No full roadway closures are anticipated other than some intermittent disruptions in traffic when required. The project is expected to take one week to complete or up to two weeks dependent upon the complexity of the work. The work will be released for bidding with construction likely commencing in September-October 2022. The actual work involves utility trenching, as other utilities are required for installation as part of the overall project.

CONSENSUS:

The Public Works Committee unanimously recommended the City Council place the request on the consent calendar for authorization for the Mayor to sign the PSE Schedule 74 Project Plan, an agreement to complete utility undergrounding conversion for the I-5/Trospen Road/Capitol Boulevard Reconfiguration Project.

**INTERLOCAL
AGREEMENT
BETWEEN THE
CITY OF
TUMWATER AND
TUMWATER
SCHOOL
DISTRICT FOR
THE BARNES
BOULEVARD AND
RIDGEVIEW
LOOP CROSSING
IMPROVEMENTS:**

Manager Ames briefed the committee on the proposed interlocal agreement with the Tumwater School District for the Barnes Boulevard and Ridgeway Loop Crossing Improvement project.

The Tumwater School District (TSD) approached the City about installing an enhanced crosswalk with Rectangular Rapid Flashing Beacons (RRFBs) at the intersection of Barnes Boulevard and Ridgeview Loop. The crossing is located near Tumwater Hill Elementary School to the south. The City has the experience and resources to administer the project. Staff worked with Tumwater School District staff to determine the project cost. The school district agreed to reimburse the City for the project. The total estimated cost of the project is \$125,000. The type of work required to complete the crossing aligns within the 2022 Pedestrian Improvements Project, which was previously reviewed by the committee on March 17, 2022.

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The cost estimate and budget presented to the committee on March 17, 2022, for the 2022 Pedestrian Improvements Project was \$300,000. With the addition of the crossing, the budget increases by another \$125,000 for a total budget of \$425,000 to complete the total project. City and school district staff drafted an agreement for completion of the crossing project. The agreement includes the school district's cost of \$91,000, a match equal to the City's typical grant for similar projects.

Staff requests the Public Works Committee recommend the City Council authorize the Mayor to sign the Interlocal Agreement between the City of Tumwater and Tumwater School District for the Barnes Boulevard and Ridgeview Loop Crossing Improvements, as well as authorize staff to solicit bids for construction of the Barnes Boulevard and Ridgeview Loop Crossing Improvements as an element of the 2022 Pedestrian Improvements Project and recommend the City Council approve a motion to award and authorize the Mayor to sign a public works contract with the lowest responsible bidder.

Manager Ames invited questions.

Chair Swarthout supported the project. She asked about the timeline for installation of the new crossing. Manager Ames advised that staff is working on the total bid for the Pedestrian Improvements Project. The crossing project would likely be completed later in the summer dependent upon the lead-time required for materials.

CONSENSUS: **Public Works Committee unanimously recommended the City Council authorize the Mayor to sign the Interlocal Agreement between the City of Tumwater and Tumwater School District for the Barnes Boulevard and Ridgeview Loop Crossing Improvements.**

CONSENSUS: **The Public Works Committee unanimously authorized staff to solicit bids for construction of the Barnes Boulevard and Ridgeview Loop Crossing Improvements as an element of the 2022 Pedestrian Improvements Project and recommended the City Council approve a motion to award and authorize the Mayor to sign a public works contract with the lowest responsible bidder.**

**PIONEER PARK
RIPARIAN
RESTORATION
SERVICE
PROVIDER
AGREEMENT:**

Consultant Meridith Greer reported the project site is located at Pioneer Park. The project focuses on one section of riparian area within the park. The Deschutes River runs along Pioneer Park and is active with the riverbank shifting approximately 10 feet each year. The impetus for the project is because of the location, which is an important area for water quality and fish habitat. Within the Deschutes River many limiting factors are elevated water temperature, lack of shade cover, fine sediment affecting water quality and aquatic life, and insufficient wood and riparian conditions. With the park adjacent to the river, other considerations include public safety during the summer. The area experiences high flood risks during winter storms as

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evidenced last winter when the entire park flooded. The park and the river attract many users during the summer months.

The project was initiated in 2014 when the City received a grant from the Salmon Recovery Funding Board. The South Puget Salmon Enhancement Group worked on conceptual and preliminary designs for the project. The design hinged on an existing island in the river. The intent was adding rock barbs to slow water flow and direct rafters in the summer away from the rock areas. The City was unsuccessful in securing construction funding and with changes in the river over time, the island no longer exists and a new design is necessary

The City subsequently received construction and design funding from the Department of Ecology of \$450,000 to complete the project. Following a competitive Request for Qualifications (RFQ), the City selected Stantec Consulting Services to assist in completing the design and permitting for the project. The company has worked previously with the South Puget Sound Enhancement Salmon Group and has much experience working on riparian restoration projects throughout the region.

The grant agreement was executed with the Department of Ecology in January 2022. The goal is to seek City Council approval of the service provider agreement with Stantec Consulting Services by the end of the month. Design and permitting will occur over the next two years with construction moving forward in summer 2024.

Ms. Greer invited questions from the committee.

Responding to questions about the continuous movement of the river affecting project design, Ms. Greer explained that the design completed in the spring following the winter should not be impacted as construction is scheduled in summer 2024 when the river is at its lowest level.

CONSENSUS:

The Public Works Committee unanimously recommended the City Council approve and authorize the Mayor to sign the Pioneer Park Riparian Restoration Service Provider Agreement.

**PERCIVAL
CREEK SEWER
OVERFLOW
UPDATE –
SMARTCOVER
LEVEL
MONITOR:**

Manager Craig reported that earlier in the year the committee received an update on management actions and operational efforts related to sanitary sewer overflows in the area of Somerset Hill Drive and Percival Creek. Staff reported on efforts to secure and install level monitoring equipment providing advance warning of potential sewer backups to maintenance staff in an effort to prevent sewer overflows.

As of April 4, 2022, the first remote manhole level monitoring system was activated at the location of Somerset Hill Drive along Percival Creek. The smartcover level monitoring is a fully self-contained system installed in the

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manhole. The system uses an ultrasonic level transducer via satellite communications to monitor water levels in the sewer manhole and provide notification to staff in the event a blockage occurs. Notifications are transmitted 24 hours each day affording the ability to respond and implement corrective action before a sewer overflow or release occurs.

Manager Craig shared photographs of the equipment installed on the underside of the manhole lid. The battery pack has an anticipated lifespan of three to five years and is monitored by the system. As the battery nears end of life, notifications are transmitted to staff. He described how the equipment measures the height of the water level. Staff has the ability to adjust the alarm notification level. The equipment includes a web-based interactive dashboard and mobile applications to access the control and monitoring functions.

Manager Craig provided a demonstration of the live dashboard and its monitoring capabilities. A map identifies the location of monitors. The City plans to consider installing other monitors in other locations throughout the City. The system enables tracking and identification of numerous monitors. The equipment also enables staff to monitor the status of the systems, as well as accessing battery conditions. Battery notification alarms provide a 30-day window for staff to replace the battery.

Satellite communications with the Tumwater area with heavy tree cover was one concern by staff. The system enables staff to check signal strength to ensure connectivity of the equipment. The system will send an alarm if communications have been compromised, as well as when manholes are opened. The system also monitors temperature and conditions within the manhole.

Manager Craig invited questions from members.

Chair Swarthout thanked staff for such a quick response to prevent future sewer overflows. The solution is much more economical than other options staff explored. She asked how vandalism would be addressed. Manager Craig said the City has not experienced vandalism of sewer manholes. However, several years ago, some catch basin grates were stolen for recycling of copper wire. The problem was a short-term activity. The equipment provides alarm notifications each time the manhole cover is opened.

Chair Swarthout thanked staff for providing the update.

**HOPKINS
DRAINAGE
DISTRICT #2
UPDATE:**

Director Smith reported earlier in the year, Mat Jackmond, a Commissioner of Hopkins Drainage District 2, testified before the Council that recent storms increased the volume of stormwater from the Preserve development to such a point that it created a challenging situation for the Ditch District to continue maintaining its property. During the testimony, Mr. Jackmond noted that repair work was necessary in excess of \$75,000. On February 1, 2022, Mr.

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Jackmond testified before the Council reiterating his concerns that the development pressure had increased maintenance needs downstream of the Preserve development. At that time, no information was presented to the City to validate the claim or evaluate the validity of the assertions. Several months later, Mr. Jackmond requested a meeting with City staff.

Prior to that request, Engineering and Water Resources staff evaluated conditions that led to some of the claims. The City's response is in a letter from City Administrator Doan dated February 15, 2022. The second paragraph of the letter states, "Theoretically, an increased stormwater flow may be possible with any project that increases impermeable surface area. However, the likelihood of the development causing any adverse impacts is precluded by mitigation. Engineering measures account for soil strata and the hydrology of the development site. City staff followed all requirements for reviewing studies and reports by industry professionals. It was demonstrated there would be no change between pre- and post-development conditions related to stormwater downstream of the site. City staff have further reviewed the reports following your comments and have reconfirmed the adequacy of the development's stormwater design and the professional opinions of no effect."

Director Smith added that the City's storm drain manual requirements for any new development requires the developer to match pre-development conditions in terms of the amount of stormwater that can discharge from a site. Under natural conditions, developers and engineers are required to model to match hydrologic curves to document the understanding of natural conditions of discharge based on rainfall, soil strata, and hydrology of the site. That information is compared with a post-development modeled scenario that applies built environment with additional impervious surface throughout the area. The modeling is compared to create a stormwater system to match pre-developed site conditions. Following development, theoretically, there is no discharge from the site beyond what is experienced during natural conditions. Staff reviewed all Preserve development engineering reports and modeling and noted that the information was adequate and appropriate and that the City supports the professional opinions of the engineers who completed the work and analysis. Theoretically, there should be no downstream impacts experienced by the Drainage District caused by the development of the Preserve subdivision.

The winter event in January 2022 revealed that all but two of the gauges in the study area, including those in District basins, recorded their highest water elevations in the history of those gauges, most of which have collected between 10 and 23 years of data. Staff reviewed precipitation data at the Olympia Airport rain gauge that has collected data for over 75 years. The Olympia Airport rain gauge measured the third-highest amount of rainfall on record from October until January 14, when Mr. Jackmond contacted the City. The measured precipitation for January 1-14, 2022, at the Olympia Airport

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rain gauge was by far the most on record (approximately 50% higher than the next highest), at a time when the water table was already high, all while snow and ice were melting. The storms represent unprecedented events that led to the creation of a lake at the outlet of the Preserve subdivision.

Shortly thereafter, Mr. Jackmond requested a meeting with Directors Hicks and Smith to discuss the District's concerns. During that meeting, similar concerns as previously aired with the Council were shared with City staff. At the conclusion of the meeting, Mr. Jackmond presented a proposal to the City requesting 2.5% of the City's stormwater budget. He categorized the request as a request from the surplus of the stormwater budget. The funds are not considered surplus but are reserve funds earmarked for future projects should the City not receive grant funding, as the City's CFP is predicated on a significant amount of grant funding for projects. Additionally, some projects are in design and could require additional funds. The funds are dedicated to the City's management of the stormwater system for the benefit of the residents of the City. At that time, the initial estimate was approximately \$75,000. When Mr. Jackmond met with them, the amount had increased to \$360,000. Mr. Jackmond indicated that if the City failed to agree to the District's request, he would pursue the imposition of revenue generators available to the Drainage District within its legal authority to assess fees.

