



**CITY OF
TUMWATER
CITY COUNCIL
MEETING AGENDA**

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

**Tuesday, July 02, 2024
7:00 PM**

- 1. Call to Order**
- 2. Roll Call**
- 3. Flag Salute**
- 4. Special Items:**
 - a. TumHOPES: Reintroduction to Community Partners by Courtney Fuller, Coalition Coordinator
 - b. Davis Meeker Garry Oak Tree RFQ Briefing (Executive Department)
- 5. Public Comment:** (for discussion of items not having a public hearing on tonight's agenda)
- 6. Consent Calendar:**
 - a. Payment of Vouchers (Finance Department)
 - b. Intergovernmental EMS Contract Funding Amendment No. 2 – SWAT Medic (Public Health & Safety Committee)
 - c. Golf Course Stormwater Retrofit Grant Agreement with Dept of Ecology Amendment 1 (Water Resources & Sustainability)
 - d. Reappointment of David Bills, Brian Reynolds and Satpal Sohal to the Lodging Tax Advisory Committee (Executive Department)
- 7. Council Considerations:**
 - a. Pioneer Park EV Charger Capital Agreement with Department of Commerce (Water Resources & Sustainability Department)
 - b. Service Provider Agreement with Barker Rinker Seacat Architecture for Community Center Design (Parks & Recreation Department)
 - c. Contract Approval for an 8-Year Multifamily Tax Exemption for the Rookery Apartments (TUM-24-0714) (General Government Committee)
- 8. Committee Reports**
 - a. Public Health and Safety Committee (Peter Agabi)
 - b. General Government Committee (Michael Althausen)

- c. Public Works Committee (Eileen Swarthout)
- d. Budget and Finance Committee (Debbie Sullivan)

9. Mayor/City Administrator's Report

10. Councilmember Reports

11. Any Other Business

12. Adjourn

Hybrid Meeting Information

The public are welcome to attend in person, by telephone or online via Zoom. https://us02web.zoom.us/webinar/register/WN_79Rlj3kfS_KWsYWxUv3MJA

Watch Online

Go to and enter the Webinar ID 846 8329 5451 and Passcode 367656.

Listen by Telephone

Call (253) 215-8782, listen for the prompts and enter the Webinar ID 846 8329 5451 and Passcode 367656.

Public and Written Comment

Attend in person to give public comment or register by 6:45 p.m. the day of the meeting to provide public comment using the web-based meeting platform: Council@ci.tumwater.wa.us

After registering, you will receive a confirmation email with a login to join the online meeting.

As an alternative, prior to the meeting, the public may submit comments by sending an email to , no later than 5:00 p.m. on the day of the meeting. Comments are submitted directly to the Mayor and City Councilmembers and will not be read individually into the record of the meeting.

Post Meeting

Video recording of this meeting will be available within 24 hours of the meeting.

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) 754-4129 or email ADACoordinator@ci.tumwater.wa.us

TO: City Council
FROM: Lisa Parks, City Administrator
DATE: July 2, 2024
SUBJECT: Davis Meeker Garry Oak Tree RFQ Briefing

1) Recommended Action:

No action is requested. This item is for review and discussion only.

2) Background:

Located adjacent to the Olympia Regional Airport and within the right of way of Old Highway 99 is a large Oregon White Oak (*Quercus Garryana*) tree that is estimated to be at least 400 years old. Named the “Davis Meeker Garry Oak Tree”, it has been a fixture in the community and a treasured landmark located along the historic northern branch of the Oregon Trail – the Cowlitz Trail – including serving as a significant trail of trade and commerce for Native American tribes in the area.

In the spring of 2023, an 18-inch-diameter branch fell from about 50 feet above the ground, landing partly in the southbound lane of Old Hwy 99. Because of the amount of visible decay in the failed branch and in the main stem at its connection; its proximity to several structures; and due to the large number of vehicles and people that move near and under the tree on a daily basis, the City commissioned a detailed analysis of the tree's health.

A Level 3 Tree Risk Assessment was performed by a team of ISA Certified TRAQ Arborists, led by the City's contracted tree professional with assistance by two subconsultants including a climbing arborist to assess the upper canopy and a sonic tomography specialist to help evaluate the presence and extent of decay in the tree's interior. The results of the assessment concluded there was a high risk of future failures impacting surrounding targets, and although mitigation options were considered, the final recommendation from the City's contracted tree professional was to remove the tree. Based on the Level 3 Tree Risk Assessment, the Mayor initially directed staff to remove the tree.

Because of the Davis Meeker Garry Oak tree's importance to the culture, history and environment of the region, there have been numerous requests to consider alternatives to removal of the tree. While the City remains confident in the team of arborists' expertise and professionalism in conducting the initial assessment of the tree, the Mayor has determined further assessment is warranted before making a final decision.

Although it is not required for this project, staff has prepared a Request for Qualifications (attached) soliciting interest from qualified arborists to conduct a Level 3 Tree Risk Assessment to ensure transparency in the selection process. The RFQ outlines the minimum qualifications required to perform the assessment, as well as identifying a scope of services and a timeline for making a decision to hire the consulting arborist. The RFQ will be issued on Wednesday, July 3, 2024, with selection of the arborist expected to occur by July 24, 2024. Council Member feedback at the meeting is appreciated.

3) Policy Support:

Provide and Sustain Quality Public Safety Services

4) Alternatives:

Not applicable.

5) Fiscal Notes:

The cost of the second Level 3 Tree Risk Assessment is unknown at this point but is expected to be within the delegated authority of the Mayor.

6) Attachments:

- A. Final Draft Request for Qualifications
- B. RFQ Distribution List

**CITY OF TUMWATER
REQUEST FOR QUALIFICATIONS
DAVIS MEEKER GARRY OAK TREE
LEVEL 3 TREE RISK ASSESSMENT**

I. PURPOSE OF REQUEST

The City of Tumwater (“City”) is soliciting interest from ISA Board Certified Master Arborists who are Tree Risk Assessment Qualified (TRAQ) with expertise in conducting Level 3 Tree Risk Assessments using tree risk assessment standards as outlined in the 2023 ANSI A300 Tree Care Standards. Respondents must be experienced in high value risk management assessments including modern tree assessment techniques such as, but not limited to, sonic tomography, aerial inspection and evaluation in high stems and branches, and in various decay testing methodologies. Respondents must be an American Society of Consulting Arborists (ASCA) Registered Consulting Arborist located within 250 miles of the City, as identified on the ASCA website. The City’s needs are outlined in the following Request for Qualifications (“RFQ”).

Background Information: Located adjacent to the Olympia Regional Airport and within the right of way of Old Highway 99 is a large Oregon White Oak (*Quercus Garryana*) tree that is estimated to be at least 400 years old. Named the “Davis Meeker Garry Oak Tree”, it has been a fixture in the community and a treasured landmark located along the historic northern branch of the Oregon Trail – the Cowlitz Trail – including serving as a significant trail of trade and commerce for Native American tribes in the area.

In the spring of 2023, an 18-inch-diameter branch fell from about 50 feet above the ground, landing partly in the southbound lane of Old Hwy 99. Because of the amount of visible decay in the failed branch and in the main stem at its connection; its proximity to several structures; and due to the large number of vehicles and people that move near and under the tree on a daily basis, the City commissioned a detailed analysis of the tree's health.

A Level 3 Tree Risk Assessment was performed by a team of ISA Certified TRAQ Arborists, led by the City’s contracted tree professional with assistance by two subconsultants including a climbing arborist to assess the upper canopy and a sonic tomography specialist to help evaluate the presence and extent of decay in the tree’s interior. The results of the assessment concluded there was a high risk of future failures impacting surrounding targets, and although mitigation options were considered, the final recommendation from the City’s contracted tree professional was to

remove the tree. Based on the Level 3 Tree Risk Assessment, the Mayor initially directed staff to remove the tree.

Because of the Davis Meeker Garry Oak tree’s importance to the culture, history and environment of the region, there have been numerous requests to consider alternatives to removal of the tree. While the City remains confident in the team of arborists’ expertise and professionalism in conducting the initial assessment of the tree, the Mayor has determined further assessment is warranted before making a final decision.

II. TIME SCHEDULE

The City will follow the following timetable:

Issue RFQ	July 3, 2024
Deadline for Submittal of Responses to RFQ	July 18, 2024
Selection of Firms to Interview, if needed	July 19, 2024
Interview Firms, if needed	July 23, 2024
Notify Firm Selected	July 24, 2024

III. INSTRUCTIONS TO PROPOSERS

A. All Responses to RFQs shall be sent to:

Lisa Parks, City Administrator
City of Tumwater
555 Israel Road SW
Tumwater, WA 98501
(360) 754-4120 ext. 2010
Email: lparks@ci.tumwater.wa.us

B. Please email one copy of your Statement of Qualifications ("SOQ") to Lisa Parks, lparks@ci.tumwater.wa.us, with the subject line: *"Statement of Qualification for Davis Meeker Garry Oak Tree Level 3 Tree Risk Assessment."* No faxed or telephone statements will be accepted. If you do not have access to email, one hardcopy original may be mailed to the address above.

C. All SOQ's must be received by **July 18, 2024, 4:00 PM** at which time they will be opened.

- D. SOQ's should be prepared simply and economically, providing a straight forward, concise description of provider capabilities to satisfy the requirements of the request. Special bindings, colored displays, promotional materials, etc. are not desired. Emphasis should be on completeness and clarity of content. Use of recycled paper for requests and any printed or photocopied material created pursuant to a contract with the City is desirable whenever practicable. Use of both sides of paper sheets for any submittals to the City is desirable whenever practicable.
- E. Lisa Parks, City Administrator or representative will notify the firm selected by July 24, 2024.
- F. Any questions concerning the City's specifications or RFQ process shall be directed to Lisa Parks, City Administrator.
- G. All SOQ's must include the following information:
 - The name and qualifying certifications of the ASCA Registered Consulting Arborist who will be directing and overseeing the work and signing the final report. If there are additional individuals conducting different components of the work, please also provide their name and qualifying certifications and their areas of responsibility.
 - Specific experience of individuals relative to the proposed project.
 - A proposed approach for completing the Level 3 Tree Risk Assessment using tree risk assessment standards as outlined in the 2023 ANSI A300 Tree Care Standards, including a categorization of risk based on the combined likelihood of a failure impacting a target; a recommendation regarding methodologies to reduce the level of risk; identifying the risk level that can be achieved by those methodologies; and, cost estimates for implementing the methodologies.
 - The hourly labor charge rate of personnel working on the project.
 - References.

IV. SELECTION CRITERIA

SOQs will be evaluated as follows:

<u>Factor</u>	<u>Weight Given</u>
1. Responsiveness of the SOQ to the purpose and scope of services.	40%

2. Ability and history of successfully completing Level 3 Tree Risk Assessments using ANSI A300 Tree Care Standards.	50%
3. References, key personnel.	<u>10%</u>
Total Criteria Weight	100%

Each SOQ will be independently evaluated on factors 1 through 3.

V. TERMS AND CONDITIONS

- A. The City reserves the right to reject any and all SOQ's, and to waive minor irregularities in any SOQ.
- B. The City reserves the right to request clarification of information submitted, and to request additional information from any contractor.
- C. The City reserves the right to award any contract to the next most qualified contractor, if the successful contractor does not execute a contract within thirty (30) days after the selection of the contractor.
- D. Any SOQ may be withdrawn up until the date and time set above for opening of the SOQ's. Any SOQ not so timely withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days to provide to the City the services described in the attached specifications, or until one or more of the SOQ's have been approved by the City administration, whichever occurs first.
- E. The contract resulting from acceptance of a SOQ by the City shall be in a form supplied or approved by the City, and shall reflect the specifications in this RFQ. A copy of the contract is available for review. The City reserves the right to reject any proposed agreement or contract that does not conform to the specifications contained in this RFQ, and which is not approved by the City Attorney's office.
- F. The City shall not be responsible for any costs incurred by the firm in preparing, submitting or presenting its response to the RFQ.

VI. SCOPE OF SERVICES

The City of Tumwater (“City”) is soliciting interest from ISA Board Certified Master Arborists who are Tree Risk Assessment Qualified (TRAQ) with expertise in conducting Level 3 Tree Risk Assessments using tree risk assessment standards as outlined in the 2023 ANSI A300 Tree Care Standards. Respondents must be experienced in high value risk management assessments including modern tree assessment techniques such as, but not limited to, sonic tomography, aerial inspection

and evaluation in high stems and branches, and in various decay testing methodologies. Respondents must be an American Society of Consulting Arborists (ASCA) Registered Consulting Arborist located within 250 miles of the City, as identified on the ASCA website.

Conduct a Level 3 Tree Risk Assessment using tree risk assessment standards as outlined in the 2023 ANSI A300 Tree Care Standards, including a categorization of the risk associated with the combined likelihood of a failure impacting a target. If the results of the Level 3 Tree Risk Assessment indicate a “moderate”, “high” or “extreme” risk rating, provide a recommendation regarding methodologies to reduce the level of risk, identify what level of risk can be achieved by those different methodologies, and provide cost estimates. Time is of the essence, and this work should be completed as quickly as possible.

VII. COMPENSATION

- A. Upon selection of the most qualified firm on the basis of demonstrated competence and qualifications for the type of professional services required, the City will negotiate a price which it determines is fair and reasonable. If the City is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm will terminate and the City may select another firm.
- B. Payment by the City for the services will only be made after the services have been performed, an itemized billing statement is submitted in the form specified by the City and approved by the appropriate City representative, which shall specifically set forth the services performed, the name of the person performing such services, and the hourly labor charge rate for such person. Payment shall be made on a monthly basis, thirty (30) days after receipt of such billing statement.

**Request for Qualifications: Davis Meeker Garry Oak Tree Level 3 Tree Risk Assessment
 ASCA Registered Consulting Arborists within 250 Miles of the City of Tumwater
 As identified on the American Society of Consulting Arborists Website on June 25, 2024**

Name/Company	RCA #
Alan Haywood	Not Listed
Alby Thoumsin	452
Andy Crossett	Not Listed
Anna Heckman	Not Listed
Ashley Adams	Not Listed
Brandon H Namm	799
Brian Gilles	418
Brooke K. Sullivan	541
Cassie Sigloh	Not Listed
Charles Burget	Not Listed
Christopher White	728
Corinne Hollister	Not Listed
David Braun Ph. D	Not Listed
David D. Hunter	408
Douglas Smith	Not Listed
Favero Greenforest	379
Frank Krawczyk	725
Galen Wright	Not Listed
Holly Iosso	567
Ian Scott	698

Jeff Day	525
Jessica Mullin	765
Jim Barborinas	356
John Bornsworth	724
John T. Sinclair	Not Listed
Jonathan D. Brown	Not Listed
Justina Kraus	Not Listed
Katy Bigelow	490
Kurt E. Fickeisen	472
Kyle Offerdahl, TPAQ	714
Linda Chalker-Scott Ph. D	Not Listed
Lou Phemister	590
Mike Morey Jr.	Not Listed
Miles Becker	798
Morgan Holen	Not Listed
Nicholas Johnson	Not Listed
Paul H. Thompson	509
Peter Van Oss	826
Rick Till	Not Listed
Robert Layton	670
Ryan Gilpin	754
Scott Baker	Not Listed

Scott Selby	Not Listed
Sean Dugan	457
Sibyl Weise	817
Stephen Cushing	773
Terrence Flanagan	Not Listed
Thomas Bradley Jr.	Not Listed
Thomas Hanson	499
Todd Prager	597
Tom T. Smiley Ph. D.	635
Tristan Fields	Not Listed
Tyler Holladay	Not Listed
William Mellott	837
Zeb Haney	616

TO: City Council
 FROM: Shelly Carter, Assistant Finance Director
 DATE: July 02, 2024
 SUBJECT: Payment of Vouchers

1) Recommended Action:

Staff is seeking City Council ratification of:

- June 14, 2024, payment of Eden vouchers 174076 to 174101 in the amount of \$333,084.98 and electronic payments 903014 to 903027 in the amount of \$178,004.56 and wire payments in the amount of \$251,134.62; and Enterprise vouchers 183657 to 183736 in the amount of \$218,187.86 and electronic payments 904386 to 904407 in the amount of \$100,269.83.
- June 21, 2024, payment of Eden vouchers 174102 to 174106 in the amount of \$570.57; and Enterprise vouchers 183737 to 183793 in the amount of \$362,061.86 and electronic payments 904408 to 904429 in the amount of \$790,537.85.

2) Background:

The City pays vendors monthly for purchases approved by all departments. The Finance Director has reviewed and released the payments as certified on the attached Exhibit(s). The full voucher listings are available upon request of the Assistant Finance Director. The most significant payments* were:

Vendor		
CITY OF OLYMPIA	45,200.00	MARK NOBLE TRAINING CENTER AGREEMENT 2 ND HALF 2024
GORDON PRODUCTS, INC	25,224.69	WRS NEW OFFICE FURNITURE 50%
J.A. MORRIS CONSTRUCTION, LLC	35,647.14	WRS RELOCATION CONSTRUCTION TENANT IMPROVEMENTS
CLARY LONGVIEW, LLC	57,914.87	2024 FORD F150 LIGHTNING – WRS OPERATIONS
AWC EMPLOYEE BENEFIT TRUST	142,792.24	JUNE COLLECTIONS JULY PREMIUMS
FEHR & PEERS	50,077.80	TRANSPORTATION MASTER PLAN & IMPACT FEES
NISQUALLY INDIAN TRIBE	40,404.00	INCARCERATION & BOOKING FEES, MAY 2024
LEOFF HEALTH & WELFARE TRUST	53,537.38	JUNE COLLECTIONS FOR JULY PREMIUMS POL MD
LOTT WASTEWATER ALLIANCE	715,267.95	MAY 2024 LOTT FEES

* Includes vouchers in excess of \$20,000, excluding routine utility payments.

3) Policy Support:

- Strategic Goals and Priorities: Fiscally responsible and develop sustainable financial

- strategies.
- Vision Mission Beliefs-Excellence: Efficient stewards of public resources, building public trust through transparency.
-

4) Alternatives:

- Ratify the vouchers as proposed.
 - Develop an alternative voucher review and approval process.
-

5) Fiscal Notes:

The vouchers are for appropriated expenditures in the respective funds and departments.

6) Attachments:

- A. Exhibit A – Payment of Vouchers – Review and Approval
- B. Exhibit B – Payment of Vouchers – Review and Approval

EXHIBIT "A"

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the City of Tumwater, and that I am authorized to authenticate and certify to said claim.

Enterprise ERP

Voucher/Check Nos 183657 through 183736 in the amount of \$218,187.86

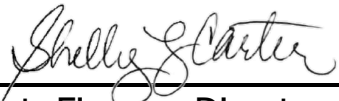
Electronic payment Nos 904386 through 904407 in the amount of \$100,269.83

Eden

Voucher/Check Nos 174076 through 174101 in the amount of \$333,084.98

Electronic payment Nos 903014 through 903027 in the amount of \$178,004.56

Wire payment in the amount of \$251,134.62



Asst. Finance Director, on behalf of the Finance Director

Checks dated 06/14/2024

EXHIBIT "B"

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the City of Tumwater, and that I am authorized to authenticate and certify to said claim.

Enterprise ERP

Voucher/Check Nos 183737 through 183793 in the amount of \$362,061.86

Electronic payment Nos 904408 through 904429 in the amount of \$790,537.85

Eden

Voucher/Check Nos 174102 through 174106 in the amount of \$570.57



Asst. Finance Director, on behalf of the Finance Director

Checks dated 06/14/2024

TO: City Council
FROM: Shawn Crimmins
DATE: July 2, 2024
SUBJECT: Intergovernmental EMS Contract Funding Amendment No. 2 – SWAT Medic

1) Recommended Action:

Authorize the Mayor to sign the Intergovernmental EMS Contract Funding Amendment No. 2 with Thurston County Medic One.

At the June 11, 2024, Public Health and Safety Committee meeting, the amendment was recommended for approval on the consent calendar.

2) Background:

The City of Tumwater and Thurston County entered into an Intergovernmental EMS Contract on January 1, 2023. Section XIX of the Contract provided that any modifications to the Contract be in writing and signed by both parties. The County and Agency desire to amend the Contract to provide for the training and staffing of the SWAT paramedic program in Thurston County.

The purpose of this amendment is to outline the funding/reimbursement process from Medic One for the SWAT Medic. Section V.3 states “The COUNTY agrees to pay up to \$25,000 solely for salaries and benefits resulting from training and response for designated SWAT paramedics”. The City will also be required to execute a separate interlocal operating agreement with the law enforcement agency or consortium providing SWAT services.

3) Policy Support:

- Strategic Priorities and Goals 2023-24: Provide and Sustain Quality Public Safety Services
-

4) Alternatives:

- Do not recommend adoption.
-

5) Fiscal Notes:

The City will compensate paramedic employees engaged in SWAT support activities under the existing labor contract. Under this agreement, the City will then seek reimbursement through Medic One.

6) Attachments:

- A. Intergovernmental EMS Contract Advanced Life Support (ALS) Funding Amendment No. 2

INTERGOVERNMENTAL EMS CONTRACT
Advanced Life Support (ALS) Funding
Amendment No. 2

THIS Second Amendment is made and entered into in duplicate originals this ____ day of _____, 2024, by and between the **COUNTY OF THURSTON**, a municipal corporation, hereinafter referred to as the "COUNTY" and the **CITY OF TUMWATER**, a municipal corporation, hereinafter referred to as the "AGENCY".

- A. The County and the Agency entered into an Intergovernmental EMS Contract on January 1, 2023, amended by First Amendment dated November 21, 2023 (collectively the "Contract").
- B. Section XIX of the Contract provided that any modifications of the Contract be in writing and signed by both parties.
- C. The County and Agency desire to amend the Contract to provide for the training and staffing of the SWAT paramedic program in Thurston County.

Now, therefore, in consideration of the mutual benefits and covenants contained herein, the parties agree to the following terms and conditions:

1. Agency Obligations

Section IV, Compensation and Method of Payment, of the Contract is amended to include a new subsection V as follows:

- V. The COUNTY shall budget \$75,000 annually for SWAT paramedic salary and benefit support. Each of the three (3) EMS/ALS contract agencies shall be allowed 1 designated SWAT paramedic annually that has been identified by the AGENCY and that has been approved by the Thurston County Sherriff's Office or other SWAT agency and the Thurston County Medical Program Director. The funding per agency shall be limited to \$25,000 annually per designated SWAT paramedic. The AGENCY may choose to release its designated SWAT paramedic position to another ALS contract agency through written notification of the transfer to the COUNTY. Fund eligibility is incumbent on a fully executed intergovernmental agreement between the AGENCY and the Thurston County Sherriff's Office. The following obligations for the COUNTY and the AGENCY apply:

1. The AGENCY shall coordinate and effectively communicate with the COUNTY and other ALS contract agencies regarding incident response, training, and employee performance.
2. The AGENCY agrees to meet and coordinate efforts with the Thurston County Sherriff's Office or other SWAT agency, including fully executing an intergovernmental agreement, to ensure an efficient, coordinated, and harmonized response by SWAT in the event of an emergency. Response and training shall follow standard Incident Command System (ICS) in compliance with National Incident Management System (NIMS).
3. The COUNTY agrees to pay up to \$25,000 solely for salaries and benefits resulting from training and response for designated SWAT paramedics.

4. The COUNTY agrees to provide medical equipment as defined in the Contract.

2. Full Force and Effect

All other terms and conditions of the Contract not modified by the Amendment shall remain in full force and effect.

Dated the effective date set forth above.

CITY OF TUMWATER

BOARD OF COUNTY COMMISSIONERS

Debbie Sullivan
Mayor

Director, Ben Miller-Todd
THURSTON COUNTY EMERGENCY SERVICES

ATTEST:

CLERK CITY OF TUMWATER

APPROVED AS TO FORM:

JON TUNHEIM
PROSECUTING ATTORNEY

By: Karen Kirkpatrick, City Attorney

By: Rick Peters, Deputy Prosecuting Attorney

TO: City Council
 FROM: Dan Smith, Water Resources & Sustainability Director
 DATE: July 2, 2024
 SUBJECT: Golf Course Stormwater Retrofit Grant Agreement with Dept of Ecology Amendment 1

1) Recommended Action:

Approve and authorize the Mayor to sign Golf Course Stormwater Retrofit Grant Agreement with Dept of Ecology Amendment 1, via Council Consent calendar.

This grant agreement was recommended for approval and authorization by the Public Works Committee at their June 6, 2024 meeting.

2) Background:

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

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

3) Policy Support:

Strategic Priority B – Be a Leader in Environmental Sustainability

4) Alternatives:

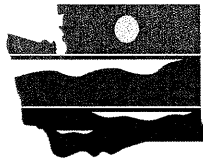
Request changes to the proposed grant agreement amendment.

5) Fiscal Notes:

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

6) Attachments:

- A. Original Grant Agreement
- B. Golf Course Stormwater Retrofit Grant Agreement with Dept of Ecology Amendment 1



DEPARTMENT OF
ECOLOGY
State of Washington

Agreement No. WQC-2023-Tumwat-00051

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF TUMWATER

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

GENERAL INFORMATION

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

Project Short Description:

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

Project Long Description:

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

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

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

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

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

Overall Goal:

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

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

RECIPIENT INFORMATION

Organization Name: City of Tumwater

Federal Tax ID: 91-6001520
UEI Number: LLLDHHS4E5G1

Mailing Address: 555 Israel Road SW
Tumwater, WA 98501

Physical Address: 555 Israel Road SW
Tumwater, Washington 98501

Contacts

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

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

State of Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

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

Recipient Name: City of Tumwater

ECOLOGY INFORMATION

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

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

Contacts

<p>Project Manager</p>	<p>Charlie Hohlbein</p> <p>PO Box 47775 Olympia, Washington 98504-7775 Email: CHO461@ecy.wa.gov Phone: (360) 485-2474</p>
<p>Financial Manager</p>	<p>Melissa Conger</p> <p>PO Box 47600 Olympia, Washington 98504-7600 Email: MECO461@ecy.wa.gov Phone: (360) 706-4204</p>
<p>Technical Advisor</p>	<p>Doug Howie Senior Stormwater Engineer</p> <p>PO Box 47600 Olympia, Washington 98504-7600 Email: doho461@ecy.wa.gov Phone: (360) 870-0983</p>

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

AUTHORIZING SIGNATURES

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

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

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

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

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

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

Washington State
Department of Ecology

City of Tumwater

DocuSigned by:
By:  1/18/2023
On behalf of
2BCA6B88046746E...

DocuSigned by:
By:  1/18/2023
07FAEF82828G414...

Vincent McGowan, P.E. Date
Water Quality
Program Manager

Dan Smith Date
Director

Template Approved to Form by
Attorney General's Office

Item 6c.

Envelope ID: 779A19DE-A837-4DDC-B747-A92A93413D2B
of Washington Department of Ecology

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

Debbie Sullivan

DocuSigned by:
Debbie Sullivan 1/18/2023
045DD815DE7D4C0...

Mayor Date

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

SCOPE OF WORK

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

Task Title: Grant and Loan Administration

Task Description:

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

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

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

Task Goal Statement:

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

Task Expected Outcome:

- * Timely and complete submittal of requests for reimbursement, quarterly progress reports, Recipient Closeout Report, and two-page outcome summary report.
- * Properly maintained project documentation.

Grant and Loan Administration

Deliverables

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

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

SCOPE OF WORK

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

Task Title: Cultural and Environmental Review, and Permitting

Task Description:

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

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

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

To initiate cultural resources review:

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

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

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

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

Task Goal Statement:

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

Task Expected Outcome:

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

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

Cultural and Environmental Review, and Permitting

Deliverables

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

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

SCOPE OF WORK

Task Number: 3 **Task Cost: \$25,000.00**

Task Title: Design Plans and Specifications

Task Description:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Task Goal Statement:

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

Task Expected Outcome:

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

State of Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

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

Recipient Name: City of Tumwater

Design Plans and Specifications**Deliverables**

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

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

SCOPE OF WORK

Task Number: 4 **Task Cost: \$3,500.00**

Task Title: Construction Management

Task Description:

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

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

Task Goal Statement:

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

Task Expected Outcome:

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

State of Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

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

Recipient Name: City of Tumwater

Construction Management

Deliverables

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

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

SCOPE OF WORK

Task Number: 5 **Task Cost:** \$92,017.33

Task Title: Construction

Task Description:

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

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

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

Task Goal Statement:

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

Task Expected Outcome:

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

Construction

Deliverables

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

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

SCOPE OF WORK

Task Number: 6 **Task Cost: \$200.00**

Task Title: Project Close Out

Task Description:

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

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

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

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

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

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

Task Goal Statement:

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

Task Expected Outcome:

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

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

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

Project Close Out

Deliverables

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

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

BUDGET

Funding Distribution EG230029

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

Funding Title: SFAP Funding Type: Grant
 Funding Effective Date: 07/01/2022 Funding Expiration Date: 01/31/2024

Funding Source:

Title: SFAP - SFY23
 Fund: FD
 Type: State
 Funding Source %: 100%
 Description: Model Toxics Control Capital Account(MTCCA) Stormwater

Approved Indirect Costs Rate: Approved State Indirect Rate: 0%
 Recipient Match %: 25%
 InKind Interlocal Allowed: No
 InKind Other Allowed: No
 Is this Funding Distribution used to match a federal grant? No

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

Total: \$ 123,717.33

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

Funding Distribution Summary

Recipient / Ecology Share

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

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Project” means the project described in this agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. Evidence of Land Value and Title. The RECIPIENT shall submit documentation of the cost of the property rights and the type of ownership interest that has been acquired.

b. Legal Description of Real Property Rights Acquired. The legal description of the real property rights purchased with funding assistance provided through this agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the agreement before final payment.

c. Conveyance of Rights to the State of Washington. Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT shall execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired, and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT shall use language provided by ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

Documentation Options:

1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. RECIPIENTS shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes. The RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the deed of right.

2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.