A month following the meeting with Mr. Jackmond and after denial of the request to provide the funds from the City's stormwater budget and without evidence to support the claim that the Preserve development was the source of additional stormwater and undue pressure on the Drainage District, Mr. Jackmond contacted Thurston County and the State Legislature to address some issues. In each instance, there was no approval and Mr. Jackmond received no funds from those sources for the Drainage District.

Director Smith explained that he has been in contact with Thurston County's water resources manager to determine the timeline and nature of the requests by the Drainage District. He has not received all the information at this time. However, the Drainage District has been experiencing issues for a number of years. Part of the concern is whether the maintenance expectations or claims by the Drainage District are historical in nature rather than related to unprecedented events in January 2022.

In early April following the meeting with staff, the City received a letter from Britton Law Office, PLLC representing the Drainage District. The letter referred to a series of emergency resolutions adopted by the Drainage District on February 19, 2022, declaring the District would increase its roll of rates and charges. The District did not provide any evidence to the City to evaluate the claims. The letter notified the City the Drainage District would move forward with its resolution to increase the size of the District and add 414 homes and 20 businesses comprised of various developments located south of the airport, comprised of the Preserve and other commercial developments located at

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Tumwater Center and Tumwater Corporate Place. The letter is the last correspondence the City received from Britton Law Office.

On April 28, 2022, the City, in response filed a public records request to obtain information the City had previously requested to include all maintenance records, flow analysis, copies of the Ditch District's roll of rates and charges over the last 15 years, and any drainage development or drainage reports for new developments within the District. Staff plans to evaluate the claims asserted by the Drainage District Commissioners to determine the impact and whether there could be appropriate participation by the affected parties or the City and to determine the extent of the service and benefit provided by the District to the residents and other businesses. The information would provide the City with the ability to communicate with the neighborhoods as questions are asked. Additionally, because of the City's ownership of two parcels in the Preserve subdivision, the City is now a party to the process and would be assessed the fees as proposed by the Drainage District.

The Drainage District responded that it would provide copies of materials within 30 days for materials located on-site and a later time if materials are located off-site. The previous day, Director Smith advised that he received information indicating the City might be receiving some documents in the next week. The City is interested in receiving any evidentiary documents that can provide information as to the operations of the Drainage District and information that might be contrary to the information the City has with respect to the Preserve's development documents, modeling, and engineering reports prepared as part of any new development. The City is in a holding pattern pending receipt of the information from the District.

On June 2, 2022, the Drainage District mailed a notification to all parties of a public hearing on July 9, 2022. The City plans to object to the public hearing and the City's inclusion within the Drainage District based on the City's understanding of each development's stormwater analysis, modeling, and documentation reflecting that none of the developments contributed to an increase in the impact to downstream facilities. At this time, the City is unsure of the roll of rates and charges and which properties are included or excluded. The notification from the Drainage District does not communicate the assessment amount for each property. Initial information reflected a one-time assessment of \$750 for each residential property and \$2,500 for commercial properties, with 10% of those amounts assessed annually. The City's concerns are how the estimates were calculated, what projects would be accomplished, and how the projects connect to the increased flows claimed to be generated from the Preserve.

Director Smith said he is drafting an objection letter in the event the City testifies against the City's inclusion in the Drainage District. He has also contacted a number of residents within the Preserve and has spoken with the homeowners association president from the Preserve.

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Councilmember Althaus said he is not aware of the political structure of the Drainage District and the analogy of the jurisdiction the District has and its ability and basis for expanding its revenue rolls. For example, the Barnes Lake Management District formed its taxing authority and elected to provide services with residents agreeing to contribute funds to pay for those services. When the cost of service increase, members are assessed a higher rate to derive the benefits of the lake. It appears the Ditch District is attempting to levy a similar revenue mechanism on a wide swath of residential homes and businesses. The City's position as one of those entities is that it could be subject to the authority but not necessarily receive any benefits. He asked whether the District has the authority to arbitrarily expand because it appears nonsensical that the District could decide to expand because of the proximity of residents and businesses that it feels would benefit from the Drainage District.

Director Smith reported the Drainage District was formed in 1901. State regulations go back in time and essentially satisfy rural agricultural needs to address stormwater drainage and prepare agricultural lands. The District has the independent assessing authority to expand. Provisions in the RCW allow the expansion based on properties that receive service and benefit; however, it is unclear as to the evidentiary requirements for determining which properties receive service and benefit from the District beyond the downstream connection. Theoretically, in 1901 when the district was formed, the entity would have evaluated the drainage basin properties to include. The Preserve properties were obviously not included as they did not exist when the District was formed. The District is asserting that because of the Preserve development, the development is sending an increased amount of stormwater discharge through its system and that the District has to maintain the system to some higher standard to provide benefit to ensure the flows continue downstream and not flood properties. That element lacks documentation or evidence to support the District's claims. Based on the lack of information, the City is objecting to its inclusion of the City's parcels. It is unclear how the District can make the determination without any supporting documentation or studies to document that the properties are receiving benefit and at what level.

Director Smith said the District generates \$2,500 each year to manage the entire ditch network, which is insufficient to manage any type of project. The District also lacks any staff resources. The District is comprised of three elected officials. The City has requested documentation as to how the District maintains the ditch and whether ongoing deferred maintenance has created obstructions throughout the ditch network that exacerbates flooding.

Chair Swarthout inquired about the source of the \$2,500. Director Smith said the information is unknown until the City receives documentation on rolls and rates. The City has requested the information from the District. The amount is insufficient to manage a stormwater network the size of the District's network.

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Councilmember Schneider said his uncertainty pertains to the flooding, which apparently floods because of the wetlands, which is owned by the City and the reason for the District to assess fees to the City, residents, and businesses. However, when each property owner purchased their homes, they understood that all design and regulations had been satisfied. He has considered options of considering the issue as a reoccurring event because of climate change or because there may have been a design flaw, which is the concern by homeowners as they are being penalized on an issue that they did not control. He does not understand how three individuals from the District can enforce a levy on homeowners in the Preserve with no vote. He acknowledged that the City does have stormwater funds and if the City is found at fault, at some point those costs would likely need to be covered. He asked whether the situation has been ongoing since January and whether the City and City Attorney have considered bringing the issue to the Council.

Director Smith advised that the issue has been an ongoing conversation with members from the Drainage District during a meeting with Mr. Jackmond in April. At that time, the City requested more information to address the issue with the Council. However, the District elected to move forward with its action to conduct a public hearing without the benefit of the City receiving information from the District. Notification of the public hearing was mailed the same time Preserve property owners received notice. There was no opportunity for staff to brief the Council beyond the public testimony demanding the funds because of the lack of sufficient information to evaluate the request.

City Attorney Kirkpatrick responded to the question and advised that she has been involved and has been working with staff since the initial testimony by Mr. Jackmond. She and staff have been seeking information from the District to develop a response to Mr. Jackmond. She is not sure as to what other information is desired other than the information included in the briefing provided by staff. The City received the notice of the public hearing at the same time as other property owners. At this time, she is not aware of any legal questions. The City wants to receive the District's documentation to evaluate the issues.

Councilmember Schneider commented that his concerns surround the surprise element of the issue as it has been an ongoing process since January 2022 and has escalated. He asked at what point the issue would be moved to the Council to receive public comments. Director Smith recommended waiting until the City receives information requested from the Drainage District to determine if the information supports the validity of the District's claims. At this time, the City does not believe the Drainage District has a credible claim based on all the developments' plans, modeling, and engineering reports. Staff believes the development of the property was appropriate based on best available science as the Preserve development and other developments have not increased

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stormwater beyond natural conditions or pre-existing conditions to cause impacts to downstream facilities. Staff does not agree with the District's position that the properties have increased downstream maintenance needs for the ditch network. More information is required and the City intends to object to its inclusion within the Drainage District. The Drainage District is its own independently elected authority is authorized under the RCW and does not need the City's or the county's permission. Based on his understanding, should the City pursue legal action, the City must defer any action until the City is included within the Drainage District. Should the City oppose its inclusion and the District continues to move forward and incorporate the properties, the City could file an appeal or take another action that would be determined at a later date. Today, the City can object to its inclusion and provide information to the Preserve homeowners association (HOA). City staff has been in contact with the HOA President and provided copies of the City's correspondence to keep the HOA advised of the City's position and actions undertaken to seek information from the District to validate the District's claims. He also understands the HOA is seeking legal counsel to represent the Preserve's interest as the City is unable to represent private interests.

Councilmember Althausen remarked that the situation is a transparency issue and if he was a resident of the Preserve, he would be upset with the Drainage District. The action is inappropriate by the District to increase its normal \$25 assessment to \$750. Director Smith noted the \$750 assessment is a one-time special assessment with ongoing fees equating to 10% of the one-time special assessment. The District has not defined any ongoing expectations.

Councilmember Swarthout pointed out that the District has attempted to seek funding by contacting the Legislature. It appears they started at the top and worked down to homeowners and business owners.

Director Smith noted that if maintenance of the drainage network has been an issue for any length of time (information the City is seeking), the request for \$360,000 for maintenance needs is questionable unless some type of erosive event occurred. Staff is seeking information to determine how the \$360,000 estimate was established and for what purpose. The issue is why the District has not acted over the last several years to increase assessments to increase revenue stream within the network from properties that are benefitting. It is important for staff to have the information to evaluate the issue rather than making assumptions.

Director Smith responded to a question about the affects of climate change and the possibility of more flooding incidents. The affects of climate change, should it become an issue moving forward, would likely entail an evaluation by staff.

Councilmember Schneider advocated for briefing the Council to afford an

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opportunity for public comments. Chair Swarthout and Councilmember Althausser disagreed and offered opinions as to the process and the options for the public to offer comments. Councilmember Althausser noted that the issue is at a point where no action is possible by the City until the District acts and the City has the information. The lack of response by the District to provide records to the City is concerning as the Public Records Act has strict timelines to respond to public records requests. He encouraged staff to aggressively pursue the requests and consider informing the District of their noncompliance with the law by not responding to the City's request for records.

Director Smith offered to serve as a point of contact for homeowners from the Preserve to share information on the status of the issue to date.

ADJOURNMENT: With there being no further business, Chair Swarthout adjourned the meeting at 9:25 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****July 7, 2022 Page 1****CONVENE:** 8:00 a.m.**PRESENT:** Chair Eileen Swarthout and Councilmembers Michael Althausser and Charlie Schneider.

Staff: City Administrator John Doan, Water Resources & Sustainability Director Dan Smith, Planning Manager Brad Medrud, Transportation Manager Mary Heather Ames, Transportation Engineer Christopher Ed, Sustainability Coordinator Alyssa Jones Wood, and Administrative Assistant Cathy Nielsen.

**ORDINANCE NO.
O2022-006,
PLANNED UNIT
DEVELOPMENT –
DEVELOPMENT
GUIDE
AMENDMENTS –
PRIVATE
STREETS:**

Manager Medrud briefed members on proposed amendments to the Development Guide supporting other amendments to Title 17 and 18 of the Tumwater Municipal Code. Planned unit development (PUD) regulations have not been substantially updated since 2000. In other jurisdictions, PUD regulations provide a quantifiable public benefit in exchange for flexibility of existing regulations. Currently, PUDs in the City provide developers with flexibility but they have not provided any quantifiable benefits to the public. The larger amendment proposal addresses how the City would balance developer flexibility for public benefit. The General Government Committee is scheduled to review the proposal at its next meeting.