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

d. Real Property Acquisition and Relocation Assistance.

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

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

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

State of Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

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

Recipient Name: City of Tumwater

e. Hazardous Substances.

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

i. No hazardous substances were found on the site, or

ii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site is deemed "clean."

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

3. Hold Harmless. The RECIPIENT will defend, protect and hold harmless ECOLOGY and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the RECIPIENT is acquiring.

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

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

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

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

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

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

State of Washington Department of Ecology

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

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

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

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

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

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

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

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

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

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

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

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

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

agreement can be signed by Ecology. This form is used to gather general information about the project for EPA.

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

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable. (Applies to both the Section 319 funded projects and the Centennial match projects)

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

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

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

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

SECTION 4: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

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

B. Acquisitions: Section 319 and SRF Equivalency project RECIPIENTS shall comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.

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

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

independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at: <https://facweb.census.gov/>.

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

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

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

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

- 1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- 2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- 3) Consider, in the contracting process, whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State, and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- 4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- 5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

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

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request.

Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

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

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

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

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

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

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

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

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

G. Electronic and information Technology (EIT) Accessibility: RECIPIENTs shall ensure that loan funds provided under this

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

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

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

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

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

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

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

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

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

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

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

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

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

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

F. Funding Recognition and Outreach: In addition to Section 2.F of these Terms and Conditions, the RECIPIENT agrees to comply with the EPA SRF Signage Guidance in order to enhance public awareness of EPA assistance agreements nationwide. The signage guidance can be found at: <https://ecology.wa.gov/About-us/How-we-operate/Grants-loans/Find-a-grant-or-loan/Water-Quality-grants-and-loans/Facility-project-resources>.

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

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

(i) the execution of this agreement; or

(ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of

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

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

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

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

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

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

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

J. Loan Repayment:

Sources of Loan Repayment

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

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

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

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

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

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

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

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

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

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

(i) The Loan Amount with interest

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

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

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

Method and Conditions on Repayments

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

Thereafter, equal payments shall be due every six months.

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

Payments shall be mailed to:

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

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

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

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this

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

agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.

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

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

K. Loan Security

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

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

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

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

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

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

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

M. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an "Opinion of Legal Counsel to the

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

RECIPIENT” to ECOLOGY before this agreement will be signed. ECOLOGY will provide the form.

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

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

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

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

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

- The Davis-Bacon Act, 29 CFR (If applicable)
- Washington State Prevailing Wage Rate, Chapter 39.12 RCW (Pertaining to all recipients)
- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33”

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

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

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

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

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

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

1. The facilities or property transferred are not material to the operation of the funded Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the funded Utility or are no longer necessary, material, or useful to the operation of the funded Utility; or

2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the funded Utility; or

3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the funded Utility from the portion of the funded Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.

4. Expressed written agreement by the ECOLOGY.

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

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

The sewer use ordinance must include provisions to:

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

S. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient

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

ECOLOGY or RECIPIENT funds.

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

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

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

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

Termination and Default Remedies

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GENERAL FEDERAL CONDITIONS

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

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY

EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set

State of Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

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

Recipient Name: City of Tumwater

out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.

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

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

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

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

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

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

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

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

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

1. Procure or obtain;

State of Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

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

Recipient Name: City of Tumwater

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

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

State of Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

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

Recipient Name: City of Tumwater

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.

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

- For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
- Make the IDP readily available to anyone working at the project site.
- Discuss the IDP with staff, volunteers, and contractors working at the project site.
- Implement the IDP when Cultural Resources or human remains are found at the project site.
- c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

5. ASSIGNMENT

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

6. COMMUNICATION

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

7. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email PayeeRegistration@ofm.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

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

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

8. COMPLIANCE WITH ALL LAWS

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

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

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

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

9. CONFLICT OF INTEREST

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

10. CONTRACTING FOR GOODS AND SERVICES

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

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

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

11. DISPUTES

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

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

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

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

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

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

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

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

12. ENVIRONMENTAL DATA STANDARDS

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

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

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

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

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

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

13. GOVERNING LAW

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

14. INDEMNIFICATION

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

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

15. INDEPENDENT STATUS

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

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

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

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

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

21. PROPERTY RIGHTS

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

State of Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

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

Recipient Name: City of Tumwater

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.

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

27. SUSTAINABLE PRACTICES

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

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing,
<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

28. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

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

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

b) For Convenience

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

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no

State of Washington Department of Ecology

Agreement No: WQC-2023-Tumwat-00051

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

Recipient Name: City of Tumwater

event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments. If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

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

c) By Mutual Agreement

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

d) In Event of Termination

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

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

29. THIRD PARTY BENEFICIARY

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

30. WAIVER

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

End of General Terms and Conditions



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

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

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

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

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

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

CHANGES TO THE BUDGET

Funding Distribution EG230029

Funding Title: SFAP
 Funding Type: Grant
 Funding Effective Date: 01/31/2024 Funding Expiration Date: 10/16/2025
 Funding Source:
 Title: SFAP - SFY23

Tumwater city of
 Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design Project
 Agreement No. WQC-2023-Tumwat-00051

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

Approved Indirect Costs Rate: Approved State Indirect: 0%
 Recipient Match %: 25%
 InKind Interlocal Allowed: No
 InKind Other Allowed: No
 Is this Funding Distribution used to match a federal grant? No

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

Total: \$ 123,717.33

Tumwater city of
 Tumwater Valley Golf Course Parking Lot Stormwater Retrofit Design Project
 Agreement No. WQC-2023-Tumwat-00051

Funding Distribution Summary

Recipient / Ecology Share

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

TO: City Council
 FROM: Brittaney McClanahan, Executive Assistant
 DATE: July 2, 2024
 SUBJECT: Reappointment of David Bills, Brian Reynolds and Satpal Sohal to the Lodging Tax Advisory Committee

1) Recommended Action:

Confirm the Mayor’s reappointment of David Bills, Brian Reynolds, and Satpal Sohal to the Lodging Tax Advisory Committee.

2) Background:

Upon Council confirmation, the annual term for David Bills, Brian Reynolds, and Satpal Sohal will expire June 18, 2025.

3) Policy Support:

Vision | Mission | Beliefs - Our Vision:

Tumwater of the future will be people-oriented and highly livable, with a strong economy, dynamic places, vibrant neighborhoods, a healthy natural environment, diverse and engage residents, and living connection to its history.

We Believe in PEOPLE:

Partnership | We work collaboratively with residents, businesses and community organizations.

4) Alternatives:

- Confirm some of the reappointments
 - Do not confirm the reappointments
-

5) Fiscal Notes:

There is no fiscal impact associated with this report.

6) Attachments:


- A. Applications and supplemental information.

APPLICATION


The City of Tumwater's advisory boards, commissions and committees are listed below with a short paragraph describing the make-up of the group. Please complete the application below and show your group preference, listing your first choice as #1, second choice as #2, etc. Please attach a letter of interest and a resume with this application showing your current qualifications and interests.

Name: Satpal Sehgal

Address: 

Telephone: _____ (Home)  (Cell)

 (Work)

Date: 5/4/17 Email: 

BOARD, COMMITTEE OR COMMISSION

PREFERENCE NUMBER:

Tax Advisory Committee

Barnes Lake Management District Steering Committee
Eleven members; Mayoral appointment; two-year terms; active

Board of Parks and Recreation Commissioners:
Seven members; Mayoral appointment with Council confirmation; three-year terms; active

Civil Service Commission:
Three members; Mayoral appointment; six-year terms; active

Satpal Sohal
La Quinta Inn & Suites
4600 Capitol Blvd. SE
Tumwater, WA 98501
5/4/17

Hanna M. Miles
555 Israel Road SW
Tumwater, WA 98501

Dear Hanna M Miles

I Satpal Sohal would love the opportunity to serve as a member of the Tumwater tax advisory committee I want to be on the tax advisory committee because of my experience as a Hotelier I will bring a wealth of knowledge and experience to the tax advisory board I have served on three tax advisory committees and I currently own three hotels and we are building a fourth La Quinta and me and my wife also are the winners of franchisee of the year 2016 for La Quinta out of 850 Hotels.

My goal will be to help guide the tax advisory board to make decisions that help increase tourism and put more heads in beds in the city of Tumwater.

Sincerely,



Satpal Sohal

Satpal S Sohal

Professional Profile

- Entrepreneur who grew four businesses in near start up states to millions in annual sales through effective business planning management, financial planning, creative sales techniques, and innovative marketing.
- Expert knowledge and skills in operations management, real estate development, and financial planning with concentration.
- Skilled strategist who transforms strategic plans into workable solutions.
- Possesses strong analytical, leadership and follow-through skills.
- Detail oriented with the ability to develop, integrate, analyze, document and present business and financial plans in support of business objectives.
- Self-motivated, excellent team player, quick learner, organized, and strong interpersonal skills.
- Recognized by clients and colleagues as a consummate professional with a high degree of personal integrity.
- Known for a contagious passion for excellence, a talent for resourceful business solutions, and a capacity for motivational leadership.
- Possesses outstanding communication and presentation abilities.
- Effectively market tangible/intangible products and services.
- Skilled in persuasive presentation and profitable negotiation.
- Offers excellent customer relations skills.

Education

Sheffield University, School of business Administration, UK

- Bachelor of Arts In Business and Finance January 1994

ITT Technical Institute, Seattle, WA

- Electronic Engineering Technology December 1998

Licenses & Certificates

- Certified Hospitality Administrator September 2004

Professional Experience

Organizations/Planning and Humans Resources

- Recruited investors and assembled limited liability companies for various investment opportunities.
- Negotiated financing with multiple lending institutions.
- Executed \$700,000 renovation project for 70-unit hotel.
- Utilized historical and forecast data to perform trend analysis.
- Executed budget plan and company performance goals.

- Developed personnel, motivated staff to exceed goals, and improve sales.
- Selected and hired self-motivated administrative staff and trained them to be hard-working, customer-focused, and experts in their fields enabling them to work with minimal day-to-day supervision
- Experienced in foreclose or financially stressed properties.
- Currently on the Lodging Tax Advisory Committee for Auburn WA, and Liberty Lake WA.

Marketing and Sales

- Worked with marketing company to create logo and promotional material.
- Increased hotel sales by 40% by working with corporate customers and meeting customer demands.
- Consistently maintained a high-standard performance record via exceptional service, follow-through, and special attention to detail which resulted in higher sales.
- Researched and analyzed the property/hospitality market and re-focused business in response to market changes, making sure business always offered high quality and service at competitive rates.
- Established name recognition in hospitality industry and generated sales through a combination of sales and marketing techniques including implementation of sales packages, cold calls, corporate account development, internet booking/sales, and judicious placement of advertising.

Properties

Owner

Tillicum Inn, Umatilla, OR

April 2001-Sold 2015

70 unit's motel

Owner

Econo Lodge, Chehalis, WA

December 2004-Sold 2016

70 unit's motel

Owner

Quality Inn & Suites, Liberty Lake, WA

February 2008- Present

70 unit's Hotel

Owner

La Quinta Inn & Suites, Auburn WA

November 2011- Present

70 Units Hotel

Owner

La Quinta Inn & Suites, Tumwater WA

November 2015- Present

80 Units Hotel

Owner

Rental house 1, Auburn WA

October 2015- Present

Owner

Rental house 2, Auburn WA

October 2015- Present

Owner

Rental house 3, Puyallup WA

October 2015- Present

Owner

Rental house 4, Puyallup WA

October 2015- Present

Owner

Rental house 5, Kent WA

October 2015- Present

Owner

Rental house 6, Renton WA

October 2015- Present

Tacoma Rescue Mission

Tacoma, WA

2014-present

Volunteered in the Rescue Mission's kitchen, prepping and preparing lunch for the guests and maintained cleanliness and sanitation of equipment. Worked closely with regular volunteers and kept a good spirit and attitude at all times.

Nativity House

Tacoma, WA

2013-present

Distributed necessities such as toiletries, socks, gloves, hats to the homeless. Spent time with the people that go to the Nativity House through deep conversations or with a simple game of cards. Learned the skill of listening and showing interest in people from all types of lives. Understood the importance in serving and meeting people where they are.

Tacoma New Life Church

Tacoma, WA

2007-2013

Participated in various programs for children such as assisting in the daycare, holiday festivals, supervising the playground area, and being staff of Vacation Bible School during the summer. Volunteered with church members on a weekly basis feeding the homeless on the streets, retirement homes, and local schools.

Philippines

Philippines

2012, 2013

Went from village to village with a team of doctors, dentists, and other volunteers to provide medical, dental, and other treatments. We provided educational material and supplies to help improve the quality of life.

Charity Water

Africa

2007

Started and lead a fundraiser and awareness to help support an organization called Charity Water. We were able to raise thousands of dollars to build a water well in a remote village in Africa where thousands of people die every year due to contaminated water.

TO: City Council
 FROM: Alyssa Jones Wood, Sustainability Coordinator
 DATE: July 2, 2024
 SUBJECT: Capital Agreement with the Washington State Department of Commerce for Installation of an Electric Vehicle (EV) Charger Pilot at Pioneer Park.

1) Recommended Action:

Approve and authorize the Mayor to sign the capital grant agreement with the Washington State Department of Commerce for the purchase and installation of an EV charging pilot Pioneer Park in the amount of \$87,052.

2) Background:

On May 26, 2023, staff requested funding to purchase an off-grid solar-powered electric vehicle charger to be piloted at Pioneer Park from the Washington Department of Commerce. On January 3, 2024, the City was notified of the successful request, funded through the Electrification of Transportation Systems Round 2 program from Commerce..

The project includes the purchase and installation of two off-grid (solar), dual-port Level 2 charging stations with energy storage at Pioneer Park. The charging stations will be publicly available for no cost, reducing barriers to access for EV owners, electric wheelchairs, and bicycles.

This project helps advance Strategy T3 of the Thurston Climate Mitigation Plan (TCMP), "increase adoption of electric vehicles". This project will increase the capacity of the City's EV charging resources and help reduce CO2 emissions. The TCMP was accepted by City Council via Resolution R2021-001 on January 19, 2021.

3) Policy Support:

- Be a leader in Environmental Health and Sustainability
 - Sufficiently resource programs identified in the Thurston Climate Mitigation Plan and prioritize implementation.
-

4) Alternatives:

- No alternatives recommended. Rejection of the grant award will eliminate the project to place an off-grid EV.
-

5) Fiscal Notes:

The Department of Commerce awarded funding to the City in the amount of \$87,052. City funding for the required match plus additional equipment costs in the amount of \$12,741.87 will be from the Sustainability Initiatives General Fund.

6) Attachments:

A. Capital Agreement



Capital Agreement with

City of Tumwater

through

Clean Energy Fund Electrification of Transportation Systems

Contract Number:

24-92201-037

For

EV Charger Pilot at Pioneer Park

Dated: Monday, July 1, 2024

Table of Contents

TABLE OF CONTENTS	2
FACE SHEET	4
DECLARATIONS	5
PROGRAM SPECIFIC TERMS AND CONDITIONS	6
1. BILLING AND COMPENSATION FOR PERFORMANCE BASED CONTRACT (REPLACES SPECIAL TERMS AND CONDITIONS #3 BILLING PROCEDURES AND PAYMENT)	6
2. INSURANCE (REPLACES SPECIAL TERMS AND CONDITIONS SECTION #6 INSURANCE)	7
3. SUBCONTRACTING (REPLACES GENERAL TERMS AND CONDITIONS #37 SUBCONTRACTING)	7
SPECIAL TERMS AND CONDITIONS	8
1. CONTRACT MANAGEMENT	8
2. ACKNOWLEDGEMENT OF CLIMATE COMMITMENT ACT FUNDING.....	8
3. COMPENSATION	8
4. BILLING PROCEDURES AND PAYMENT (REPLACED BY PROGRAM SPECIFIC TERMS AND CONDITIONS #1 BILLING AND COMPENSATION FOR PERFORMANCE BASED CONTRACT)	9
5. SUBCONTRACTOR DATA COLLECTION	9
6. HISTORICAL OR CULTURAL ARTIFACTS	9
7. INSURANCE (REPLACED BY PROGRAM SPECIFIC TERMS AND CONDITIONS #2 INSURANCE)	10
8. FRAUD AND OTHER LOSS REPORTING	11
9. ORDER OF PRECEDENCE	11
GENERAL TERMS AND CONDITIONS	12
1. DEFINITIONS.....	12
2. ALLOWABLE COSTS.....	12
3. ALL WRITINGS CONTAINED HEREIN.....	12
4. AMENDMENTS	12
5. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, ALSO REFERRED TO AS THE “ADA” 28 CFR PART 35	12
6. APPROVAL	13
7. ASSIGNMENT.....	13
8. ATTORNEYS’ FEES	13
9. CODE REQUIREMENTS.....	13
10. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION.....	13
11. CONFORMANCE	14
12. CONFLICT OF INTEREST.....	14
13. COPYRIGHT.....	14
14. DISALLOWED COSTS	15
15. DISPUTES	15
16. DUPLICATE PAYMENT.....	15
17. GOVERNING LAW AND VENUE	15
18. INDEMNIFICATION	15
19. INDEPENDENT CAPACITY OF THE CONTRACTOR	16
20. INDUSTRIAL INSURANCE COVERAGE	16
21. LAWS	16
22. LICENSING, ACCREDITATION AND REGISTRATION.....	16

23. LIMITATION OF AUTHORITY16

24. LOCAL PUBLIC TRANSPORTATION COORDINATION.....16

25. NONDISCRIMINATION16

26. PAY EQUITY.....17

27. POLITICAL ACTIVITIES18

28. PREVAILING WAGE LAW18

29. PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION18

30. PUBLICITY18

31. RECAPTURE.....18

32. RECORDS MAINTENANCE18

33. REGISTRATION WITH DEPARTMENT OF REVENUE.....18

34. RIGHT OF INSPECTION19

35. SAVINGS19

36. SEVERABILITY.....19

37. SUBCONTRACTING (REPLACED BY PROGRAM SPECIFIC TERMS AND CONDITIONS #3 SUBCONTRACTING)19

38. SURVIVAL.....19

39. TAXES.....19

40. TERMINATION FOR CAUSE.....19

41. TERMINATION FOR CONVENIENCE.....20

42. TERMINATION PROCEDURES.....20

43. TREATMENT OF ASSETS21

44. WAIVER21

ATTACHMENT A: SCOPE OF WORK..... 22

ATTACHMENT B: BUDGET 24

ATTACHMENT C: REPORTING..... 26

ATTACHMENT D: PROVISIO..... 27

Face Sheet

Contract Number: 24-92201-037

Energy Division, Energy Programs in Communities Electrification of Transportation Systems

1. Contractor City of Tumwater 555 Israel Road SW Tumwater WA 98501		2. Contractor Doing Business As (as applicable) 	
3. Contractor Representative Alyssa Jones Wood Sustainability Coordinator 360-754-4140 ajoneswood@ci.tumwater.wa.gov		4. COMMERCE Representative Kaitlyn Sledge Commerce Specialist 3 kaitlyn.sledge@commerce.wa.gov <div style="float: right; text-align: right;"> 1011 Plum St. SE P.O. Box 42525 Olympia, WA 98504 </div>	
5. Contract Amount \$87,052	6. Funding Source Federal: <input type="checkbox"/> State: <input checked="" type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>	7. Start Date July 1, 2024	8. End Date July 1, 2026
9. Federal Funds (as applicable) N/A		Federal Agency: N/A	
9. Federal Funds (as applicable) N/A		ALN N/A	
10. Tax ID # 91-6001520	11. SWV # 000 7172-00	12. UBI # 344-000-001	13. UEI # LLLDHHS4E5G1
14. Contract Purpose Installation of two off-grid Level 2 EV Charging stations + 4.3-kW PV + 43-kWh battery storage device at Pioneer Park in Tumwater as part of a pilot to increase Tumwater’s distributed EV charging network.			
COMMERCE, defined as the Department of Commerce, and Contractor acknowledge and accept the terms of this Contract and attachments and have executed this Contract on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Contract are governed by this Contract and the following other documents incorporated by reference: Contractor Terms and Conditions including Attachment “A” – Scope of Work, Attachment “B” – Budget, Attachment “C” – Reporting, and Attachment “D” – Proviso.			
FOR CONTRACTOR _____ Debbie Sullivan, Mayor _____ Signature _____ Date		FOR COMMERCE _____ Michael Furze, Assistant Director Energy Division _____ Date APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL APPROVAL ON FILE	

DECLARATIONS

The Washington State Department of Commerce (Commerce) has been appropriated funds by the Washington State Legislature to provide grants to promote Washington's commitment to equitable, clean energy development.

CLIENT INFORMATION

Legal Name	City of Tumwater
Agreement Number:	24-92201-037
Award Year:	2024
State Wide Vendor Number:	000 7172-00

PROJECT INFORMATION

Project Title:	EV Charger Pilot at Pioneer Park
Project Address:	5801 Henderson Blvd. SE
Project City:	Tumwater
Project State:	WA
Project Zip Code:	98501

GRANT INFORMATION

Grant Amount:	\$87,052
Non-State Match (1:10)	\$9673
Type of Match Accepted:	Cash
Earliest Date for Reimbursement:	July 1, 2024
Time of Performance	July 1, 2024 – July 1, 2026

Program Specific Terms and Conditions

As identified herein, notwithstanding General & Specific Terms and Conditions SECTIONS, the following Program Specific Terms and Conditions take precedence over any similarly referenced Special or General Terms and Conditions:

1. BILLING AND COMPENSATION FOR PERFORMANCE BASED CONTRACT (Replaces Special Terms and Conditions #3 Billing Procedures and Payment)

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

The Contractor shall provide the Representative of COMMERCE a signed electronic Invoice A19 form that includes the contract number referenced on the declarations page.

The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed and the milestone number(s) achieved.

The Contractor is required to maintain documentation to support invoiced costs and cost share obligations. The Contractor shall make these documents available to COMMERCE if requested.

COMMERCE will pay Contractor the amounts set forth in Attachment B upon full completion of each milestone. Upon full completion of each Milestone, Contractor will provide an invoice and any required supporting documentation to the Representative of COMMERCE. Except as may be agreed by COMMERCE in its discretion, COMMERCE shall only be obligated to make payments upon demonstration of completion of all Deliverables within a given Milestone. However, it is acknowledged that in the event one or two Deliverables of a Milestone is unduly delayed (more than 3 months) due to circumstances outside Contractor's control, COMMERCE may, in its sole discretion, reasonably negotiate with Contractor regarding paying for those Deliverables of such Milestones that are completed.

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

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

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

Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.

The contractor must invoice for all expenses from the beginning of the contract through June 30, regardless of the contract start and end date.

Duplication of Billed Costs

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

Disallowed Costs

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

2. INSURANCE (Replaces Special Terms and Conditions Section #6 Insurance)

The Contractor shall provide insurance coverage as set out in this SECTION. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Contractor or Subcontractor, or agents of either, while performing under the terms of this contract. Failure to maintain the required insurance coverage may result in termination of this Contract.

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

The Contractor shall submit to COMMERCE within fifteen (15) calendar days of a written request by COMMERCE, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Contract, if required and requested, the Contractor shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

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

The Contractor shall provide insurance coverage that shall be maintained in full force and effect during the term of this Contract, as follows:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, the Contractor is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

3. SUBCONTRACTING (Replaces General Terms and Conditions #37 Subcontracting)

The Grantee may only subcontract work contemplated under this Contract if it provides written notification to COMMERCE of any subcontractors who will be performing work under this Grant Agreement. The written notice must provide the names and address of the subcontractor with a brief description of which tasks within the Grantee Scope of Work (Attachment A) that will be undertaken by the subcontractor(s).

The Grantee shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Grantee to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Grantee from subcontracting with a particular person or entity; or (c) require the Grantee to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Grantee is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Grantee shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Grantee to COMMERCE for any breach in the performance of the Grantee's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

All reference to the Grantee under this clause shall also include Grantee's employees, agents or subcontractors.

Special Terms and Conditions

1. CONTRACT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Contract.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Contract.

The Representative for the Contractor and their contact information are identified on the Face Sheet of this Contract.

2. ACKNOWLEDGEMENT OF CLIMATE COMMITMENT ACT FUNDING

Grantee agrees that any website, announcement, press release, and/or publication (written, visual, or sound) used for media-related activities, publicity, and public outreach issued by or on behalf of Grantee which reference programs or projects funded in whole or in part with Washington's Climate Commitment Act (CCA) funds under this Grant, shall contain the following statement:

"The City of Tumwater Pioneer Park EV Charger project is supported with funding from Washington's Climate Commitment Act. The CCA supports Washington's climate action efforts by putting cap-and-invest dollars to work reducing climate pollution, creating jobs, and improving public health. Information about the CCA is available at www.climate.wa.gov."

The Grantee agrees to ensure coordinated Climate Commitment Act branding on work completed by or on behalf of the Grantee. The CCA logo must be used in the following circumstances, consistent with the branding guidelines posted at [CCA brand toolkit](#), including:

- A. Any project related website or webpage that includes logos from other funding partners;
- B. Any publication materials that include logos from other funding partners;
- C. Any on-site signage including pre construction and during Construction signage and permanent signage at completed project sites; and
- D. Any equipment purchased with CAA funding through a generally visible decal.

3. COMPENSATION

COMMERCE shall pay an amount not to exceed \$87,052 for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. Contractor's compensation for services rendered shall be in accordance with Attachment A, Scope of Work, and Attachment B, Budget.

EXPENSES

Contractor shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by COMMERCE as reimbursable. The maximum amount to be paid to the Contractor for authorized expenses shall not exceed \$0, which amount is included in the Contract total above.

Such expenses may include airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. Contractor shall receive compensation for travel expenses at current state travel reimbursement rates.

4. **BILLING PROCEDURES AND PAYMENT** (Replaced by Program Specific Terms and Conditions #1 BILLING AND COMPENSATION FOR PERFORMANCE BASED CONTRACT)

~~COMMERCE will pay Contractor upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE not more often than monthly nor less than quarterly.~~

~~The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Contract Number _____. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement. Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.~~

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

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

~~Invoices and End of Fiscal Year~~

~~Invoices are due on the 20th of the month following the provision of services.~~

~~Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.~~

~~The Contractor must invoice for all expenses from the beginning of the contract through June 30, regardless of the contract start and end date.~~

~~Duplication of Billed Costs~~

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

~~Disallowed Costs~~

~~The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.~~

~~COMMERCE may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by COMMERCE of the final report (or completion of the project, etc.).~~

5. **SUBCONTRACTOR DATA COLLECTION**

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

6. **HISTORICAL OR CULTURAL ARTIFACTS**

Prior to approval and disbursement of any funds awarded under this Contract, Contractor shall complete the requirements of Governor's Executive Order 21-02, where applicable, or Contractor

shall complete a review under Section 106 of the National Historic Preservation Act, if applicable. Contractor agrees that the Contractor is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural resources and agrees to hold harmless COMMERCE and the state of Washington in relation to any claim related to such historical or cultural resources discovered, disturbed, or damaged as a result of the project funded by this Contract.

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

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

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

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

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

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

7. INSURANCE (Replaced by Program Specific Terms and Conditions #2 INSURANCE)

~~The Contractor shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Contractor or Subcontractor, or agents of either, while performing under the terms of this Contract. Failure to maintain the required insurance coverage may result in termination of this Contract.~~

~~The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Contractor shall provide COMMERCE thirty (30) calendar days' advance notice of any insurance cancellation, non-renewal or modification.~~

~~The Contractor shall submit to COMMERCE within fifteen (15) calendar days of the Contract start date OR a written request by COMMERCE, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Contract, if required or requested, the Contractor shall submit renewal certificates not less than thirty (30) calendar days prior to expiration~~

of each policy required under this section.

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

~~The Contractor shall provide insurance coverage that shall be maintained in full force and effect during the term of this Contract, as follows:~~

~~**Commercial General Liability Insurance Policy.** Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, the Contractor is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.~~

~~**Cyber Liability Insurance:** The Contractor shall maintain Cyber Liability Insurance. The Contractor shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Contractor and licensed staff employed or under contract to the Contractor. The state of Washington, its agents, officers, and employees need not be named as additional insureds under this policy.~~

~~**Automobile Liability.** In the event that performance pursuant to this Contract involves the use of vehicles, owned or operated by the Contractor or its Subcontractor, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.~~

~~**Professional Liability, Errors and Omissions Insurance.** The Contractor shall maintain Professional Liability or Errors and Omissions Insurance. The Contractor shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Contractor and licensed staff employed or under contract to the Contractor. The state of Washington, its agents, officers, and employees need not be named as additional insureds under this policy.~~

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

- ~~A. The amount of fidelity coverage secured pursuant to this Contract shall be \$100,000 or the highest of planned reimbursement for the Contract period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.~~
- ~~B. Subcontractors that receive \$10,000 or more per year in funding through this Contract shall secure fidelity insurance as noted above. Fidelity insurance secured by Subcontractors pursuant to this paragraph shall name the Contractor as beneficiary.~~

8. **FRAUD AND OTHER LOSS REPORTING**

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

9. **ORDER OF PRECEDENCE**

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

- Applicable federal and state of Washington statutes and regulations
- Attachment D – Proviso
- Program Specific Terms and Conditions
- Special Terms and Conditions

- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget
- Attachment C – Reporting

General Terms and Conditions

1. DEFINITIONS

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

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "COMMERCE" shall mean the Washington Department of Commerce.
- C. "Contract" or "Agreement" or "Grant" means the entire written agreement between COMMERCE and the Contractor, including any Exhibits, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
- D. "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- F. "State" shall mean the state of Washington.
- G. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2. ALLOWABLE COSTS

Costs allowable under this Contract are actual expenditures according to an approved budget up to the maximum amount stated on the Contract Award or Amendment Face Sheet.

3. ALL WRITINGS CONTAINED HEREIN

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

4. AMENDMENTS

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

5. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

6. **APPROVAL**

This contract shall be subject to the written approval of COMMERCE's Authorized Representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

7. **ASSIGNMENT**

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

8. **ATTORNEYS' FEES**

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

9. **CODE REQUIREMENTS**

All construction and rehabilitation projects must satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990 28 C.F.R. Part 35 will be required, as specified by the local building Department.