A smaller component of the larger process addresses public and private streets within a PUD. Current regulations for PUDs do not clearly address requirements for public and private streets within a development. The City desires to restrict when new private streets are allowed and when public streets are required because private streets require maintenance by the private owners surrounding private streets. In many cases, insufficient resources exist to maintain private streets often resulting in the City intervening to provide street maintenance of private streets. The amendments are intended to provide specificity as to when private streets are allowed to include some amendments as part of the Tumwater Development Guide.

The proposal includes an amendment to the definition in TMC Chapter 17.04.385 to ensure the definition is consistent with the definition within the Development Guide. A similar change is proposed to the definitions in the Development Guide in Section 3.4 *Definitions and Terms*. The most substantial change is in Section 4.8 in the Development Guide that speaks to when private streets may be allowed. For residential development, the developer may construct a private street for up to four dwelling units. Those situations generally apply to a short plat or a larger subdivision containing a portion of a lot that requires more design for access. It is also possible to allow private streets if a dwelling unit meets the federal definition of low-income to afford more flexibility to the developer by allowing private streets serving up to nine detached single-family units or up to 35 attached single or multi-family dwelling units. A private street could also serve up to four businesses in separate parcels or four businesses located on one parcel. Language on private streets was updated for the former Airdustrial Park (now

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New Market Industrial Center) and removal of language that referred to an improved PUD allowing private streets to a higher level for more lots than typically allowed for other types of development. Private streets must include provisions for future use for adjacent properties when applicable to avoid land locking parcels in the future.

Other changes are minor in nature in Section 3.18 of the Development Guide by adding language addressing utility extensions that must be limited within the urban growth area as reflected in language in the Growth Management Act. Private streets must meet minimum design standards as outlined in the Development Guide.

The Planning Commission conducted a public hearing and recommended approval of the amendments. The next step is reviewing the proposal with the General Government Committee followed by the Council's worksession for final consideration by the Council in August.

Chair Swarthout inquired about an example of a PUD project. Manager Medrud said when subdivision applications are filed for a preliminary plat, a PUD application accompanies the preliminary plat application. The PUD application enables more flexibility in zoning regulations, such as more leniency in setback or lot coverage requirements. All applications are considered one package for review through the City's development review process and notification to the public and to the hearing examiner for review and approval. A number of private streets are located within the City limits established through a variety of processes. Tumwater Hill contains a number of private streets.

City Administrator Doan added that blue street signs designate the street as private while green street signs designate streets as public.

Manager Medrud explained that after receiving approval of a preliminary plat, the developer has up to five years to complete the project. The developer is responsible for constructing all infrastructure within the plat regardless of whether the streets are private or public. At the end of the process, the developer seeks a final plat review to ensure all infrastructure was constructed in accordance with the plans. At that point, the City typically accepts the final plat and any private streets become the responsibility of the homeowners association or other private entity. He added that the intent of the proposal is to reduce the number of private streets within the City.

**2022 ANNUAL
STRIPING
PROJECT -
AUTHORITY TO
SOLICIT BIDS
AND AWARD**

Manager Ames introduced Christopher Ed as the City's new Transportation Engineer. Engineer Ed began with the City approximately four months ago. The committee welcomed Engineer Ed to the City.

Manager Ames reported the 2022 Annual Striping project is an annual process that typically was completed by Thurston County that did not require Council

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approval as cost was below the dollar threshold. However, as changes continue to occur, the proposed project is for 145 miles of center and edge lines. The work refreshes all existing lines within the City's rights-of-way. Last year, the department reduced the amount of lines with some of the work included in the paving project enabling the work to proceed within the paving budget. The Engineer's estimate for this year's project is \$110,000, which is higher than the budget threshold for authorization by the department.

Manager Ames displayed a diagram of the proposed locations for striping of 4" and 8" paint lines of approximately 112 miles of 4" lines and 33 miles of the 8" lines. Several areas have been removed for reconfiguration (79th Avenue) due to the work of the traffic team in response to citizen concerns about traffic speeds along 79th Avenue. The lanes on 79th Avenue are wide, which is conducive to higher traffic speeds. The project would remove existing paint lines and narrow the lanes to a standard configuration of 11-foot wide lanes with shoulders on both sides of the road. Another location is on New Market Street near City Hall. The proposal includes removal of existing paint lines to accommodate street parking on the east side of New Market Street for City employee parking.

The cost of the project will likely exceed the budgeted amount; however, the department has sufficient funds to cover the difference through salary savings or using ending fund balance for the project. Staff is examining how to accommodate the project costs on an ongoing basis.

Staff requests the Public Works Committee authorize staff to solicit bids for the 2022 Annual Striping Project and recommend the City Council award and authorize the Mayor to sign a public works contract with the lowest responsible bidder.

Chair Swarthout asked about the possibility of utilizing Transportation Benefit District (TBD) funds to cover the shortfall. Manager Ames said she plans to explore that possibility while noting that the TBD has specific requirements for the expenditure of TBD funds.

Chair Swarthout inquired about the timing for repainting arrows within roundabouts. Manager Ames said repainting of arrows within roundabouts is scheduled on an as-needed basis. Chair Swarthout noted the roundabout arrow near the Home Depot/Walmart stores is in need of repainting.

CONSENSUS:

The Public Works Committee authorized staff to solicit bids for the 2022 Annual Striping Project and recommended the City Council award and authorize the Mayor to sign a public works contract with the lowest responsible bidder.

**INTERAGENCY
AGREEMENT NO.**

Director Smith introduced Alyssa Jones Wood, the City's new Sustainability Coordinator.

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DEPARTMENT OF
ENTERPRISE
SERVICES
ENERGY
PROGRAM:**

Coordinator Wood provided an update on efforts she is focusing on this year. They include an energy and water audit of City facilities, LED interior light replacements, installation of electric vehicle charging stations for public and employee use at City Hall, various Comprehensive Plan and ordinance amendments in conjunction with Manager Medrud, preparation of shovel-ready capital projects to take advantage of grant opportunities for solar installation at City Hall, designing solar for water resources and sustainability infrastructure, proposing a sustainable purchasing policy, passing an anti-idling policy for City fleet vehicles with the Green Team, revising the City's Commute Trip Reduction Policy to incentivize lower carbon intensity commuting, and continuing to implement the Thurston Climate Mitigation Plan and the Urban Forestry Management Plan.

Coordinator Wood reported the Energy & Water Audit of City facilities and infrastructure through the Energy Service Company (ESCO) process is intended to reduce energy and potable water consumption and emissions. The Interagency Agreement with the Department of Enterprise Services (DES) enables the City to begin the ESCO process. The audit would be a preliminary step followed by an investment grade audit of City buildings and infrastructure (six buildings and up to 45 water resources and sustainability locations). Preliminary site visits would reduce the list to those buildings capable of achieving actual cost and energy savings measures. The investment grade audit produces a list of cost effective facility improvements the City could pursue and establishes the baseline for City Hall as required in the next several years as part of the Energy Star portfolio for clean building performance standards.

The request is to recommend the City Council approve and authorize the Mayor to sign Interagency Agreement No. K7666 with the Department of Enterprise Services to begin the ESCO process. The process will occur over a two-year period.

Coordinator Wood reviewed the scope of work under the agreement. The next step after execution of the agreement is a preliminary site visit with the ESCO and the DES project manager. The City defines the cost effectiveness criteria. Once the criteria are defined, the ESCO proposes an investment grade audit based on preliminary site visits, which might reflect a reduction in the number of facilities as some may be operating under the base case scenario. The ESCO conducts the investment grade audit. Those activities are anticipated to be completed prior to the end of the year. Next year, ESCO will provide the City with an energy services proposal. At that time, the City can elect to move forward or not to move forward. If the City elects to move forward, staff will request an amendment approval by the Council to the interagency agreement to enable the commencement of construction with DES serving as the project manager. Once construction is completed, the measurement and verification stage would begin. Should the City not elect to move forward, the City would

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pay a termination fee to DES as determined by the cost of the overall energy services proposal and for the investment grade audit?

Benefits of the ESCO process include guaranteed project costs and performance. DES provides a professional project manager. If the City elects to move forward with the energy services proposal, the investment grade audit is at no charge and is included within the improvements. The ESCO also streamlines the audit to construction processes because bidding is coordinated through that process.

Councilmember Althausen asked about the costs the City might incur if the City elects not to move forward. Coordinator Wood reported costs would be reimbursed to both to DES and ESCO. Part of the cost effectiveness criteria would be constrained within the authorized budget for the next two years. She is proposing \$300,000 between the budgets of Water Resources and the General Fund. In that case, the City would owe DES \$7,700 as a termination fee. Should the City finance the improvements, a scale is included within the agreement that includes a schedule for the DES fee. The fee to ESCO is determined by the number of facilities included in the investment grade audit.

Councilmember Althausen cited a hypothetical example of a recommendation to improve the fire stations. He asked whether the City would be obligated to accept all recommendations or whether the City has an option to be selective in the facilities to improve. Coordinator Wood advised that she believes all recommendations would apply and that if the Regional Fire Authority proposal is likely to move forward, she recommends not including the fire stations in the process. The City proposes facilities for inclusion in the investment grade audit if the facility can be improved.

Chair Swarthout asked whether the program is based on new federal funding sources as the Department of Commerce typically coordinates similar activities. Coordinator Wood explained that the program is a long-standing DES program. The City is currently under contract for the measurement and verification for an agreement executed in 2013 with DES.

CONSENSUS: **The Public Works Committee recommended the City Council approve and authorize the Mayor to sign Interagency Agreement No. K7666 with the Department of Enterprise Services in substantially similar form as approved by the City Attorney.**

ADJOURNMENT: **With there being no further business, Chair Swarthout adjourned the meeting at 8:41 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****July 21, 2022 Page 1****CONVENE:** 8:00 a.m.**PRESENT:** Chair Eileen Swarthout and Councilmembers Michael Althausen and Charlie Schneider.

Staff: Transportation and Engineering Director Brandon Hicks, Engineering Services Manager Bill Lindauer, Department Assistant II Mallory Coleman, Community Engagement Specialist Marnie McGrath and Administrative Assistant Cathy Nielsen.

**INTERSTATE 5/ TROSPER
ROAD/ CAPITOL
BOULEVARD
RECONFIGURATION –
BUILDING DEMOLITION;
ACCEPTANCE OF WORK:**

Manager Lindauer briefed members on proposal to accept completion of work on the Interstate 5/Trosper Road/Capitol Boulevard Reconfiguration Demolition project. The demolition project was a component of the larger project and administered separately to prepare for the future roundabout project.

Manager Lindauer displayed a vicinity map depicting the two project locations. The contract covered buildings located at 5301 Capitol Boulevard and 348 Lee Street. A major scope of the project was completion of the hazardous material assessment. Some abatement was necessary as part of the project. A consultant completed the abatement work. Staff developed the construction documents, plans, specifications, and estimate. The project demolished three existing structures in preparation for the roundabout project. The first building impacted the new roundabout at Trosper Road and Capitol Boulevard intersection. Removal of the building was necessary to add a new sidewalk and roadway. The second site was purchased by the City to accommodate new construction of a new 6th Avenue roadway.

Manager Lindauer shared photographs of various stages of the demolition of the buildings. The site on Lee Street included two 2-story buildings with a carport between the buildings. The hazardous material assessment identified the presence of asbestos and other hazardous materials, which required abatement prior to demolition of the building. Demolition of the site was quick and easy.