10. **CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

A. "Confidential Information" as used in this section includes:

- i. All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;
- ii. All material produced by the Contractor that is designated as "confidential" by COMMERCE; and
- iii. All Personal Information in the possession of the Contractor that may not be disclosed under state or federal law.

B. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Contract whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by COMMERCE. Upon request, the Contractor shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The Contractor shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

11. **CONFORMANCE**

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

12. **CONFLICT OF INTEREST**

Contractor must maintain and comply with written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. Contractor must comply with the following minimum requirements:

- A. No employee, officer, or agent may participate in the selection, award, or administration of a contract if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the Contractor may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts and must comply with RCW 39.26.020. However, Contractor may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Contractor.
- B. If the Contractor has a parent, affiliate, or subsidiary organization that is not a state, local government, or federally recognized tribe, the Contractor must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the Contractor is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

13. **COPYRIGHT**

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

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

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

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

14. DISALLOWED COSTS

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

15. DISPUTES

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

The request for a dispute hearing must:

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

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

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

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

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

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

16. DUPLICATE PAYMENT

Contractor certifies that work to be performed under this contract does not duplicate any work to be charged against any other contract, subcontract, or other source.

17. GOVERNING LAW AND VENUE

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

18. INDEMNIFICATION

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

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

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

enforceable only to the extent of the negligence of the Contractor or its subcontractors, agents, or employees.

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

19. INDEPENDENT CAPACITY OF THE CONTRACTOR

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

20. INDUSTRIAL INSURANCE COVERAGE

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

21. LAWS

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

22. LICENSING, ACCREDITATION AND REGISTRATION

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

23. LIMITATION OF AUTHORITY

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract.

24. LOCAL PUBLIC TRANSPORTATION COORDINATION

Where applicable, Contractor shall participate in local public transportation forums and implement strategies designed to ensure access to services.

25. NONDISCRIMINATION

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

The funds provided under this Agreement shall not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this Agreement.

B. Obligation to Cooperate. GRANTEE, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that GRANTEE, including

any subcontractor, has engaged in discrimination prohibited by this Agreement pursuant to RCW 49.60.530(3).

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

D. Remedies for Breach. Notwithstanding any provision to the contrary, in the event of Agreement termination or suspension for engaging in discrimination, GRANTEE, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. GRANTEE may also be required to repay grant funds pursuant to Section 31 (Recapture) of the General Terms & Conditions if the Agreement is terminated based on a violation of the nondiscrimination requirement. COMMERCE shall have the right to deduct from any monies due to GRANTEE or subcontractor, or that thereafter become due, an amount for damages GRANTEE or subcontractor will owe COMMERCE for default under this provision.

26. PAY EQUITY

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

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

This Contract may be terminated by the Department, if the Department or the Department of Enterprise Services determines that the Contractor is not in compliance with this provision.

27. POLITICAL ACTIVITIES

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

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

28. PREVAILING WAGE LAW

The Contractor certifies that all contractors and subcontractors performing work on the Project shall comply with state Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable to the Project funded by this contract, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Contractor shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for COMMERCE's review upon request.

29. PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The funds provided under this Contract shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Contract provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

30. PUBLICITY

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

31. RECAPTURE

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

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

32. RECORDS MAINTENANCE

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

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

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

33. REGISTRATION WITH DEPARTMENT OF REVENUE

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

34. RIGHT OF INSPECTION

At no additional cost all records relating to the Contractor's performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. The Contractor shall provide access to its facilities for this purpose.

35. SAVINGS

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

36. SEVERABILITY

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

37. SUBCONTRACTING (Replaced by Program Specific Terms and Conditions #3 SUBCONTRACTING)

~~The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of COMMERCE.~~

~~If COMMERCE approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.~~

~~Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Contractor is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to COMMERCE for any breach in the performance of the Contractor's duties.~~

~~Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.~~

38. SURVIVAL

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

39. TAXES

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

40. TERMINATION FOR CAUSE

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

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

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

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

41. TERMINATION FOR CONVENIENCE

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

42. TERMINATION PROCEDURES

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

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

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

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Contractor shall:

- A. Stop work under the contract on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
- C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed,

would have been required to be furnished to COMMERCE;

- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which COMMERCE has or may acquire an interest.

43. TREATMENT OF ASSETS

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

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

44. WAIVER

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

Attachment A: Scope of Work

1. **Project Overview:** This project scope includes the purchase and installation of two off-grid, dual-port Level 2 charging stations with a built-in 4.3-kW photovoltaic (PV) array and 43-kWh of energy storage at Pioneer Park in Tumwater. Project will be located in a public park and will be publicly available for no cost at point of access, reducing barriers to access for both EV and 120V charging for other mobility options such as electric wheelchairs and bicycles.

This is a pilot project as part of Tumwater's commitment to the Thurston Climate Mitigation plan. The purpose is to increase the capacity of its EV charging resources and support the reduction of CO2 emissions, air pollution and other negative health factors, particularly along the I-5 corridor.

2. **Project Development & Design:** This site was determined based on its potential impact: its location near high-traffic recreational space, multi-family housing units, I-5 and the Olympia Regional Airport all contribute to metrics which are effectively improved by vehicle electrification, such as high traffic and resulting air pollution. Other municipal facilities suitable for off-grid PV+EV charging were considered prior to application, but it was determined these sites required upgrades to infrastructure to support additional EV chargers.

Continuing project development and community engagement will be done by the City of Tumwater in collaboration with the nonprofits Thurston Climate Action Team, other community organizations, and/or members.. Prior to the installation of the chargers, the City of Tumwater will collect feedback from these organizations as well as host a community meeting at Pioneer Park to ensure the placement of the stations do not provide any unintended obstacles. This feedback will be incorporated into the deployment of the charging station. Also prior to installation, City of Tumwater will create tri-fold brochures outlining the importance of renewable energy on demand response and best practices for charging electric vehicles using grid electricity.

Within 60 days after installation is complete, City of Tumwater Staff will post public notice and host a second public community meeting at Pioneer Park to hear any issues from the public and work to resolve them. After this second community meeting and also within 60 days of installation, City of Tumwater will issue a press release announcing the chargers are available and free to the public. City of Tumwater will create a City webpage with information about electric transportation that highlights these chargers and identifies other chargers throughout the community, as well as add the charger location to PlugShare and/or any other similar apps.

City of Tumwater staff will monitor usage monthly and develop and deploy additional outreach campaigns if needed to meet usage goals.

3. **Contracting & Equipment Delivery:** Contract will be executed by July 1, 2024. All permits legally required to execute the project will be obtained prior to installation.

4. **Equipment Procurement & Delivery** Solar EVSE units will be manufactured in the United States. Chargers will be ordered within four weeks of contract filing and disbursement of initial funds. Equipment will be delivered within six months of ordering.
5. **Deployment:** Two off-grid Level 2 EV Chargers equipped with 4.3-kW of PV and 43-kWh of battery storage will be installed at Pioneer Park. All aspects of site preparation, materials procurement, deployment, installation, and post-installation monitoring will be performed by City of Tumwater staff in accordance with all laws and regulations governing off-grid solar + storage installations in the City of Tumwater, Thurston County, and Washington State: The project site is located within the 100-year floodplain, and the model of EV charger installed will be mobile and adapted to flood conditions up to 9.5 feet. The unit will be wind-rated to 125 mph and ADA-compliant, able to power vehicles, electric bikes, and electric wheelchairs.

After the EV chargers and PV array + storage have been installed, City of Tumwater will install a weather-proof case on the system and fill it with the prepared brochures. Stickers will clearly identify that the 120-volt outlets on the system are intended for charging other mobility methods such as electric wheelchairs and electric bicycles.

COMMERCE recognizes that the project scope does not include any planned ground disturbance.

6. **Systems Integration and Commissioning:** After installation, relevant City of Tumwater staff will be trained in the maintenance of the system, including monitoring production & usage, cleaning, and other maintenance as needed.
7. **Measurement and Verification:** Once the system is commissioned, production and usage data will be collected and a twelve-month summary performance report will be provided as part of the Final Report. The summary performance report will include the amount of kWh produced by the solar array, number of individual charging events, and the amount of kWh charged within the reporting period, and/or per day as determined by the City of Tumwater. City of Tumwater will apply this measured kWh charged to estimate miles of charge provided per day.

The final report will also include a summary of the work that was completed for this project, adjustments that were made, feedback received from community engagement, or lessons learned.

City of Tumwater will maintain the system and remotely monitor the system for its 20-year expected life, and continue to submit annual summary performance reports for the system to the Department of Commerce for two years following installation, for a total of two summary performance reports.

Attachment B: Budget

Milestone	Milestone and Task Description	Key Deliverables	Expected Completion Date	Applicant Match	Commerce Grant Amount
A	Project Development and Design	<ul style="list-style-type: none"> • Specification sheet for EV charger • Public Notice of Pre-Deployment Public Meeting/ Sign-In Sheet from Public Meeting • Emails and/or Meeting Notes from corresponding with TCAT and/or Disabled Hikers • Notice of any changes to project scope resulting from community input 	Q3 2024	\$0	\$0
B	Equipment Procurement & Delivery	<ul style="list-style-type: none"> • Procurement documentation • Copy of invoice and proof of payment for unit 	Q4 2024	\$9,673	\$80,052
C	Deployment, Systems Integration, Commissioning, & Outreach	<ul style="list-style-type: none"> • Network & Maintenance Plans • Photos of deployment including striping, signage, stickers, and weatherproof box • Digital copy of the tri-fold brochure • Commissioning Report & Documentation of Staff Training • Public Notice & Sign-in Sheet from Post-Deployment Meeting • Link to web posting of EV charger information, including Plugshare listing 	Q2 2025	\$0	\$0
D	Measurement & Verification	<ul style="list-style-type: none"> • Final Report submitted with twelve months of kWh PV energy produced, kWh energy expended, and charging events per day • Documentation of maintenance 	Q2 2026	\$0	\$7000

		<ul style="list-style-type: none">Annual reporting of production & usage data for one year after the final report			
			Total	\$9,673	\$87,052

Attachment C: Reporting

The Contractor must provide quarterly written reports and/or host a regular quarterly video and/or phone call with COMMERCE for project update purposes. Phone contact should cover current status of the project and any barriers that are potentially affecting the project schedule.

Additionally, the Contractor shall provide a final report and fact sheet to COMMERCE, no later than 380 days after the end of the quarter in which Deployment, Systems Integration, Commissioning, & Outreach milestone was completed. Commerce will provide the fact sheet template and may request the fact sheet be updated as conditions warrant.

The report form will be provided by Commerce. The report should describe the project activity that occurred during the year, including but not limited to:

1. A narrative summarizing project activities, risks and issues mitigated, and lessons learned;
2. The project milestones met to date and anticipated in the subsequent quarter (such as through a project Grant Chart schedule provided quarterly in Microsoft Project format showing actual progress to date along with the baseline schedule developed at project kickoff etc.);
3. Maintenance performed on the device.
4. Any additional metrics required from the capital budget proviso, legislature, governor's office, or COMMERCE. This includes measurements of the number of kWh produced by the PV array, number of kWh expended by EV charger, and the number of charging events per day.
5. Invoice projection sheet for grant expenditures.

Attachment D: Proviso

2021 Enacted Capital Budget

Substitute House Bill 1080, section 1064 – Clean Energy V

(11) \$5,550,000 of the state building construction account—state appropriation is provided solely for grants to demonstrate innovative approaches to electrification of transportation systems.

(a)(i) \$3,000,000 of the appropriation is provided solely for competitive grants, prioritizing projects that:

(A) Demonstrate meaningful and enduring benefits to communities and populations disproportionately burdened by air pollution, climate change, or lack of transportation investments;

(B) Beneficially integrate load using behavioral, software, hardware, or other demand-side management technologies, such as demand response, time-of-use rates, or behavioral programming;

(C) Accelerate the transportation electrification market in Washington using market transformation principles; or

(D) Develop electric vehicle charging and hydrogen fueling infrastructure along highways, freeways, and other heavily trafficked corridors across the state to support long-distance travel.

(ii) Projects must be implemented by local governments, federally recognized tribal governments, by public and private electrical utilities that serve retail customers in the state, or state agencies. Eligible parties may partner with other public and private sector research organizations and businesses in applying for funding. The department shall consult and coordinate with the Washington state department of transportation on project selection and implementation. The department shall also coordinate with other state agencies that have other electrification programs, in order to determine to optimally accomplish each agency's respective policy and program goals.

(iii) Projects must be related to on-road end-uses and nonmaritime off-road uses.

(iv) Eligible technologies for these projects include, but are not limited to:

(A) Battery electric vehicle supply equipment;

(B) On-site generation or storage, where the technology directly supplies electricity to the electric vehicle supply equipment;

(C) Electric grid distribution system infrastructure upgrades, where the upgrade is needed as a result of the installed electric vehicle supply equipment;

(D) Hydrogen refueling station infrastructure that:

(I) Dispenses renewable hydrogen or hydrogen produced in Washington with electrolysis; and

(II) Aligns with the 2021 state energy strategy's recommended uses of hydrogen in the transportation sector.

TO: City Council
FROM: Chuck Denney, Parks and Recreation Director
DATE: July 2, 2024
SUBJECT: Service Provider Agreement with Barker Rinker Seacat Architecture for Community Center Design

1) Recommended Action:

Authorize the Mayor to sign the service provider agreement with Barker Rinker Seacat Architecture for Community Center Design.

The agreement was recommended for approval at the June 12, 2024 General Government Committee meeting, with a request for this item to be included under "Considerations" on the Council agenda.

2) Background:

With the passage of the Tumwater Metropolitan Parks District, voters supported the construction of a "Community Center with meeting and event space, senior services, indoor sports courts, and land for a future public swimming pool".

Through a public process, this design project will develop the plan for the Tumwater Community Center, the services provided at the facility, cost/revenue projections and siting.

3) Policy Support:

Strategic Priority: Provide high quality municipal facilities and parks by providing dedicated long-term funding

4) Alternatives:

- Recommend changes to service provider agreement.
 - Do not authorize the Mayor to sign the service provider agreement.
-

5) Fiscal Notes:

TMPD - \$221,733.

6) Attachments:

- A. Service Provider Agreement with Barker Rinker Seacat Architecture for Community Center Design

**CITY OF TUMWATER
SERVICE PROVIDER AGREEMENT**

TUMWATER COMMUNITY CENTER DESIGN

THIS AGREEMENT is made and entered into in duplicate this _____ day of _____, 20__, by and between the CITY OF TUMWATER, a Washington municipal corporation, hereinafter referred to as the “CITY”, and Barker Rinker Seacat Architecture, a Colorado 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 June 22, 2024, and shall be completed no later than December 31, 2024. 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.

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 Twenty-One Thousand Seven Hundred and Thirty-Three Dollars** (\$221,733.00) 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 approximately 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 its acts and for the acts of its agents, employees, servants, subcontractors 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. The SERVICE PROVIDER shall defend, indemnify and hold the CITY, its officers, elected officials, employees, agents, and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the Public Entity, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the

extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. 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. The provisions of this section shall survive the expiration or termination of this Agreement.

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 a claim made basis with limits of no less than \$2,000,000 per claim, and \$2,000,000 policy aggregate limit.

C. The CITY shall be named as an additional insured on the GL and Auto Liability 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. The CITY reserves the right to request certified copies of any required policies.

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 respect 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.

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.

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.

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".

F. Nondiscrimination in Contractors / Subcontractors. The City of Tumwater, in accordance with RCW 49.60.530 requires all covered contractors or subcontractors to actively pursue a diverse and inclusive workforce. Contractors and subcontractors are prohibited from all forms of discrimination listed in RCW 49.60.530.

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.

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. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. 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.

This section intentionally left blank.

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 Rd SW
Tumwater, WA 98501

SERVICE PROVIDER:
Barker Rinker Seacat Architecture
990 South Broadway
Suite 222
Denver, CO 80209
UBI No. _____
(303) 455-1366

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 COLORADO
COUNTY OF DENVER

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 Barker Rinker Seacat Architecture 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 Colorado

My appointment expires: _____

Exhibit A

Tumwater Community Center Design Scope of Work

The City of Tumwater created a Metropolitan Park District in 2018 to support new facilities and programs in the Parks and Recreation Department. Tumwater residents approved additional taxes to support new parks, programs, trails and the construction of a community center. Using broad terms, the community center was described as a facility with meeting and event space, senior services, indoor sports courts, and land for a future Public Swimming Pool. Working within those parameters, we are proceeding to the design process and a community conversation about what this facility will provide.

This scope of service lists the professional services provided and a description of each task that will be included in the project. Barker Rinker Seacat (BRS) will employ a proven process to guide the work to be accomplished. This overview will guide the City and BRS while developing the next step of proposal for professional services and building construction. The desired process/outcomes include:

- Conducting market analysis and surveying of public needs related to a community center.
- Site analysis of existing city-owned parcel and other potential sites.
- Develop several desirable and sustainable programming and build scenarios for the center.
- Analyze potential partnerships and cost/benefit scenarios.
- Project revenue generation, operating expenses, subsidy requirements, and construction cost estimates.
- Provide recommendations for optimal programming and facility build-out to achieve sustainable operations.
- Present findings and recommendations of how best to proceed with this project in written and presentation format.



**CITY OF TUMWATER, WASHINGTON
COMMUNITY CENTER FEASIBILITY STUDY
MARCH 14, 2024**

FEE PROPOSAL





Chuck Denney, parks and Recreation Director
City of Tumwater, Washington
cdenney@ci.tumwater.wa.us

March 14, 2024

RE: City of Tumwater, Washington - Community Center Feasibility Study Proposal

Dear Chuck,

We are excited about the opportunity to assist the City of Tumwater in creating a system-wide study for your indoor facilities. Since 1975, designing community aquatics and recreation centers has been the focus of our practice. Our knowledge and experience have given us a national reputation in the design, planning, and development of facilities that improve the quality of life for our communities.

Barker Rinker Seacat Architecture (BRS) is committed to innovating and evolving community recreation center planning and design. For the last 40 years, community recreation centers have been our passion and focus. We have assisted over 350 communities across the country in the planning and design of their centers. While many share the same activity spaces, each has a unique story and solution that speaks to their past, present, and future aspirations.

Our team is excited to partner with the City of Tumwater to engage area residents, staff, and Commission members to collaboratively prioritize facility amenities, optimize operations and create a strategic vision that reflects the City of Tumwater’s unique people and place.

What follows is our understanding of the key elements of the project and the assumptions we used to put together a DRAFT work plan, schedule, and fee.

Hopefully, we have addressed all the Commission’s needs we discussed, but please know we are flexible with our approach. We look forward to your feedback and tuning this proposal to suit your needs best.

Thank you again for considering BRS for this exciting opportunity.

Best Regards,

Keith Hayes, AIA
Principal-in-Charge
keithhayes@brsarch.com

Cory J. Wilkerson, AIA
Project Manager
corywilkerson@brsarch.com

DENVER
990 S. BROADWAY
SUITE 222
DENVER, CO 80209
303.455.1366

DALLAS
129 S. MAIN ST.
UNIT 250
GRAPEVINE, TX 76051
817.527.6880

BRSARCH.COM

WORK PLAN



City of Tumwater - Community Center Feasibility Study FEASIBILITY STUDY - SCOPE OF SERVICES & WORK PLAN

Participant Key: TPRD | City of Tumwater Parks & Recreation Dept. BRS | Barker Rinker Seacat Architecture 14-Mar-24
 BLU | Blundall & Associates RWD | RWD Landscape Architects
 BK | Ballard King & Associates

Activity/ Timeline	Scope Description (Tasks & Products)	Duration	
PM	Project Management • Invoicing and Project Budget Management, Meeting Coordination, Travel Coordination	27 weeks	
0.1	Pre-Workshop #1 Meeting Preparation (~April 2024) • Prepare Kick-off meeting presentation slide show	1 week	
WORK PHASE #1	1.0 Video Conference Call Confirm • Time frame for work plan Confirm • Dates for Workshops, Meetings and Presentations Consider • The District's mission, vision, goals and objectives for the project Consider • Public outreach process and meeting dates Consider • Identify stakeholders, steering committees, interest groups, etc. Consider • Review project baseline program elements Consider • Review market segment, demographic, and alternative provider analysis considerations Consider • Discuss Program Card Game Activity and participants Consider • Discuss Operational considerations & Cost Recovery Goals for the facility (BK) Consider • Discuss Total Project Budget (Building, Site, Etc.) Consider • Financing Details Consider • Establish goals for successful Bond campaign Consider • Preliminary Partnering Opportunities Consider • Discuss existing community facilities & programming Consider • Online feedback mechanisms (survey) (BK)	1 day	
	1.1	Work Period #A - Data Collection • Create meeting minutes and distribute • Develop & schedule focus group, individual engagement & partnership outreach • Collect and review all existing data available to include: Past planning efforts, surveys / site plans for the 4 building sites being considered, current mission statements, P&R operational data, development requirements and codes, budget information and limitations. Plans and detail information for the Tumwater Old Town Center Building • Begin analyzing the information and develop initial considerations regarding options • Conduct an initial code review to understand constraints re: planning & building code Confirm • Committee and public input dates Confirm • Develop preliminary online survey questions (BK)	2 weeks
	1.2 Video Conference Call	Check-in with Executive Team 1.2 Review Online Survey Questions Review survey format options, response protocols/requirements (email address, required information, completion incentives, ect.)	1 day

WORK PLAN

Activity/ Timeline	Scope Description (Tasks & Products)	Duration	
WORK PHASE #1	1.3 <div style="text-align: right; color: red; font-weight: bold;">Commit</div>	Work Period #B - Finalize Public Survey, Workshop, & Community Meeting Prep <ul style="list-style-type: none"> • Prepare workshop & community open house presentation(s) slide shows including National Slide tour of potential recreation/community center program components • Prepare Dot-o-Cracy and 5 question boards • Prepare BRS Card Game • Prepare Market & Demographic Research Findings (BK) • Review operational strategies and benchmarking data (BK) • Circulate final survey questions and format for review (BK) • Adjust survey questions and format, prepare for launch (BK) 	2 weeks
	1.4 - Trip 1 Day 1 Afternoon Day 1 Evening Day 2 Morning <div style="text-align: right; color: green; font-weight: bold;">Consider Consider Consider Consider Consider</div>	Committee Workshop #1 <ul style="list-style-type: none"> • Project mission, vision, goals and objectives • Review Market & Demographic Research Findings, National Benchmarks, Comparable Facilities Information (BK) • Play Programming Card Game; Identify program elements for consideration • Sustainability concepts and goals • Sustainability concepts and goals Facilitate Community Open House #1 (program options) <ul style="list-style-type: none"> • Present National Slide tour of recreation centers • Solicit feedback to explore the community's feelings about their people, pace, and place • Launch Public Online Survey Tour Potential Building Sites (existing community center?) <ul style="list-style-type: none"> • Tour and evaluate and document potential building sites • Tour and evaluate existing Tumwater old town center building (community center) <div style="text-align: right; color: green; font-weight: bold;">Consider Consider</div>	2 days (1 week)
	1.5 Video Conference Call <div style="text-align: right; color: blue; font-weight: bold;">Confirm Confirm Consider Consider Confirm Confirm</div>	Follow-Up with Executive Team #1.5 <ul style="list-style-type: none"> • Re-Cap of Committee, and Open House input • Discuss program / budget / schedule, as needed • Report out and discuss future site options Pros and Cons/ initial findings • Report out and discuss findings of Old Town Center Building (Community Center) • Re-Balance project status with operational goals, as needed (BK) • Develop prioritization of program & site amenities based on Workshop and Open House 	1 day
WORK PHASE #2	2.0	Work Period #C - Program Development & Site Analysis <ul style="list-style-type: none"> • Create meeting minutes and distribute • Review work to date, surveys, program, plans, estimates and all previous data • Develop building programming models/phasing options (up to 4 options) • Perform analysis of potential future building sites using the BRS site evaluation criteria tool • Create preliminary project budget model spreadsheet and total project cost estimate for • Review Preliminary financing alternatives & potential partnership opportunities • Analyse community open house data and consolidate data & comments • Close online Survey (BK) • Analyse online survey results and summarize data (BK) 	3 weeks
	2.1 Video Conference Call	Follow-Up with Executive Team 2.1 <ul style="list-style-type: none"> • Facilitate a Video Conference Call for preliminary review of above topics 	1 day
	2.2	Work Period #D - Program Refinement & Concept Diagram Development <ul style="list-style-type: none"> • Prepare workshop presentation slide show • Revise preferred program models & phasing options (up to 2 options) • Revise preliminary capital costs for each program • Refine the Mission Statement & Goals • Develop (up to 4) site program options based on Workshop #1 discussion and goals • Create options of proposed program spaces and area (SF) requirements • Review the established operational expenses and revenues models (BK) • Develop (up to 4) preliminary building & site test fit/relationship diagrams 	2 weeks

WORK PLAN

WORK PHASE# 2	Activity/ Timeline	Scope Description (Tasks & Products)	Duration
WORK PHASE# 2	2.3 Video Conference Call	Committee Workshop #2 <ul style="list-style-type: none"> Confirm Present Public Open House Data/Results Confirm Present Online Survey Data/Results (BK) Confirm Present preferred building programming models/phasing options (up to 2 options) Confirm Discuss preliminary project budget and construction costs (target) Confirm Discuss operational expense and revenue model for preferred program options (BK) Confirm Bond campaign planning Confirm Discuss capital and/or operational partnerships (BK) Confirm Present detailed site evaluation/analysis findings Consider Present (up to 4) preliminary building & site test fit/relationship diagrams 	1 day
	2.4 Video Conference Call	Follow-Up with Executive Team 2.4 <ul style="list-style-type: none"> Re-Cap of Committee a discuss possible realignments Confirm 2 preferred site plans for future refinement Confirm prioritization of program & site amenities based on Workshop and Public Input (BK) 	1 day
WORK PHASE# 3	3.0	Work Period #E - Refine Site Plan and Develop Floor Plan Relationship Diagrams <ul style="list-style-type: none"> Consultant Coordination Create meeting minutes and distribute Prepare workshop and community open house presentation slide show Refine preferred site plan diagrams (up to 2) (RWD) Develop floor plan adjacency (bubble) diagrams Refinement of project model spreadsheet and total project cost estimate for construction Review capital and/or operational partnerships (BK) Refinement the established operational expenses and revenues models (BK) Craft the preliminary Design Threads 	2 weeks
	3.1 Video Conference Call	Follow-Up with Executive Team 3.1 <ul style="list-style-type: none"> Facilitate a Video Conference Call for review of above topics 	1 day
	3.2 - Trip 2 Day 1 Afternoon	<ul style="list-style-type: none"> Commit Project building program Commit Findings of Preliminary Project Budget (target) Confirm Capital and/or operational partnerships (BK) Confirm Site plan development priorities and preferences, select preferred site option (RWD) Confirm Review floor plan adjacency (bubble) diagrams Confirm Bond campaign planning Confirm Review project against established operational goals (BK) Consider Review preliminary Design Threads 	2 day (1 week)
	Day 1 Evening	Facilitate Community Open House #2 (BRS & RWD) <ul style="list-style-type: none"> Present Public Feedback/Data/Survey Results (BRS) Present Public Feedback People, Place & Pace (word clouds) Present Preliminary Building Program and Project Budget Present preliminary preferred site option diagrams (up to 2) (RWD) Collect comments, questions 	
	Day 2 Evening	Facilitation of City Council Presentation #1 (BRS, BK) <ul style="list-style-type: none"> Presentation of: Project timeline/history, Trends Presentation, Public Input Results, Current Program, Site Plan, Preliminary Total Project budget Collect comments, questions, and preferences 	
3.3 Video Conference Call	Follow-Up with Executive Team 3.3 <ul style="list-style-type: none"> Re-Cap of Committee and City Council Input and discuss possible realignments 	1 day	
WP #4	4.0	Work Period #F - Develop Floor Plans, Finalize Design Threads, Refine Operations <ul style="list-style-type: none"> Consultant Coordination Create meeting minutes and distribute Refine preferred site plan diagrams (single site) (RWD) Develop concept floor plan options (up to 2) Refinement of project model spreadsheet and total project cost estimate for construction Revise project against established operational goals (BK) Refine Design Threads 	2 weeks

WORK PLAN

Activity/ Timeline	Scope Description (Tasks & Products)	Duration		
WORK PHASE #4	4.1 Video Conference Call	Follow-Up with Executive Team 4.1 • Facilitate a Video Conference Call for review of above topics	1 day	
	4.2	Work Period #G - Final Concept Floor Plan, & Site Plan, Preliminary Building Massing, Cost Estimate • Consultant Coordination • Prepare workshop presentation slide show • Finalize preferred site plan (RWD) • Finalize concept floor plan • Produce Detailed Probable Cost Estimate for construction (Estimate #1) (BLU) • Revise operational expense and revenue model for final program/plan option (BK) • Prepare Concept Building Massing • Prepare Architectural Characteristics slide show (or blink exercise)	4 weeks	
	4.3 Video Conference Call	Committee Workshop #4 Commit • Final Concept Floor Plans Commit • Final Site Plan (RWD) Commit • Bond campaign planning Confirm • Findings of the Detailed Probable Cost Estimate (BRS) Commit • Capital and/or operational partnerships (BK) Commit • Operational expense and revenue model (BK) Commit • Bond campaign planning Confirm • Concept Building Massing Confirm • Design Threads Consider • Architectural Character Precedent	1 day	
	4.4 Video Conference Call	Follow-Up with Executive Team 4.4 • Re-Cap of Committee and discuss possible realignments	1 day	
	WORK PHASE #5	5.0	Work Period #H - Develop Architectural Character • Consultant Coordination • Create meeting minutes and distribute • Refine Building Massing • Revise Floor Plans to suit building massing refinements • Revise Site Plans to suit building massing and floor plan refinements (RWD) • Finalize operational expense and revenue model (BK) • Develop Architectural Character • Finalize Design Threads	2 weeks
		5.1 Video Conference Call	Follow-Up with Executive Team 5.1 • Facilitate a Video Conference Call for review of above topics	1 day
		5.2	Work Period #I - Draft Report • Consultant Coordination • Finalize Building Massing • Refine Architectural Character and develop base report graphics • Finalize Site Plans (RWD) • Final Detailed Probable Cost Estimate (Estimate #2) (BLU) • Develop DRAFT Report (BRS, BK, RWD, BLU)	3 weeks
		5.3 - Trip 3 Day 1 Afternoon Day 1 Early Evening	Confirm • Review DRAFT Report Commit • Concept Building Massing Commit • Design Threads Confirm • Architectural Character & Base Report Graphics Facilitation of City Council Presentation #2 (BRS, RDW, BK) • Presentation of Draft Report • Collect comments, questions, and preferences	1 day (1 week)
		WP #6	6.0	Work Period #J - Produce Final Feasibility & Conceptual Design Report and Graphics • Update all work products based on input received in Workshop 5 and Council Presentation
	6.1 Video Conference Call		Follow-Up with Executive Team 6.1 • Facilitate a Video Conference Call for review the FINAL report	1 day
6.2	Deliver Final Report		~Sept. 2024	