Manager Lindauer reported the project was designed, managed, and inspected by Transportation and Engineering staff and funded through the Transportation Capital Facilities Plan. The City contracted with Skycorp, LTD for \$191,600. The final contract payment was \$175,240.52. The reduced cost was due to less material handling than forecasted for the project.

Councilmember Schneider inquired about the outcome of the plan to salvage some materials from the building located on Capitol Boulevard. Manager Lindauer reported the staff worked with other

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City departments to salvage furnishings and other items within the building. The contractor was able to salvage and recycle building materials to the extent possible.

Chair Swarthout reviewed the proposed action requested by staff.

CONSENSUS:

The Public Works Committee unanimously recommended the City Council accept the Interstate 5/Trosper Road/Capitol Reconfiguration – Building Demolition project as complete and authorize the release of the performance bond as soon as the laws of the state of Washington allow.

INTERSTATE 5/ TROSPER ROAD/CAPITOL/ BOULEVARD RECONFIGURATION; WASHINGTON STATE DEPARTMENT OF TRANSPORTATION (WSDOT) CONSTRUCTION AGREEMENT:

Manager Lindauer reported the agreement with the Washington State Department of Transportation (WSDOT) is an intra-agency agreement outlining requirements by WSDOT for completion of work on the Interstate 5/Trosper Road/Capitol Boulevard Reconfiguration project. The agreement applies only to work completed within the WSDOT right-of-way. The agreement provides permission from WSDOT for the construction of the improvements within properties controlled by WSDOT. The agreement includes general construction administration requirements, a section on project special provisions exclusive to the project, and a mechanism of payment for any WSDOT inspectors who might be required to inspect work or materials. Compensation is based on time and materials.

Manager Lindauer shared photographs of and described the affected project sites covered by the agreement.

Councilmember Althausen asked about the status of the overall project timeline and when the public can anticipate some traffic disruption in and around the project site. Manager Lindauer explained that staff is preparing to release bids with one component of the project under coordination with WSDOT. Following completion of the item with WSDOT, the City will release bids. The bidding process involves a one-month period. The current schedule calls for construction operations to begin in mid-September and continue for the next 18 months. Initial work this year and early next year is utility work that will disrupt traffic significantly as the work is performed below ground. As the project progresses, sidewalk, curb, and paving will follow next summer through the end of the year.

Councilmember Althausen recommended the committee receive periodic updates on the status of construction progress because the project is complex, challenging, and a major improvement of interest to the public. The Council is often asked about the status of construction projects occurring in the City. Utilizing the committee's

TUMWATER PUBLIC WORKS COMMITTEE

MINUTES OF VIRTUAL MEETING

July 21, 2022 Page 3

meetings serves as an effective conduit to provide periodic updates on the status of the project.

Chair Swarthout reviewed the proposed action for consideration by the committee.

MOTION:

Chair Swarthout moved, seconded by Councilmember Althausser, to recommend the City Council approve and authorize the Mayor to sign the WSDOT Construction Agreement, in substantially similar form as approved by the City Attorney, to complete transportation improvements within WSDOT right-of-way as part of the Interstate 5/Troster Road/Capitol Boulevard Reconfiguration Project. A voice vote unanimously approved the motion.

OTHER BUSINESS:

Chair Swarthout inquired about the status of the street striping project. Director Hicks advised that staff is currently soliciting bids for the project. The project is anticipated to start by the end of August.

ADJOURNMENT:

With there being no further business, Chair Swarthout adjourned the meeting at 8:19 a.m.

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

TO: Public Works Committee
FROM: Don Carney, Capital Projects Manager
DATE: August 4, 2022
SUBJECT: Preserve Park

1) Recommended Action:

Staff requests the Public Works Committee authorize staff to solicit bids for the Preserve Park construction project and recommend the City Council award and authorize the Mayor to sign a public works contract with the lowest responsible bidder.

2) Background:

The City purchased property in 2020 utilizing Park Impact fees assessed on new home construction within The Preserve development to construct the Preserve Park. The planned park play area is approximately 0.5 acres and will include site furnishings, a large play structure, a 24 foot by 24 foot picnic shelter, a half-court basketball court, a five foot high triple wide concrete slide and zip line, along with landscaping and irrigation. The adjoining 2.9 acre storm water infiltration pond will be incorporated as additional play area by seeding and irrigating.

This project includes paving, sidewalks, irrigation, landscaping, electrical service to a picnic shelter, and other site work for the park. A previous contract had been awarded to an equipment supplier for the purchase of the equipment and installation of that equipment into the new park after construction.

The Engineer's estimate for the Preserve Park site work is \$700,000.

3) Policy Support:

City of Tumwater 2021-2026 Strategic Priorities and Goals:

B. Build a Community Recognized for Quality, Compassion and Humanity

*Pursue Quality of Life Improvements (e.g., trails, trees, parks, community gardens, events).....

*Provide high quality municipal facilities and parks.

4) Alternatives:

- ☐ Do not construct the park.
 - ☐ Reduce the size of the park.
-

5) Fiscal Notes:

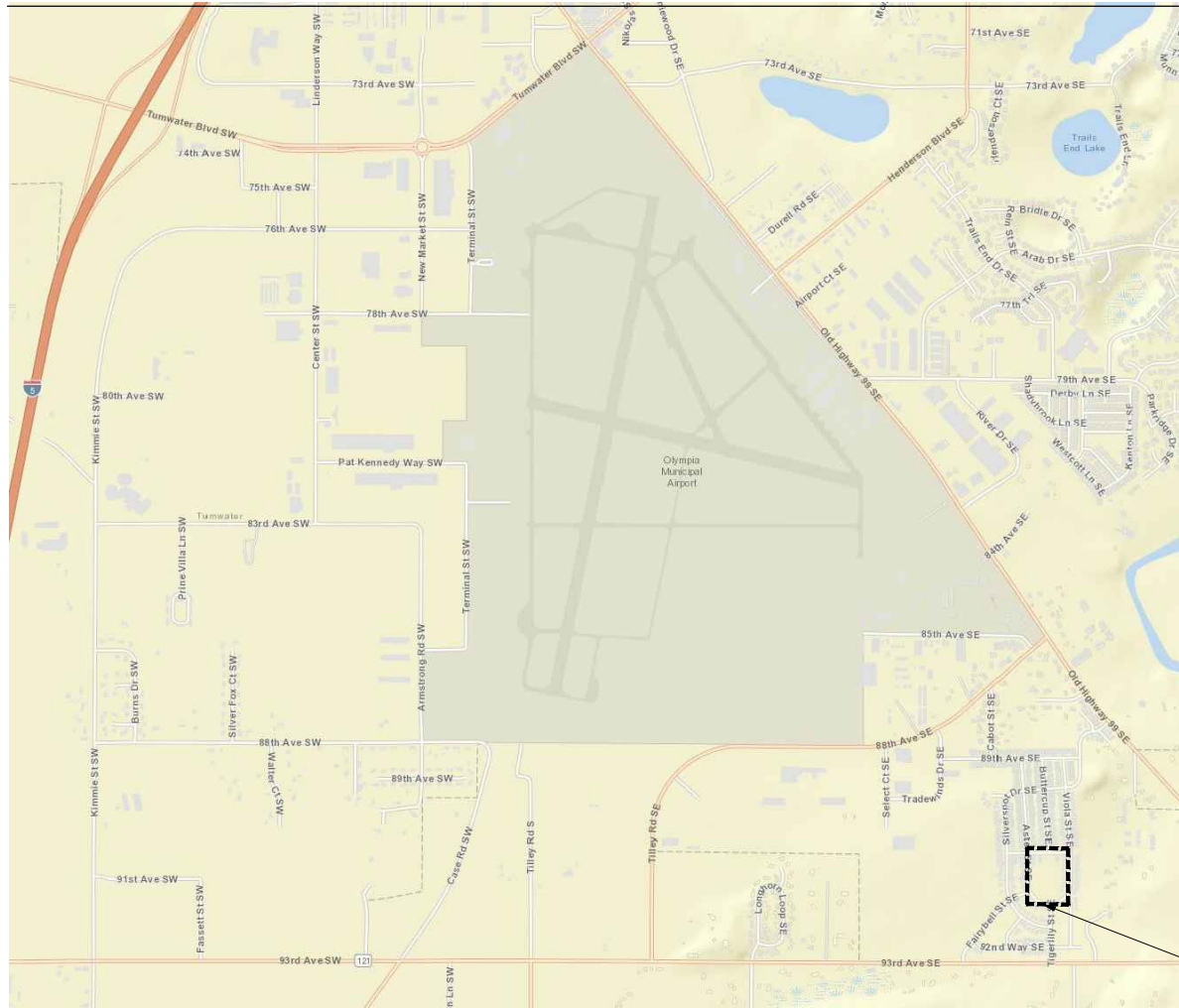
The complete park development is included and funded in the 2020-2025 Capital Facility Plan. The park is identified as General Governmental Project GG08, Preserve Park. The project is being funded with park impact fees.

6) Attachments:

- A. Location Map
- B. Site Plan

THE PRESERVE PARK

CITY OF TUMWATER PARKS AND RECREATION DEPARTMENT

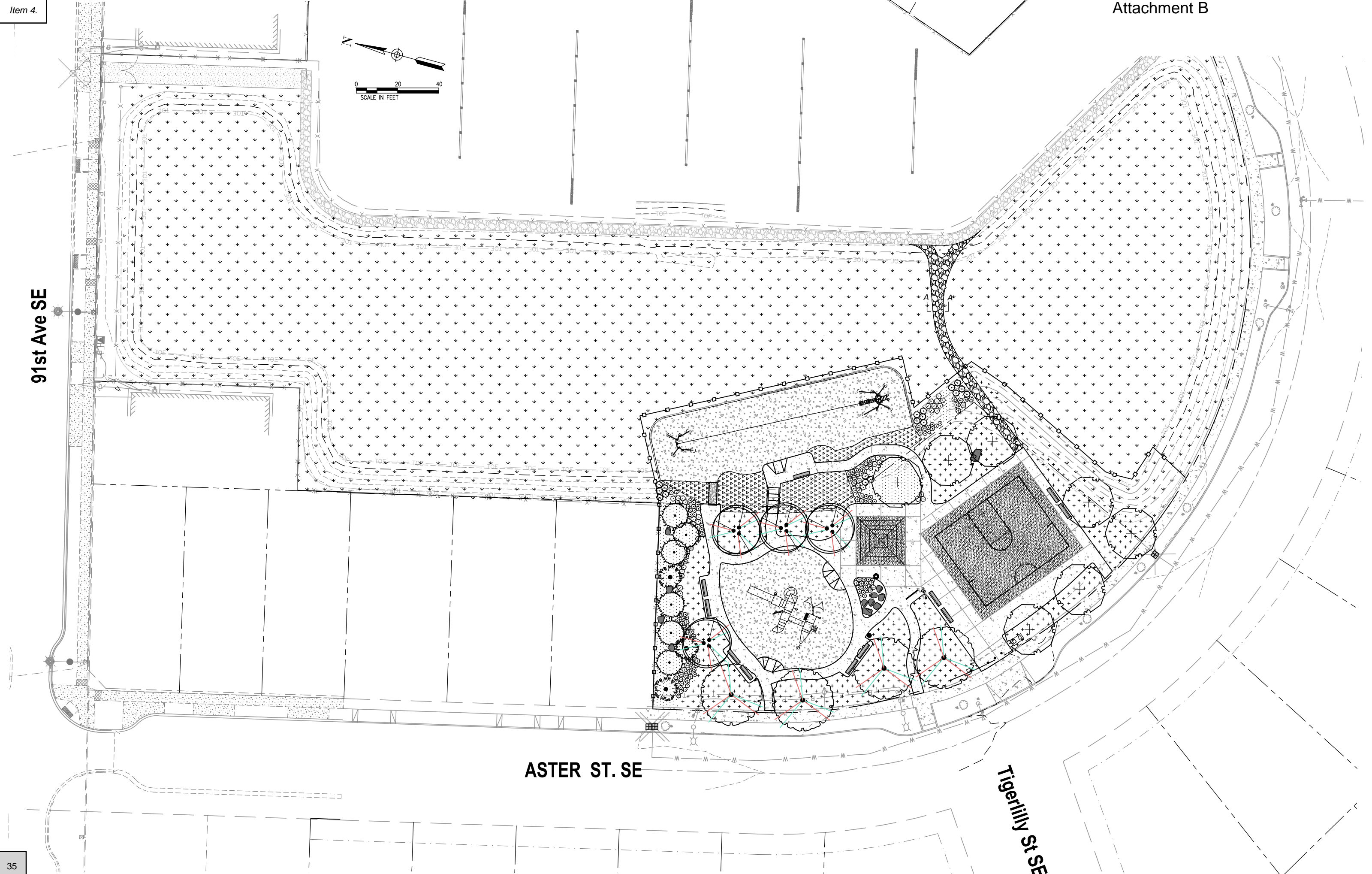


VICINITY MAP

NOT TO SCALE



**THE PRESERVE
PARK PROJECT
LOCATION**



TO: Public Works Committee
FROM: Dan Smith, Water Resources and Sustainability Director
DATE: August 4, 2022
SUBJECT: Deschutes River Flood Reduction Study Service Provider Agreement

1) Recommended Action:

Staff requests the Public Works Committee recommend the City Council approve and authorize the Mayor to sign the Deschutes River Flood Reduction Study Service Provider Agreement.

2) Background:

The City of Tumwater received a Washington State Legislature budget proviso for Fiscal Year 2023. The Water Resources and Sustainability Department, along with Greer Environmental Consulting and Stantec, will develop solutions to flooding and erosion along the lower Deschutes River, from Henderson Boulevard to Brewery Park at Tumwater Falls. The flood reduction study includes work to describe existing conditions and factors adding to flooding and erosion problems, identifying alternatives to reduce/eliminate flooding and erosion, necessary permit actions and development feasibility, and creating preliminary designs for mitigation.

3) Policy Support:

Strategic Priority A – Pursue Targeted Community Development Opportunities, specifically

- Facilitate brewery redevelopment

Strategic Priority F – Be a Leader in Environmental Sustainability, specifically

- Enhance salmon runs
-

4) Alternatives:

- ☐ Request changes to the proposed service provider agreement.
-

5) Fiscal Notes:

Tumwater received a \$250,000 Washington State Legislature budget proviso for Fiscal Year 2023. The City negotiated a scope of services with Stantec to assist in the completion of this work and is expected to cost \$277,361, with the Storm Drain Fund covering the remaining amount. An amount of \$75,000 has been allocated to this project as identified as SD-21 Deschutes River Flood Reduction and Erosion Study, in the 2022-2027 Capital Facilities Plan.

6) Attachments:

- A. Deschutes River Flood Reduction Study SPA

**CITY OF TUMWATER
SERVICE PROVIDER AGREEMENT**

DESCHUTES RIVER FLOOD REDUCTION STUDY

THIS AGREEMENT is made and entered into in duplicate this _____ day of _____, 2022, by and between the CITY OF TUMWATER, a Washington municipal corporation, hereinafter referred to as the “CITY”, and STANTEC CONSULTING SERVICES INC., a New York corporation, hereinafter referred to as the “SERVICE PROVIDER”.

WITNESSETH:

WHEREAS, the CITY desires to have certain services and/or tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient CITY resources are not available to provide such services; and

WHEREAS, the SERVICE PROVIDER represents that the SERVICE PROVIDER is qualified and possesses sufficient skills and the necessary capabilities, including technical expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

1. SCOPE OF SERVICES.

The SERVICE PROVIDER shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as SERVICE PROVIDER responsibilities throughout this Agreement and as detailed in Exhibit “A” Scope of Services attached hereto and incorporated herein (the “Project”).

2. TERM.

The Project shall begin no earlier than August 15, 2022, and shall be completed no later than December 31, 2023. This Agreement may be extended for additional periods of time upon mutual written agreement of the parties.

3. TERMINATION.

Prior to the expiration of the Term, this Agreement may be terminated immediately, with or without cause, by the CITY. SERVICE PROVIDER reserves the right to terminate this Agreement at any time, in whole or in part, by sixty (60) days' written notice to the CITY.

4. COMPENSATION AND METHOD OF PAYMENT.

A. Payments for services provided hereunder shall be made following the performance of such services, unless otherwise permitted by law and approved in writing by the CITY.

B. No payment shall be made for any service rendered by the SERVICE PROVIDER except for services identified and set forth in this Agreement.

C. The CITY shall pay the SERVICE PROVIDER for work performed under this Agreement a total sum not to exceed **Two Hundred Seventy Seven Thousand Three Hundred and Sixty One Dollars. (\$277,361.00)** as reflected in Exhibit "A".

D. Upon execution of this Agreement, the SERVICE PROVIDER must submit IRS Form W-9 Request for Taxpayer Identification Number (TIN) and Certification unless a current Form W-9 is already on file with the CITY.

E. The SERVICE PROVIDER shall submit an invoice to the CITY for services rendered during the contract period. The CITY shall initiate authorization for payment after receipt of said invoice and shall make payment to the SERVICE PROVIDER within thirty (30) days thereafter.

F. When subcontracting services or purchasing goods from third parties, as identified and approved in this Agreement, the SERVICE PROVIDER must submit written documentation establishing that the goods and/or services have been provided and the third party has been paid in order to receive payment for such goods and/or services.

G. Invoices may be submitted immediately following performance of services, but in no event shall an invoice be submitted more than twenty (20) business days following the end of the contract term or the end of the calendar year, whichever is earlier.

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

A. The parties intend that an independent contractor relationship will be created by this Agreement. Subject to paragraphs herein, the implementation of services pursuant to this Agreement will lie solely within the discretion of the SERVICE PROVIDER. No agent, employee, servant or representative of the SERVICE PROVIDER shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose, and the employees of the SERVICE PROVIDER are not entitled to any of the benefits the CITY provides for its employees. The SERVICE PROVIDER will be solely and entirely responsible for all actual or alleged negligent acts and for all actual or alleged negligent acts of its employees, or representatives during the performance of this Agreement.

B. In the performance of the services herein contemplated the SERVICE PROVIDER is an independent contractor with the authority to control and direct the performance of the details of the work; however, the results of the work contemplated herein must meet the approval of the CITY and shall be subject to the CITY'S general rights of inspection and review to secure the satisfactory completion thereof.

C. As an independent contractor, the SERVICE PROVIDER shall be responsible for the reporting and payment of all applicable local, state, and federal taxes.

D. It is recognized that the SERVICE PROVIDER may or will be performing services during the Term for other parties; provided, however, that such performance of other services shall not conflict with or interfere with the SERVICE PROVIDER'S ability to perform the services. The SERVICE PROVIDER agrees to resolve any such conflicts of interest in favor of the CITY.

6. SERVICE PROVIDER EMPLOYEES/AGENTS.

The CITY may at its sole discretion require the SERVICE PROVIDER to remove an employee, agent or servant from employment on this Project. The SERVICE PROVIDER may however employ that individual on other non-CITY related projects.

7. HOLD HARMLESS INDEMNIFICATION.

A. SERVICE PROVIDER Indemnification. The SERVICE PROVIDER 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 reasonable 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 Agreement to the extent caused by the negligent acts, errors or omissions of the SERVICE PROVIDER, its partners, shareholders, agents, employees, or by the SERVICE PROVIDER'S breach of this Agreement. The SERVICE PROVIDER expressly waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW. The SERVICE PROVIDER'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 benefit acts or programs. This waiver has been mutually negotiated by the parties.

B. CITY Indemnification. The CITY agrees to indemnify, defend and hold the SERVICE PROVIDER, its officers, directors, shareholders, partners, employees, and agents harmless from any and all claims, demands, losses, actions and liabilities (including costs and reasonable 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 Agreement to the extent solely caused by the negligent acts, errors, or omissions of the CITY, its employees or agents. No liability shall attach to the CITY by reason of entering into this Agreement except as expressly provided herein.

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

8. INSURANCE.

A. The SERVICE PROVIDER shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the SERVICE PROVIDER, their agents, representatives, employees or subcontractors.

B. The SERVICE PROVIDER shall provide a Certificate of Insurance evidencing:

1. Automobile Liability insurance with limits no less than \$1,000,000 combined single limit per accident for bodily injury and property damage.

2. Commercial General Liability insurance written on an occurrence basis with limits no less than \$2,000,000 combined single limit per occurrence and \$2,000,000 aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual;

products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if applicable; and employer's liability.

3. Professional Liability insurance written on an occurrence basis with limits of no less than \$2,000,000 per claim, and \$2,000,000 policy aggregate limit.

C. With the exception of Professional Liability, the CITY shall be named as an additional insured on the insurance policy, as respect to work performed by or on behalf of the SERVICE PROVIDER and a copy of the endorsement naming the CITY as additional insured shall be attached to the Certificate of Insurance.

D. The SERVICE PROVIDER'S insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability.

E. Any payment of deductible or self-insured retention shall be the sole responsibility of the SERVICE PROVIDER.

F. The SERVICE PROVIDER'S insurance shall be primary insurance as respect to the CITY and the CITY shall be given written notice of any cancellation, suspension or material change in coverage within two (2) business days of SERVICE PROVIDER'S receipt of such notice.

9. TREATMENT OF ASSETS.

Upon full payment of all monies owed to SERVICE PROVIDER, title to all property furnished by the CITY shall remain in the name of the CITY and the CITY shall become the owner of the work product and other documents, if any, prepared by the SERVICE PROVIDER pursuant to this Agreement.

The CITY agrees, to the fullest extent permitted by law, to indemnify and hold the SERVICE PROVIDER harmless from any claim, liability or cost (including reasonable attorney's fees and defense costs) arising or allegedly arising out of any reuse or modification of the ASSETS by the CITY or any person or entity that obtains the ASSETS from or through the CITY.

10. COMPLIANCE WITH LAWS.

A. The SERVICE PROVIDER, in the performance of this Agreement, shall comply with all applicable federal, state or local laws and ordinances, including being licensed to do business in the City of Tumwater by

obtaining a Tumwater business license and any additional regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

B. The SERVICE PROVIDER specifically agrees to pay any applicable CITY business and occupation (B&O) taxes which may be due on account of this Agreement.

11. NONDISCRIMINATION.

A. The CITY is an equal opportunity employer.

B. Nondiscrimination in Employment. In the performance of this Agreement, the SERVICE PROVIDER will not discriminate against any employee or applicant for employment on the grounds of race, creed, religion, color, national origin, citizenship or immigration status, families with children status, sex, marital 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, sexual orientation, genetic information, age or other basis prohibited by state or federal law; provided that the prohibition against discrimination in employment because of disability shall not apply if the particular disability prevents the proper performance of the particular worker involved. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. "Race" is inclusive of traits historically associated or perceived to be associated with race including, but not limited to, hair texture and protective hairstyles. For purposes of this subsection, "protective hairstyles" includes, but is not limited to, such hairstyles as afros, braids, locks, and twists. It is not an unfair practice when a distinction or differential treatment on the basis of citizenship or immigration status is authorized by federal or state law, regulation, rule or government contract.