FEE SUMMARY

Tumwater Community Center Feasibility Study

3/14/2024

FEE AND COST SUMMARY

Professional Service Fees		
Task		Fee
General Project Management		\$8,389
Work Phase 0 - Preparation		\$1,030
Work Phase 1 - Needs Assessment		\$38,294
Work Phase 2 - Programming & Site Analysis		\$20,319
Work Phase 3 - Preliminary Concept Design & Operational Analysis		\$31,942
Work Phase 4 - Detailed Concept Design & Operations Plan		\$44,653
Work Phase 5 - Graphics & Report Development		\$40,559
Work Phase 6 - Report Final		\$7,797
	BRS Fee:	\$111,220
	Blundall & Associates Fee:	\$10,175
	Ballard King Fee:	\$38,500
	RWD Landscape Fee:	\$33,088
	Total Professional Service Fees	\$192,983
Reimbursable Allowance		
Printing, travel, meals, etc.		\$14,250
	Total Reimbursable Allowance	\$14,250
*Reimbursable expenses will be billed at 1.1 x actual cost		
Optional Services		
A.1	Exterior 3 D Renderings developed from the base model graphic views to suit the level of development shown in Exhibit A ; two (2) facades modeled (1 rendered view)	\$4,000
A.2	Exterior 3 D Renderings developed from the base model graphic views to suit the level of development shown in Exhibit A; all remaining facades modeled (2nd rendered view). Must be combined with item A.1	\$3,500
A.3	Additional Exterior 3 D Rendered views to suit the level of development shown in Exhibit A; must select items A.1 & A.2 for this option (per rendered view)	\$2,000
B.1	Interior 3 D Renderings developed from the base model graphic views to suit the level of development shown in Exhibit A (per space/view)	\$2,500
C.1	Exterior/Interior 3 D Fly-through video developed from the 3D Rendering graphic views described in items A.1, A.2 & B.1; must select items A.1, A.2 & B.1 for this option (Item B.1 multiplied by the number of interior spaces to be included in the fly-through video)	A1+ A.2 + (B.1 x # of Int. views) + \$2500 = TBD

Notes

- 1 All deliverables will be sent via email in PDF format unless otherwise requested
- 2 All Reimbursable Expenses will be billed at 1.1 x the cost
- 3 Client is to provide all base site plan information (maps, plans, images, GIS data, surveys) to use in the site analysis and development of the site plan options.
- 4 Proposal excludes photo-realistic renderings and/or animations, the level of graphic development for the final report will be consistent with Exhibit A - Base Graphics

Optional Services

Tours of existing local Recreation/community centers not noted in the workplan

Tours of existing Recreation centers in other locations TBD

Renderings and/or fly-through animations for marketing purposes, in accordance with the above-noted Optional Service Fees and Exhibit A representation of deliverable Level of Development

BARKER RINKER SEACAT ARCHITECTURE, P.C.

BILLING RATE CATEGORIES AND REIMBURSABLE EXPENSES

(Effective 1 Jan 2024)

A. Compensation shall be made to Barker Rinker Seacat Architecture, P.C. for the time of the Principals and Staff at the following Billing Rates subject to annual review for escalation:

Designer I	\$ 115/ hour
Designer II	\$ 125/ hour
Designer III	\$ 140/ hour
Designer IV	\$ 145/ hour
Senior Designer	\$ 175/ hour
Administrative	\$ 140/ hour
Design Manager	\$ 155/ hour
Project Specialist	\$ 180/ hour
Project Manager	\$ 195/ hour
Principal I	\$ 190/ hour
Principal II	\$ 215/ hour
Senior Principal III	\$ 230/ hour
Partner	\$ 250/ hour

B. Services of Professional Consultants are billed at a multiple of one point one (1.1) times the amount billed to Barker Rinker Seacat Architecture, P.C.

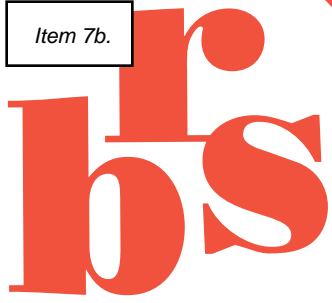
C. In addition to compensation for time and the services of professional consultants, compensation shall be made to Barker Rinker Seacat Architecture, P.C. for the following reimbursable expenses, which will be billed at a multiple of one point one (1.1) times the amount billed to Barker Rinker Seacat Architecture, P.C.:

1. Expense of transportation and living when traveling outside the Metropolitan Denver area in connection with the project. Use of private automobile shall be billed at sixty-two-and-a-half cents (\$0.67) per mile.
2. Long distance phone calls, deliveries and shipping, extraordinary mailing expenses and fees paid for securing approval of authorities.
3. Printing, plotting and other document reproduction, brochures, contract documents and other special presentation expenses (e.g. renderings, finish models).

D. Other expenses that are directly attributable to a project shall not be billed unless prior approval is obtained from the Owner.

E. Payment due Barker Rinker Seacat Architecture, P.C. shall bear interest at the rate of one and one-half percent (1.5%) per month, commencing sixty days after the date of billing.

#



“What I appreciate most about the BRS design team is they really do care about the people for whom they are designing.”

– KAREN CHARLES
AQUATIC SUPERVISOR, CITY OF LONGMONT, CO

FOLLOW US FOR MORE FUN @BRSARCHITECTURE

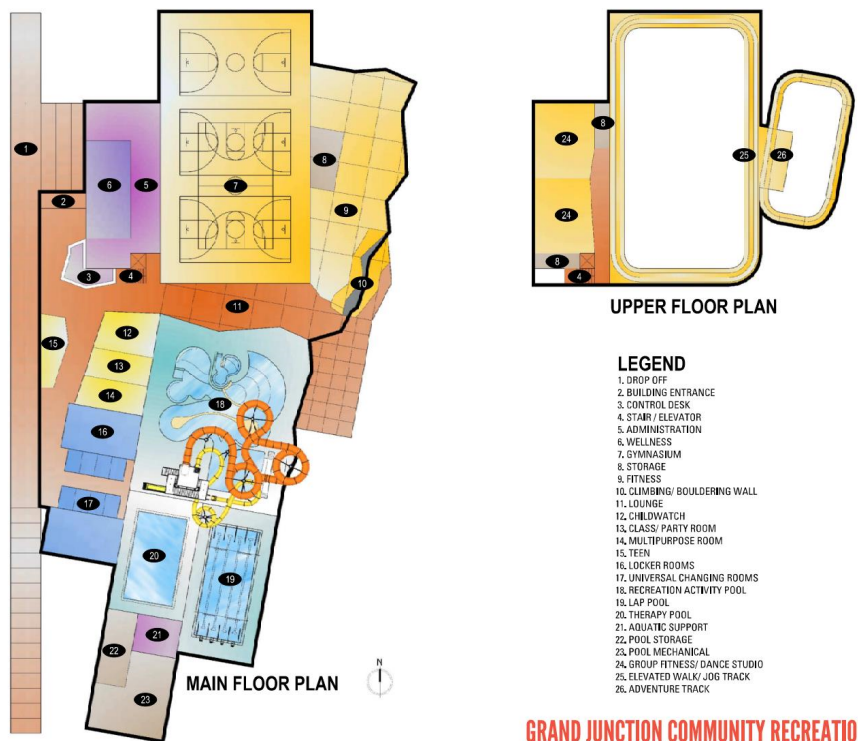
990 South Broadway, Suite 222 Denver, CO 80209

303.455.1366 brsarch.com

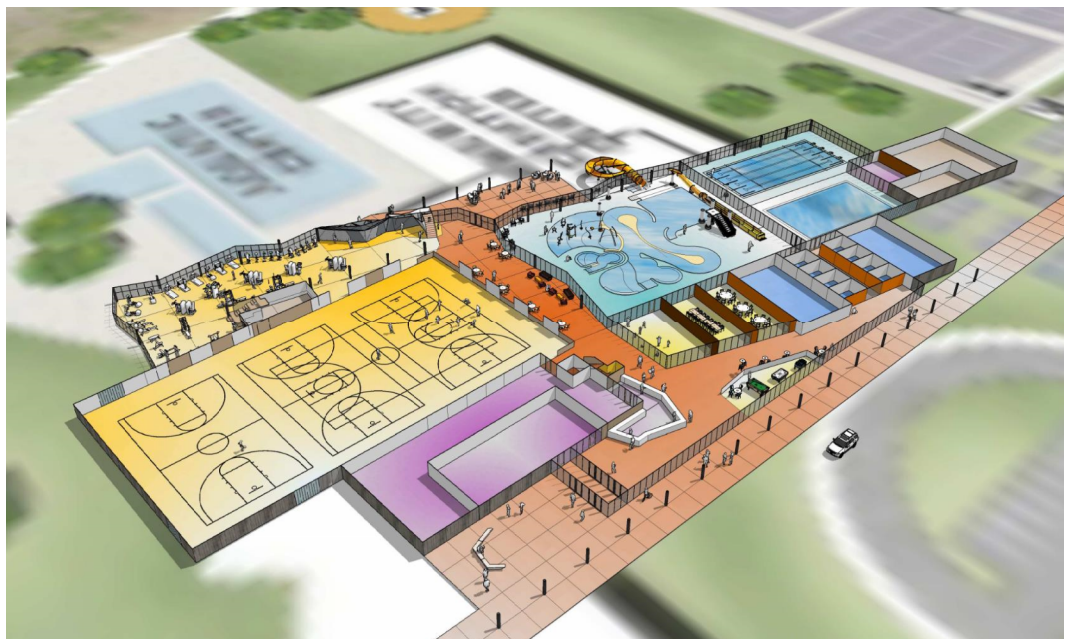


**BARKER
RINKER
SEAGAT**
ARCHITECTURE

Exhibit A



Example of Base Graphics included.



Example of Base Graphics included.

DENVER
3457 RINGSBY COURT
UNIT 200
DENVER, CO 80216

DALLAS
129 S. MAIN ST.
UNIT 230
GRAPEVINE, TX 76051

CONTACT
303.455.1366
WWW.BRSARCH.COM

Exhibit A



Example of Conceptual Exterior Rendering (Style A)
Additional Service item A



Example of Conceptual Exterior Rendering (Style B)
Additional Service item A

Exhibit A



Example of Conceptual Interior Rendering (Style A)
Additional Service item B



Example of Conceptual Interior Rendering (Style B)
Additional Service item B

Exhibit A

Links to 3D Fly-through Videos

<https://www.youtube.com/watch?v=dJqZyMRE7Gk&t=3s>

<https://www.youtube.com/watch?v=Rm12371HRm4>

<https://www.youtube.com/watch?v=b4pVU3DUBDo>

Exhibit B

Chapter 3.46

CITY CONTRACTS – NONDISCRIMINATION IN BENEFITS

Sections:

- 3.46.010 Definitions.
- 3.46.020 Nondiscrimination in benefits.
- 3.46.030 Limitations.
- 3.46.040 Powers and duties of the city administrator.
- 3.46.050 Appeals.
- 3.46.060 Effective date.

3.46.010 Definitions.

For the purpose of this chapter:

- A. “Contract” means a contract for public works, consulting, or supplies, material, equipment or services estimated to cost \$50,000 or more;
- B. “Contract awarding authority” means the city officer, department, commission, employee, or board authorized to enter into or to administer contracts on behalf of the city;
- C. “Domestic partner” means any person who is registered with his/her employer as a domestic partner or, in the absence of such employer-provided registry, is registered as a domestic partner with a governmental body pursuant to state or local law authorizing such registration. Any internal employer registry of domestic partnership must comply with criteria for domestic partnerships specified by rule by the city administrator;
- D. “Employee benefits” means the provision of bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; pension and retirement benefits; vacation; travel benefits; and any other benefits given to employees; provided, that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

(Ord. O2000-028, Added, 02/06/2001)

3.46.020 Nondiscrimination in benefits.

A. No contractor on a city contract shall discriminate in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the contractor is unable to extend a particular employee benefit to domestic partners, so long as the contractor provides the employee with a cash equivalent.

B. Other Options for Compliance Allowed. Provided that a contractor does not discriminate in the provision of benefits between employees with spouses and employees with domestic partners, a contractor may:

1. Elect to provide benefits to individuals in addition to employees' spouses and employees' domestic partners;
2. Allow each employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent benefits; or
3. Provide benefits neither to employees' spouses nor to employees' domestic partners.

C. Requirements Inapplicable Under Certain Conditions. The city administrator may waive the requirements of this chapter where:

1. Award of a contract or amendment is necessary to respond to an emergency;
2. The contractor is a sole source;
3. No compliant contractors are capable of providing goods or services that respond to the city's requirements;
4. The contractor is a public entity;
5. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
6. The city is purchasing through a cooperative or joint purchasing agreement.

D. Requests for waivers of the terms of this chapter are to be made to the city administrator by the contract awarding authority. Decisions by the city administrator to issue or deny waivers are final unless appealed pursuant to TMC 3.46.050.

E. The city administrator shall reject an entity's bid or proposal, or terminate a contract, if the city administrator determines that the entity was set up, or is being used, for the purpose of evading the intent of this chapter.

F. No contract awarding authority shall execute a contract with a contractor unless such contractor has agreed that the contractor will not discriminate in the provision of employee benefits as provided for in this chapter.

G. All contracts awarded by the city shall contain provisions prohibiting discrimination in the provision of employee benefits, including provisions containing appropriate remedies for the breach thereof as prescribed by this chapter, except as exempted by this chapter or rule.

(Ord. O2000-028, Added, 02/06/2001)

3.46.030 Limitations.

The requirements of this chapter only shall apply to those portions of a contractor's operations that occur:

- A. Within the city;
- B. On real property outside of the city if the property is owned by the city or if the city has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the city; and
- C. Elsewhere in the United States where work related to a city contract is being performed. The requirements of this chapter shall not apply to subcontracts or subcontractors of any contract or contractor.