C. Nondiscrimination in Services. The SERVICE PROVIDER will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, religion, color, national origin, citizenship or immigration status, families with children status, sex, marital 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, sexual orientation, genetic information, age or other basis prohibited by state or federal law. "Race" is inclusive of traits historically associated or perceived to be associated with race including, but not limited to, hair texture and protective hairstyles. For purposes of this subsection, "protective hairstyles"

includes, but is not limited to, such hairstyles as afros, braids, locks, and twists. It is not an unfair practice when a distinction or differential treatment on the basis of citizenship or immigration status is authorized by federal or state law, regulation, rule or government contract.

D. If any assignment and/or subcontract have been authorized by the CITY, said assignment or subcontract shall include appropriate safeguards against discrimination. The SERVICE PROVIDER shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

E. Nondiscrimination in Benefits. **The provisions of this subsection are only applicable to contracts with an estimated value of \$50,000 or more.** Pursuant to Tumwater Municipal Code (TMC) Chapter 3.46, the SERVICE PROVIDER shall provide employee benefits or an equivalent sum to the domestic partners of their employees involved in the SERVICE PROVIDER'S operations applicable to this Agreement if such benefits are provided to employees' spouses as more particularly set forth in Chapter 3.46 of the TMC, a copy of which is attached hereto as Exhibit "B".

12. ASSIGNMENT/SUBCONTRACTING.

A. The SERVICE PROVIDER shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the CITY, and it is further agreed that said consent must be sought in writing by the SERVICE PROVIDER not less than thirty (30) days prior to the date of any proposed assignment. The CITY reserves the right to reject without cause any such assignment.

B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and proper bidding procedures where applicable as set forth in local, state and/or federal statutes, ordinances and guidelines.

C. Any technical service subcontract not listed in this Agreement, must have express advance approval by the CITY.

13. NON-APPROPRIATION OF FUNDS.

If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the CITY will not be obligated to make payments for services or amounts incurred after the end of the current fiscal period, and this Agreement will terminate upon the completion of all remaining services for which funds are allocated. No penalty or expense shall accrue to the CITY in the event this provision applies.

14. CHANGES.

Either party may request changes to the Scope of Services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

15. MAINTENANCE AND INSPECTION OF RECORDS.

A. The SERVICE PROVIDER at such times and in such forms as the CITY may require, shall furnish to the CITY such statements, records, reports, data, and information as the CITY may request pertaining to matters covered by this Agreement.

B. The SERVICE PROVIDER shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. 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 Agreement.

C. To ensure the CITY'S compliance with the Public Records Act, RCW 42.56, the SERVICE PROVIDER shall retain all books, records, documents and other material relevant to this agreement, for six (6) years after its expiration. The SERVICE PROVIDER agrees that the CITY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

D. Notwithstanding the foregoing, the CITY's right to inspect, copy and audit shall not extend to the composition of the SERVICE PROVIDER'S rates and fees, percentage mark-ups or multipliers but shall apply only to their application to the applicable units.

16. POLITICAL ACTIVITY PROHIBITED.

None of the funds, materials, property or services provided directly or indirectly under the Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

17. PROHIBITED INTEREST.

No member, officer, or employee of the CITY shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

18. NOTICE.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the signature page of this Agreement.

19. ATTORNEYS FEES AND COSTS.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

20. JURISDICTION AND VENUE.

A. This Agreement has been and shall be construed as having been made and delivered within the State of Washington. It is agreed by each party hereto that this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained in the superior court of Thurston County, Washington.

21. SEVERABILITY.

A. If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

B. If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

22. ENTIRE AGREEMENT.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement. This Agreement may be executed in any number of counterparts, which counterparts shall collectively constitute the entire Agreement.

23. WAIVER OF CONSEQUENTIAL DAMAGES.

Neither the CITY nor the SERVICE PROVIDER shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected to this Agreement or the performance of the services on this Project. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of markets, unrealized energy savings, diminution of property value or loss of reimbursement or credits from governmental or other agencies.

Signatures on next page

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

CITY:

CITY OF TUMWATER
555 Israel Road SW
Tumwater, WA 98501

SERVICE PROVIDER:

Stantec Consulting Services, Inc.
601 SW 2nd Ave STE 1400
Portland, OR 972304-3128
Tax ID #: 602-529-295
Phone Number: 503-830-9669

DEBBIE SULLIVAN
Mayor

Signature (Notarized – see below)
Printed Name: _____
Title: _____

ATTEST:

Melody Valiant, City Clerk

APPROVED AS TO FORM:

Karen Kirkpatrick, City Attorney

STATE OF OREGON

COUNTY OF MULTNOMAH

I certify that I know or have satisfactory evidence that _____(name) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the _____(title) of _____(company) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

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

EXHIBIT "A"



Stantec Consulting Services Inc.
601 SW Second Avenue, Suite 1400
Portland OR 97204-3128

July 8, 2022

Project/File: City of Tumwater Deschutes River Flood Reduction Study

Dan Smith

City of Tumwater
555 Israel Road SW
Tumwater, WA 98501

Dear Dan Smith,

Reference: Deschutes River Flood Reduction Study

Project Understanding

The Stantec/Cardno Team was selected for the 2022 Pioneer Park Project which focuses on Deschutes River Flooding at Pioneer Park and associated meander bend migration issues. This effort is an add on to the Pioneer Park work and extends the project modeling domain to consider flooding along the Deschutes River from SE Henderson Blvd to the Deschutes River Falls near SE Capitol Blvd (Study Area). Flooding in the Study Area was the subject of modeling by Cardno from 2014 to 2016 working for the LOTT Clean Water Alliance (LOTT) to assess flooding concerns and strategies to develop a new sewerage treatment facility in the Deschutes River Valley. Construction of the sewerage facility has not been completed as contemplated in the studies. Documents associated with this effort include:

- Deschutes Valley Master Plan, Geomorphic and Hydrologic Analysis (June 18, 2014, Revision)
- Deschutes Valley Master Plan, Existing Conditions Hydraulic Modeling (June 18, 2015, Revision)
- Deschutes Valley Property Master Plan, Hydraulic Modeling Interim Project Summary (August 17, 2016)

The study area for the prior work with LOTT extended from the Deschutes River Falls 3,800 feet upriver near SE M Street above the Valley Athletic Club. The Study Area for this effort is approximately 14,000 feet along the Deschutes River Alignment and the modeling domain will extend above Henderson Blvd making the modeling reach approximately 15,000 feet. Much of the added reach of the Deschutes River Valley that will be modeled is occupied by the Tumwater Valley Golf Club, Deschutes Valley Park, open space, and Pioneer Park. Modeling for the LOTT effort was completed with the River2D Model based on hydrology from U.S. Geological Survey (USGS) gage at the E Street Bridge. We propose to utilize HEC-RAS 2D Modeling Platform for this effort extending the model for Pioneer Park through the Study Area.

Project goals include:

1. Develop an understanding of current and future flooding and erosion risk within the Lower Deschutes River Study Area (Henderson Boulevard Bridge to Tumwater Falls)
2. Determine redevelopment feasibility within the Study Area including consideration of changes to current development standards, zoning modifications, mitigation needs, and required permits

Design with community in mind

Reference: Deschutes River Flood Reduction Investigation (Henderson Blvd Bridge to Tumwater Falls)

3. Identify conceptual alternatives to mitigate flooding and erosion within the project area to improve ecosystem functions and support redevelopment on key parcels.

This effort will include the following tasks:

- **Task 1: Project Administration/Management**
- **Task 2: Literature Review and Project Conceptualization**
 - Past H/H Reports/Studies Summary
 - Current Zoning, Land Use, and Development Standards Review
 - Summary of Regulatory Changes necessary to facilitate desired changes within the study area
 - GIS Mapping of land ownership for flood mitigation and redevelopment
 - Stakeholder Meeting 1 (*Tumwater Parks and Community Development*)
- **Task 3: Data Gathering and Gap Analysis**
 - Field Survey of River and Floodplains
- **Task 4: Hydraulic Modeling and Reporting**
 - Existing Conditions Modeling
 - Stakeholder Meeting 2 (*Landowners*)
 - Proposed Conditions Modeling
 - Up to (3) Conceptual Alternatives focused on flood attenuation through floodplain reconnection within and above the study area
 - Identify areas for building related redevelopment in target parcels
 - Identify areas for multi-use park development where flooding would occur in winter and parks would be useable in summer
- **Task 5: Flood Reduction and Redevelopment Concepts**
 - Develop up to (3) Conceptual Plans and Order of Magnitude Costs for Ranking for Presentation Purposes
 - Complete Alternative Ranking Matrix based on Costs and Benefits of the Alternatives and Select a Preferred Alternative
 - Stakeholder Meeting 3 (*TBD*)
 - Develop the Conceptual Plan of the Preferred Alternative for Presentation Purposes
 - Identify required Permits and complete a Preliminary Planning Level Cost Estimates for the Preferred Alternative
 - Complete Flood Reduction and Redevelopment Report
 - Stakeholder Meeting 4 (*TBD*)

Reference: Deschutes River Flood Reduction Investigation (Henderson Blvd Bridge to Tumwater Falls)

We understand that the City of Tumwater has secured \$300,000 of project funding from the Department of Ecology (DOE) which will cover \$27,000 of Tumwater project costs and \$273,000 for the Stantec Team. We propose to complete this work in parallel with the Pioneer Park effort to facilitate an understanding of how alternatives at Pioneer Park may affect the downstream study area and how downstream scenarios may impact the park.

Task 1: Project Administration/Management

This task includes project management duties and meetings. Communication with the City's project manager will occur at to-be-determined intervals throughout the project and allow the Project Team (Stantec) to report on project status and coordinate project-related items.

- 1.1. Joe Richards will serve as the Project Manager and Principal in Charge. He will be responsible for overseeing and directing all aspects of project management. Kelly Swindle will serve as deputy PM. Delegation of PM responsibility may be undertaken at times to facilitate efficient delivery of the effort.
- 1.2. A site visit will be held following existing conditions modeling to confirm/validate model results and gather stakeholder information for flood reduction and development alternatives. See Task 3 for survey effort and additional site work.
- 1.3. Virtual meetings will be held including a kickoff meeting and up to (4) virtual stakeholder outreach meetings. These meetings may be changed to in-person for key staff based on budget availability and needs.
- 1.4. A Quality Assurance Project Plan (QAPP) will be completed in accordance with Stantec and Ecology standards.

Task Assumptions

- > For budgeting purposes, it is assumed that two (2) to four (4) Stantec employees will attend site visits.
- > The duration of the project for budgeting purposes, assuming 7-1-2022 notice to proceed (NTP) will continue until 6-30-2023 (approximately 12-month duration).
- > For budgeting purposes meeting duration is assumed to be no more than two (2) hours in duration with (1) hour of Prep and (1) hour of follow-up for (3) Stantec Staff Members unless otherwise noted and virtual.
- > Review and finalization of the QAPP will occur through a single round of submittal, review, and redline reconciliation to finalize the document.

Task Deliverables

- > Stantec will provide monthly project management work summary and invoices over the term of this work assignment. Invoicing will be completed at the top task level only. Stantec will maintain frequent communication with the City, including phone calls and emails.
- > Meeting Agenda and Minutes for all stakeholder meetings described above.
- > Quality Assurance Project Plan (QAPP)

Reference: Deschutes River Flood Reduction Investigation (Henderson Blvd Bridge to Tumwater Falls)

Task 2: Literature Review & Project Conceptualization

Stantec will be responsible for reviewing existing and available reports covering the study area focused on redevelopment, flooding, water quality, erosion, and aquatic habitat.

- 2.1. Review and summarize previously completed H/H reports, studies, and design package completed within the study area.
 - 2.1.1. Deschutes Valley Master Plan studies/reports/plans (listed previously)
 - 2.1.2. As-built and/or design plans for Henderson Blvd Bridge and Tumwater Falls Dam
- 2.2. Review and summary of land use options and zoning within the project area based on current local, regional, state, and federal regulations; and a comprehensive review and summarization of necessary permits to develop in the project area.
- 2.3. GIS Mapping of land ownership for flood mitigation and redevelopment

Task Assumptions

- > Report, studies and design packages will be provided to Stantec by the City.
- > The FEMA model of this area is available for download without additional charge to project or a need for a request to FEMA headquarters for the information.

Task Deliverables

- > No Deliverables for Literature Review – results from this task will be included in the Flood Reduction and Redevelopment Report under Task 5. Interim information can be provided upon request.
- > GIS Map of land ownership for flood mitigation and redevelopment.

Reference: Deschutes River Flood Reduction Investigation (Henderson Blvd Bridge to Tumwater Falls)

Task 3: Data Gathering and Gap Analysis

Stantec will complete data gathering and a gap analysis to support the overall project effort as described below:

3.1. Review Available Data and Complete Gap Analysis

3.1.1. Best-available LiDAR

3.1.2. All other hydraulic related data including but not limited to FEMA approved hydraulic models of the Deschutes River, the previous River2D model, and land cover classification datasets.

3.1.3. Scope Development for Acquisition of Additional Data as Identified

3.1.4. As-built and/or design plan for the Henderson Blvd Bridge and Tumwater Falls Dam

3.2. Complete Study Area field survey

3.1.1. The survey will consist of 10 transects. Transects will be taken at approximately every 1,000 feet outside of the area not part of the existing River2D model. The survey will cover the channel area below top of bank only and Lidar data will be used in overbank areas.

3.1.2. Taking field measurements of the Henderson Blvd Bridge as needed. Field measurements include but are not limited to pier widths, pier spacing, and abutment spacing.

3.1.3. Formatting survey data to be GIS-compatible.

Task Assumptions

- > High-resolution LiDAR is available via the Washington LiDAR Portal and is adequate for HEC-RAS 2D modeling
- > If the Washington LiDAR Portal does not have adequate LiDAR data, Stantec will utilize the USGS "The National Map - Data Deliver" for LiDAR acquisition
- > The FEMA model of this area is available for download without additional charge to project or a need for a request to FEMA headquarters for the information
- > As-built and/or design plan information is available for the Henderson Blvd Bridge
- > As-built and/or design plan information is available for the Tumwater Falls Dam
- > If as-built and/or design plan information is not available for the Henderson Blvd Bridge or Tumwater Falls Dam, Stantec will use engineering judgment and field survey to determine required dimensions of bridge and dam
- > There are not access restrictions to the Deschutes River at this location
- > No special access or permit acquisition will be required to access Deschutes River at this location

Task Deliverables

- > No deliverables for this Task - Data gathering and gap analysis documentation will be part of the Flood Reduction and Redevelopment Report under Task 5.
- > Interim information can be provided including Sketches of survey results, GIS-compatible data of survey results, XYZ information for the 10 transects

Reference: Deschutes River Flood Reduction Investigation (Henderson Blvd Bridge to Tumwater Falls)

Task 4: Hydraulic Modeling and Reporting

Stantec will be response for

4.1. Creating a HEC-RAS 2D model of the Existing Conditions

- Model will be calibrated to the 1996 flood event. Stantec will utilize the gaging information from Gage 12080010 on E Street Bridge and the Hydraulics Report Deschutes Watershed, WA – PMR Detailed Analysis, April 2014, prepared by STARR. Calibration will include potential modification/adjustments to Manning's n roughness values, only.
- Stantec will utilize the peak flow rates from the Technical Memorandum "Deschutes Valley Master Plan Geomorphic and Hydrologic Analyses" (Revised June 18, 2014) without modification. Flowrates for 2-year (bankfull), 25-year, 50-year, and 100 year will be utilized.
- Stantec will add climate change 2-year and 100-year flows from the UW Climate Change Center to assess future hydrology.
- Stantec will assume "uniform flow" of the peak discharges and no estimation or development of a flow hydrograph will be performed as part of this task.
- Landcover for initial overbank Manning's n value estimation will be digitized using best-available aerial imagery and the 2019 National Land Cover Database (NLCD).
- Channel n values will match the existing, effective FEMA hydraulic model of the Deschutes River. If the existing, effective FEMA hydraulic model of the Deschutes River is not available, Stantec will utilize guidance from USGS Water-Supply Paper (WSP) 2339 to estimate channel n values.

4.2. Potential Erosion Area Evaluation – Stantec will review the results of the Existing Conditions HEC-RAS and identify areas of potential erosion through visual observation and by using shear as a surrogate for erosion risk. Hydraulic model output maps with shear distributions will be produced.

4.3. Modifying the Existing Conditions model for up to (3) Proposed Model Flood Reduction/Redevelopment scenarios. The models will be used to evaluate flood reduction and redevelopment potential.

2.1.1. Up to (3) Proposed Model Scenarios will be proposed by Stantec to the City. Stantec will not proceed with modeling of any Proposed Model Scenario until the City has agreed to each concept.

2.1.2. This task will include three (3) iterations for each Proposed Model Scenario (a maximum of (9) iterations). Iterations include slightly modifying the Proposed Model Scenario in an effort to better refine the potential flood reduction for up to (3) feasible alternatives.

4.4. Flood Reduction Modeling Summaries

2.1.1. Exhibits illustrating existing condition water surface elevation, velocity, and shear stress exhibits of the HEC-RAS results for existing and Proposed Model Scenario simulations.

2.1.2. Exhibits illustrating the changes to water surface elevation, velocity, and shear of the existing conditions for the proposed scenario simulations.

Reference: Deschutes River Flood Reduction Investigation (Henderson Blvd Bridge to Tumwater Falls)

Task Assumptions

- > Model extents will be from 1,000 feet upstream of the Henderson Blvd Bridge to 500 feet downstream of the Tumwater Falls for 2D modeling within the Study Area. Determining the impact of removing flow from the hydrograph at locations above the 2D modeling domain will be completed through extending the 2D model upstream using the FEMA 1D Model and establishing off channel storage nodes.
- > The HEC-RAS Model will reflect existing condition land use, only. No assumptions of future development and land use changes will be applied to this model.

Task Deliverables

- > Input and output files of the HEC-RAS models
- > Maximum depth, water surface elevation, velocity and shear stress exhibits for existing conditions model
- > Exhibits illustrating the changes in water surface elevation, velocity, and shear of the existing conditions for the flood reduction and redevelopment concepts.
- > Flood Reduction Modeling results will be detailed under Task 5 Flood Reduction and Redevelopment Report

Reference: Deschutes River Flood Reduction Investigation (Henderson Blvd Bridge to Tumwater Falls)

Task 5: Flood Reduction and Redevelopment Concepts

For this task Stantec will develop conceptual plans for up to (3) feasible flood reduction and redevelopment concepts, rank the concepts based on opportunities and costs, select an alternative and further refine it for presentation purposes, and complete reporting for the project.

5.1. Complete up to (3) feasible conceptual alternative plans based on the results of hydraulic modeling under Task 4. This task will be focused on City Parks Property (Pioneer Park and the Golf Course) and specific parcels controlled by the city as listed below for redevelopment activities:

- 09470021000, 09470045000, 09470003000, 09470046000, 09470051001

5.2. Complete Alternative Ranking Matrix based on Costs and Benefits of the Alternatives and Select a Preferred Alternative.

5.3. Develop Conceptual Plan of the Preferred Alternative for Presentation Purposes

5.1.1. Identify required permits and complete preliminary planning level cost estimate for the preferred alternative

5.4. Complete Flood Reduction and Redevelopment Report to present the results of the effort as described under Tasks 2 through 5.

Task Assumptions

- > Conceptual plans are developed as figures and maps in GIS or another similar program
- > No engineering plans will be developed
- > Review and finalization of the Flood Reduction and Redevelopment Report will occur through a single round of submittal, review, and redline reconciliation to finalize the document.

Task Deliverables

- > Flood Reduction and Redevelopment Report

Proposed Schedule

Task/Deliverable	Completion Date
Notice to Proceed	07/01/2022
Literature Review and Project Conceptualization	09/30/2022
Data Gathering and Gap Analysis	09/30/2022
Field Survey	08/31/2022
Existing Conditions Modeling	09/30/2022



Reference: Deschutes River Flood Reduction Investigation (Henderson Blvd Bridge to Tumwater Falls)

Task/Deliverable	Completion Date
Proposed Modeling Scenarios	12/15/2022
Conceptual Alternatives	03/15/2023
Preferred Alternative Development	04/28/2023
Flood Reduction and Redevelopment Report	06/30/2023

Deschutes River Flood Reduction Study

Client: City of Tumwater
PM: Richards, Joe
PTL: Whitten, Zach

[illegible]


Stantec Consulting Services Inc.

601 SW Second Avenue, Suite 1400
Portland OR 97204-3128

Proposed Budget

Top Task/Deliverable	Top Task Budget
Task 1: Project Administration/Management	\$38,042
Task 2: Literature Review and Project Conceptualization	\$29,374
Task 3: Data Collection and Gap Analysis	\$18,323
Task 4: Hydraulic Modeling and Reporting	\$91,797
Task 5: Flood Reduction and Redevelopment Report	\$99,825
Total Project Cost	\$277,361

Respectfully,

STANTEC CONSULTING SERVICES INC.

Joe Richards PE, CWRE
Stantec
Principal Engineer
Mobile: 503-830-9669
joe.richards@stantec.com

SERVICE PROVIDER RETIREMENT STATUS FORM

Complete this form for each owner, and each employee, independent contractor or person providing service to the City of Tumwater.

I have retired from a Washington State Retirement System using the 2008 Early Retirement Factor?

☐ Yes

☐ No

I verify the information above is true and correct.

Name of Owner, Employee, Independent Contractor or Person: (Please print)

Social Security Number (If answering "yes" above)

Signature

Date

TO: Public Works Committee
FROM: Dan Smith, Water Resources and Sustainability Director
DATE: August 4, 2022
SUBJECT: East Linwood Basin Stormwater Retrofit Discussion

1) Recommended Action:

None. This item is for discussion only.

2) Background:

The East Linwood Basin Outfall currently drains an approximately 92 acre basin without any stormwater treatment directly into the Deschutes River. The City of Tumwater received funding from the Department of Ecology in 2015 to design a stormwater treatment system at the end of the outfall, near the walking trail of the Valley Athletic Club. In the seven years since designs were completed, the Department of Ecology has decided they will no longer fund projects that impact wetlands or wetland buffers. Staff will review the alternatives identified by our consultant, JSA Civil, LLC, and a project prioritization matrix, to seek Council feedback on potential future work under this grant.

3) Policy Support:

Strategic Priority F – Be a Leader in Environmental Sustainability, specifically

- Enhance salmon runs

4) Alternatives:

☐ None

5) Fiscal Notes:

The City received a \$169,720 grant from the Department of Ecology to complete an alternatives analysis, design, and permitting for this project. The City has approximately \$60,000 allocated to complete an alternatives analysis of options for treating stormwater within the basin, which is considered Phase 1 of the project. If the City and Department of Ecology can agree on the best alternative to move forward with in Phase 2, then the City has the remaining \$110,000 to complete final designs and permitting for a stormwater solution for the basin. If no agreement can be reached, the remaining funds are returned to the Department of Ecology.

6) Attachments:

None

TO: Public Works Committee
FROM: Dan Smith, Water Resources & Sustainability Director
DATE: August 4, 2022
SUBJECT: FY 2021-2023 Water Quality Stormwater Capacity Agreement

1) Recommended Action:

Staff requests the Public Works Committee recommend the City Council approve and authorize the Mayor to sign the Water Quality Stormwater Capacity Agreement, in substantially similar form as approved by the city attorney, with the Washington Department of Ecology for \$50,000, for stormwater program implementation, and a forthcoming amendment for \$25,000 when available from the State.

2) Background:

The state legislature provides funds to assist communities with implementation of comprehensive stormwater programs, as required by the City's stormwater permit, to help improve water quality by reducing stormwater pollutants discharged to state water bodies.

3) Policy Support:

F. Be a Leader in Environmental Sustainability

4) Alternatives:

- ☐ Accept the funding and approve grant.
 - ☐ Reject funding.
-

5) Fiscal Notes:

This grant requires no matching funds by the City. The grant funds \$50,000 of the City's stormwater program, from July 1, 2021 through March 31, 2023. An additional \$25,000 has been authorized by the State, and will be available shortly after an amendment has been executed.

6) Attachments:

A. Water Quality Stormwater Capacity Agreement



Agreement No. WQSWCAP-2123-Tumwat-00217

WATER QUALITY STORMWATER CAPACITY 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:	2021-2023 Biennial Stormwater Capacity Grants
Total Cost:	\$50,000.00
Total Eligible Cost:	\$50,000.00
Ecology Share:	\$50,000.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	07/01/2021
The Expiration Date of this Agreement is no later than:	03/31/2023
Project Type:	Capacity Grant

Project Short Description:

This project will assist Phase I and II Permittees in implementation or management of municipal stormwater programs.

Project Long Description:

N/A

Overall Goal:

This project will improve water quality in the State of Washington by reducing stormwater pollutants discharged to state water bodies.

Agreement No: WQSWCAP-2123-Tumwat-00217
Project Title: 2021-2023 Biennial Stormwater Capacity Grants
Recipient Name: City of Tumwater

RECIPIENT INFORMATION

Organization Name: City of Tumwater

Federal Tax ID: 91-6001520

DUNS Number: 038517355

UEI Number: LLLDHHS4E5G1

Mailing Address: 555 Israel Road SW
Tumwater, WA 98501

Physical Address: 555 Israel Road SW
Tumwater, Washington 98501

Contacts

Agreement No: WQSWCAP-2123-Tumwat-00217
Project Title: 2021-2023 Biennial Stormwater Capacity Grants
Recipient Name: City of Tumwater

Project Manager	Dave Kangiser Water Resources Specialist 555 Israel Road SW Tumwater, Washington 98501 Email: dkangiser@ci.tumwater.wa.us Phone: (360) 754-4140
Billing Contact	Tami Petterson Department Assistant II 555 Israel Road SW Tumwater, Washington 98501 Email: tpetterson@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

Agreement No: WQSWCAP-2123-Tumwat-00217
Project Title: 2021-2023 Biennial Stormwater Capacity Grants
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	Kyle Graunke PO Box 47600 Olympia, Washington 98504-7600 Email: kygr461@ecy.wa.gov Phone: (360) 407-6452
Financial Manager	Kyle Graunke PO Box 47600 Olympia, Washington 98504-7600 Email: kygr461@ecy.wa.gov Phone: (360) 407-6452

Agreement No: WQSWCAP-2123-Tumwat-00217
Project Title: 2021-2023 Biennial Stormwater Capacity Grants
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

By: _____

By: _____

Vincent McGowan, P.E.

Date

Dan Smith

Date

Water Quality

Director

Program Manager

Template Approved to Form by
Attorney General's Office

Agreement No: WQSWCAP-2123-Tumwat-00217
Project Title: 2021-2023 Biennial Stormwater Capacity Grants
Recipient Name: City of Tumwater

Debbie Sullivan

Mayor Date

Agreement No: WQSWCAP-2123-Tumwat-00217
 Project Title: 2021-2023 Biennial Stormwater Capacity Grants
 Recipient Name: City of Tumwater

SCOPE OF WORK

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

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and a recipient closeout report (including photos).

B. The RECIPIENT shall maintain documentation demonstrating compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

C. The RECIPIENT shall manage the project. Efforts include, but are not limited to: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant and 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.

Recipient Task Coordinator: Tami Peterson

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Progress Reports that include descriptions of work accomplished, project challenges, and changes in the project schedule. Submitted at least quarterly in EAGL.	
1.2	Recipient Closeout Report (EAGL Form).	
1.3	Two-page draft and Final Outcome Summary Reports.	

Agreement No: WQSWCAP-2123-Tumwat-00217
Project Title: 2021-2023 Biennial Stormwater Capacity Grants
Recipient Name: City of Tumwater

SCOPE OF WORK

Task Number: 2 **Task Cost:** \$48,500.00

Task Title: Permit Implementation

Task Description:

Conduct work related to implementation of municipal stormwater National Pollutant Discharge Elimination System (NPDES) permit requirements. If the RECIPIENT is out of compliance with the municipal stormwater National Pollutant Discharge Elimination System (NPDES) permit, the RECIPIENT will ensure funds are used to attain compliance where applicable. The following is a list of elements RECIPIENT's project may include.

- 1) Public education and outreach activities, including stewardship activities.
 - 2) Public involvement and participation activities.
 - 3) Illicit discharge detection and elimination (IDDE) program activities, including:
 - a) Mapping of municipal separate storm sewer systems (MS4s).
 - b) Staff training.
 - c) Activities to identify and remove illicit stormwater discharges.
 - d) Field screening procedures.
 - e) Complaint hotline database or tracking system improvements.
 - 4) Activities to support programs to control runoff from new development, redevelopment, and construction sites, including:
 - a) Development of an ordinance and associated technical manual or update of applicable codes.
 - b) Inspections before, during, and upon completion of construction, or for post-construction long-term maintenance.
 - c) Training for plan review or inspection staff.
 - d) Participation in applicable watershed planning effort.
 - 5) Pollution prevention, good housekeeping, and operation and maintenance program activities, such as:
 - a) Inspecting and/or maintaining the MS4 infrastructure.
 - b) Developing and/or implementing policies, procedures, or stormwater pollution prevention plans at municipal properties or facilities.
 - 6) Annual reporting activities.
 - 7) Establishing and refining stormwater utilities, including stable rate structures.
 - 8) Water quality monitoring to implement permit requirements for a Water Cleanup Plan (TMDL). Note that any monitoring funded by this program requires submittal of a Quality Assurance Project Plan (QAPP) that the DEPARTMENT approves prior to awarding funding for monitoring.
- Monitoring, including:
- a) Development of applicable QAPPs.
 - b) Monitoring activities, in accordance with a DEPARTMENT- approved QAPP, to meet Phase I/II permit requirements.
- 9) Structural stormwater controls program activities (Phase I permit requirement)
- 10) Source control for existing development (Phase I permit requirement), including:
 - a) Inventory and inspection program.
 - b) Technical assistance and enforcement.
 - c) Staff training.
- 11) Equipment purchases that result directly in improved permit compliance. Equipment purchases must be specific to implementing a permit requirement (such as a vacuum truck) rather than general use (such as a pick-up truck). Equipment

Agreement No: WQSWCAP-2123-Tumwat-00217
 Project Title: 2021-2023 Biennial Stormwater Capacity Grants
 Recipient Name: City of Tumwater

purchases over \$5,000 must be pre-approved by Ecology.

Documentation of all tasks completed is required. Documentation may include: field reports, dates and number of inspections conducted, dates of trainings held and participant lists, number of illicit discharges investigated and removed, summaries of planning, stormwater utility or procedural updates, annual reports, copies of approved QAPPs, summaries of structural or source control activities, summaries of how equipment purchases have increased or improved permit compliance. Capital construction projects, incentives or give-a-ways, grant application preparation, TAPE review for proprietary treatment systems, or tasks that do not support Municipal Stormwater Permit implementation are not eligible expenses.

Task Goal Statement:

This task will improve water quality in the State of Washington by reducing the pollutants delivered by stormwater to lakes, streams, and the Puget Sound by implementing measures required by Phase I and II NPDES permits.

Task Expected Outcome:

RECIPIENTS will implement measures required by Phase I and II NPDES permits.

Recipient Task Coordinator: Dave Kangiser

Permit Implementation

Deliverables

Number	Description	Due Date
2.1	Documentation of tasks completed	

Agreement No: WQSWCAP-2123-Tumwat-00217
 Project Title: 2021-2023 Biennial Stormwater Capacity Grants
 Recipient Name: City of Tumwater

BUDGET

Funding Distribution EG220381

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: 2021-23 capacity grant Funding Type: Grant
 Funding Effective Date: 07/01/2021 Funding Expiration Date: 03/31/2023
 Funding Source:

Title: Model Toxics Control Operating Account (MTCOA)

Fund:

Type: State

Funding Source %: 100%

Description: MTCA

Approved Indirect Costs Rate: Approved State Indirect Rate: 30%
 Recipient Match %: 0%
 InKind Interlocal Allowed: No
 InKind Other Allowed: No
 Is this Funding Distribution used to match a federal grant? No

2021-23 capacity grant	Task Total
Project Administration/Management	\$ 1,500.00
Permit Implementation	\$ 48,500.00

Total: \$ 50,000.00

Agreement No: WQSWCAP-2123-Tumwat-00217
 Project Title: 2021-2023 Biennial Stormwater Capacity Grants
 Recipient Name: City of Tumwater

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
2021-23 capacity grant	0.00 %	\$ 0.00	\$ 50,000.00	\$ 50,000.00
Total		\$ 0.00	\$ 50,000.00	\$ 50,000.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

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 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

Agreement No: WQSWCAP-2123-Tumwat-00217
Project Title: 2021-2023 Biennial Stormwater Capacity Grants
Recipient Name: City of Tumwater

Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.

8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

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

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

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

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

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

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

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;
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) <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) <https://sam.gov/SAM> exclusion list.

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GENERAL TERMS AND CONDITIONS

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

GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

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.

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- 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.

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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.

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

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

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

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

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

12. ENVIRONMENTAL DATA STANDARDS

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

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

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

<http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at:

<https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

13. GOVERNING LAW

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

14. INDEMNIFICATION

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

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

15. INDEPENDENT STATUS

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

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16. KICKBACKS

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

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

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

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

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

18. ORDER OF PRECEDENCE

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

19. PRESENTATION AND PROMOTIONAL MATERIALS

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

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

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

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

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

20. PROGRESS REPORTING

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

21. PROPERTY RIGHTS

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

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22. RECORDS, AUDITS, AND INSPECTIONS

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

All records shall:

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

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

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced.

Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

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

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

23. RECOVERY OF FUNDS

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

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

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

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

24. SEVERABILITY

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

25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

26. SUSPENSION

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.

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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

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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