(Ord. O2000-028, Added, 02/06/2001)

3.46.040 Powers and duties of the city administrator.

The city administrator shall have the power to:

- A. Adopt rules and regulations in accordance with this chapter establishing standards and procedures for effectively carrying out this chapter;
- B. Determine and impose appropriate sanctions and/or liquidated damages for violation of this chapter by contractors including, but not limited to:
 - 1. Disqualification of the contractor from bidding on or being awarded a city contract for a period of up to five years; and
 - 2. Contractual remedies, including, but not limited to, liquidated damages and termination of the contract;
- C. Examine contractor's benefit programs covered by this chapter;
- D. Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;
- E. Allow for remedial action after a finding of noncompliance, as specified by rule;
- F. Perform such other duties as may be required by ordinance or which are necessary to implement the purposes of this chapter.

(Ord. O2000-028, Added, 02/06/2001)

3.46.050 Appeals.

Any aggrieved party may appeal a decision of the city administrator to the mayor by the submittal of a written request to the city attorney within ten working days of the decision to be appealed. The mayor's decision will be in writing with findings identified upon which the decision was made. Subsequent appeal will be to the Thurston County superior court.

(Ord. O2000-028, Added, 02/06/2001)

3.46.060 Effective date.

The provisions of this chapter shall apply to any contract awarded on or after January 2, 2002.

(Ord. O2000-028, Added, 02/06/2001)

TO: City Council
 FROM: Brad Medrud, Planning Manager
 DATE: July 2, 2024
 SUBJECT: Contract Approval for an 8-Year Multifamily Tax Exemption for the Rookery Apartments (TUM-24-0714)

1) Recommended Action:

Authorize the Mayor to sign contract for an 8-Year Multifamily Tax Exemption for the Rookery Apartments (TUM-24-0714).

The contract was recommended for approval at the June 12, 2024, General Government Committee meeting.

2) Background:

In 2017, the City Council adopted the Multifamily Housing Tax Exemption program to stimulate desired housing development within key areas of the City, such as the Brewery District and Capitol Boulevard Corridor. In 2019, the City Council approved expanding the 12-Year Multifamily Housing Tax Exemption program to the Town Center and Littlerock Subarea to encourage the development of permanent affordable housing as part of its 2019 Housing Affordability Work Plans. The program includes both an 8-year exemption for providing multifamily housing in the designated areas and a 12-year exemption for development providing a minimum of 20% of units designated for low or moderate-income households.

The City has received an application for the 8-year exemption program for six apartment units as part of a mixed use development in the Capital Boulevard Corridor Subarea (TUM-24-0714). The General Government Committee was briefed on the contract at their June 12, 2024, meeting.

3) Policy Support:

Comprehensive Plan Housing Element Action H-3.3.3: Establish a multi-family tax exemption program that gives financial incentive for developers to create multi-family structures in target areas and to set aside a percentage of units as low-income housing.

4) Alternatives:

None.

5) Fiscal Notes:

The contract is for an 8-year Multifamily Housing Tax Exemption.

6) Attachments:

- A. Staff Report
- B. The Rookery Apartments (TUM-24-0714) MFTE Tax Agreement
- C. The Rookery Apartments (TUM-24-0714) Exhibit A Application
- D. The Rookery Apartments (TUM-24-0714) Exhibit B Site Plans
- E. The Rookery Apartments (TUM-24-0714) Exhibit C Floor Plan
- F. The Rookery Apartments (TUM-24-0714) Exhibit D Parking Narrative
- G. Presentation

STAFF REPORT



Date: July 2, 2024
To: City Council
From: Brad Medrud, Planning Manager

Contract Approval for an Eight-Year Multifamily Tax Exemption for The Rookery Apartments (TUM-24-0714)

In 2017, the City Council adopted the Multifamily Housing Tax Exemption program to stimulate desired housing development within key areas of the City, such as the Brewery District and Capitol Boulevard Corridor. The Multifamily Housing Tax Exemption program includes both an eight-year exemption for providing multifamily housing in the designated areas and a twelve-year exemption for development providing a minimum of 20% of units designated for low or moderate-income households.

In 2019, the City Council approved expanding the Multifamily Housing Tax Exemption program to the Town Center and Littlerock Subarea for just the twelve-year exemption to encourage the development of permanent affordable housing as part of its 2019 Housing Affordability Work Plan.

The City received an application for the eight-year exemption program for The Rookery Apartments which is six apartment units as part of a mixed use development in the Capital Boulevard Corridor Subarea (TUM-24-0714). The General Government Committee was briefed on the contract at their June 12, 2024, meeting and recommended approval of the contract.

This memorandum discusses the background and status of the Multifamily Tax Exemption Program and the requirements for the contract for an 8-Year Multifamily Tax Exemption for the Rookery Apartments (TUM-24-0714).

Contents

- 1. Summary of the Multifamily Property Tax Exemption Program 2
- 2. Purpose of the Multifamily Property Tax Exemption Program 3
- 3. Benefits of the Multifamily Property Tax Exemption Program 3
- 4. City’s 2017 and 2019 Ordinances 4
- 5. Use of the Multifamily Property Tax Exemption Program to Date..... 4
- 6. Approval Process..... 6

7. The Rookery Apartments Application..... 6

 A. Target Area and Length of Exemption..... 6

 B. Project Eligibility 7

 C. Application Procedure 8

 D. Application Review 9

 E. Application for Final Certificate 10

 F. Issuing Final Certificate 11

Appendix A: Multifamily Property Tax Exemption Target Area 12

1. Summary of the Multifamily Property Tax Exemption Program

The state’s multifamily property tax exemption program (Chapter 84.14 RCW) provides opportunities for cities and counties to encourage the development of multifamily housing in designated areas. When originally codified by the state in 1995, the program focused on economic development and the creation of new multifamily housing. Over time, the program became an important tool to support the development of affordable housing and implementation of the goals of the Growth Management Act.

The program is intended to encourage the construction of new, rehabilitated, or converted multifamily housing within designated areas. It is limited to multifamily housing developments with four or more housing units.

The City’s multifamily property tax exemption program exempts taxes on improvements made for multifamily development to encourage the development of multifamily housing units within designated targeted areas of the City. The multifamily property tax exemption applies to the new housing improvement portion of the property taxes.

Under state law, property owners who make eligible housing improvements are exempt from any tax increases related to those improvements for a period of eight years. An exemption period of twelve years is possible if the property owner or developer commits to renting or selling at least 20 percent of the units to households with an income at or below 115 percent of the area median family income during the same period. Owners continue to pay the pre-improvement taxes on both the land and structure. Once the multifamily property tax exemption lapses, the property owner is free to rent or sell units at market rate.

An approved multifamily property tax exemption is a shift in revenue from property tax. When the City Council sets the City’s property tax levy, the City levies a total dollar amount that will be collected for City operations. When certain property owners get discounts, such as through the multifamily property tax exemption program, that cost is re-distributed to the other property owners in the City. No matter how many multifamily property tax exemption discounts the City provides, the City still collects the same amount of property tax dollars.

2. Purpose of the Multifamily Property Tax Exemption Program

Comprehensive Plan Housing Element Action H-3.3.3 states:

Establish a multi-family tax exemption program that gives financial incentive for developers to create multi-family structures in target areas and to set aside a percentage of units as low-income housing.

The City's multifamily property tax exemption program serves multiple purposes. It is an economic development tool identified in the City's Brewery District Plan and Capitol Boulevard Corridor Plan to spur private investment for redevelopment of these areas. In addition, it is one of the many tools identified in Resolution No. R2018-016 and the Tumwater Housing Action Plan to support the development of more affordable housing in specific areas of the City served by transit.

The program does the following:

- Provides a catalyst to promote development within targeted areas.
- Encourages increased residential opportunities within targeted areas.
- Stimulates new construction or rehabilitation of existing vacant and underutilized buildings for multifamily housing.
- Assists in directing future population growth to designated residential targeted areas, thereby reducing development pressure on existing single-family residential neighborhoods.
- Provides the needed residential densities to support retail and other services within the target areas.
- Helps to achieve residential densities, which are more conducive to transit use in designated residential targeted areas.
- In the case of the twelve-year exemption, 20 percent of the new housing units are affordable to 80 to 115 percent of area median income for the twelve-year exemption.

3. Benefits of the Multifamily Property Tax Exemption Program

There are multiple benefits for the multifamily property tax exemption program. Most generally, the reduction in property taxes is shared among consumers and developers in the form of lower prices or rents and in the form of increased project income, respectively. This will encourage the development of more housing units and make housing more affordable overall.

The program also provides the following benefits:

- Increases housing choice for consumers due to the increase in supply.
- Increases densities in areas suited for higher density.
- Aids sustainability and walkability efforts by locating housing near services and transit.

- Reduces risk, which increases the ability of a developer to secure debt financing.
- Stimulates development by reducing costs, which increases the development return on a marginal project, which increases project feasibility.
- Benefits for the consumer in a competitive market, where savings are passed down.
- Ensures that the tax exemption remains with the property so that it will benefit the right owner in the targeted area regardless of turnover.

4. City's 2017 and 2019 Ordinances

The original purpose of the City Council's adoption of a multifamily property tax exemption program in 2017 (Ordinance No. O2017-004 and Resolution No. R2017-002) was to use residential development to spur the economic redevelopment of the Brewery District and Capitol Boulevard corridor. The City's subarea plans adopted in 2015 were based on studies that indicated that the City needed to consider a variety of financial incentives to see the redevelopment that those plans envisioned. Adding more people living in those areas through the multifamily property tax exemption program was expected in turn to encourage the development of retail, services, and employment. See Appendix 1 *Multifamily Property Tax Exemption Target Area* for a map of the Capitol Boulevard corridor target area.

The expansion of the program to the Littlerock Road Subarea and the Town Center in 2019 (Ordinance No. O2019-023) was done for different reasons. In 2018, the City Council started to focus on how the City should address homelessness and the lack of affordable housing. One of the action items in R2018-016 was to strengthen incentives for affordable housing within the Capitol Corridor and Brewery District and explore extending these incentives to the entire InterCity Transit #13 bus corridor.

Expanding the program to the Town Center and the Littlerock Road area was one of the many code changes and programs that the City started at that time to encourage more housing to be built overall in the City to meet demand and to provide some level of affordable housing. Because of that, in the Town Center and the Littlerock Road Subareas the City's multifamily property tax exemption program was limited to the twelve-year option that required 20 percent of those housing units to be affordable to 80 to 115 percent of area median income. The Planning Commission recommended that 30 percent of the housing units be affordable, but the City Council decided that it wanted to make sure that the program created affordable housing units first and kept the affordable housing unit requirement at 20 percent.

5. Use of the Multifamily Property Tax Exemption Program to Date

In the ten years prior to 2019, multifamily development only accounted for a small portion of the new housing units built in the City. During the COVID-19 related building boom in 2020, the City experienced an increase in new multifamily housing development. By 2022, there were more housing units in multifamily developments than single-family houses being permitted in the City.

Through April 2024, the City has had 441 total multifamily housing units approved at least through the conditional approval process, of which 66 are affordable multifamily housing units and the rest are market rate. The affordable multifamily housing units must comply with the low- to moderate-income levels (80 to 115 percent of area median income) requirements in TMC 3.30.

Table 1. Units by Conditional and Final Approvals Through April 2024

Approvals	All Units	Market Rate Units	Affordable Units
Conditional	300	263	37
Final	141	112	29
Total	441	375	66

Table 2. Units Approved By Target Area Through April 2024

Target Areas	All Units	Market Rate Units	Affordable Units
<i>Eight- and Twelve-Year Options</i>			
Brewery District	119	119	0
Capitol Corridor	0	0	0
<i>Twelve-Year Option Only with 20% Affordable</i>			
Littlerock Subarea	322	256	66
Town Center	0	0	0
Total	441	375	66

- Rockwell Place received final approvals in November 2022 after a Certificate of Occupancy was issued. It is a twelve-year multifamily property tax exemption program project in the Littlerock Road subarea target area. It has three buildings with 141 total housing units of which 29 of which are affordable, and the rest are market rate.
- The 350 North Apartments and Craft District Apartments received conditional approvals in December 2022, and they are under construction. Construction will need to be completed in three years to receive final approvals. Both are eight-year multifamily property tax exemption program projects in Brewery District target area with no affordable housing units. The 350 North Apartments has 24 market rate housing units and Craft District Apartments has 95 market rate housing units.
- The Kingswood Apartments received conditional approval in February 2023, and it is under construction. Construction will need to be completed in three years to receive final approval. It is a twelve-year multifamily property tax exemption program project in

Littlerock Road subarea target area. It has 181 total housing units of which 37 are affordable housing units and the rest are market rate.

6. Approval Process

TMC 3.30 *Multifamily Housing Tax Exemptions* establishes the review and approval process for multifamily property tax exemption applications:

1. An applicant files a complete Conditional Certificate Application with the City.
2. City staff reviews the application.
3. If the application is complete and meets the requirements of TMC 3.30, the Community Development Director approves the Conditional Certificate.
4. To complete the Conditional Certificate approval process, the applicant must enter into a contract with City that is approved by City Council, under which the applicant agrees to complete the development as outlined in the contract.
5. An approved Conditional Certificate and contract are valid for three years from the date of approval.
6. The City can issue an extension of an approved Conditional Certificate for up to 24 months subject to City approval.
7. Upon completion of the improvements agreed upon in the contract and issuance of a certificate of occupancy, the applicant then files a Final Certificate Application.
8. The complete Final Certificate Application is reviewed and approved by the Community Development Director.
9. The Community Development Director files a Final Certificate of Tax Exemption with the Thurston County Assessor.

7. The Rookery Apartments Application

A. Target Area and Length of Exemption

The Rookery Apartments are in the Capital Boulevard Corridor Subarea.

The project will follow the eight-year MFTE requirements below.

3.30.040 Tax exemptions for multifamily housing in residential target areas authorized.

A. Duration of Exemption. The value of improvements qualifying under Chapter 84.14 RCW and this chapter will be exempt from ad valorem property taxation, as follows:

- 1. For eight successive years beginning January 1 of the year immediately following the calendar year of issuance of the certificate. The eight-year duration of exemption applies only for projects in the Area 1 – Capitol Boulevard Corridor and Area 2 – Brewery District residential target areas; or***

2. *For twelve successive years beginning January 1 of the year immediately following the calendar year of issuance of the certificate, if the property otherwise qualifies for the exemption under Chapter 84.14 RCW and meets the conditions in this subsection. For the property to qualify for the twelve-year exemption under this subsection, the applicant must commit to renting or selling at least twenty percent of the multifamily housing units as affordable housing units to low- and moderate-income households, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the city. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this subsection may be satisfied solely through housing affordable to moderate-income households.*

B. Limits on Exemption. The exemption does not apply to the value of land or to the value of improvements not qualifying under this chapter, nor does the exemption apply to increases in assessed valuation of land and nonqualifying improvements. In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to submission of the completed application required under this chapter. This chapter does not apply to increases in assessed valuation made by the assessor on nonqualifying portions of building and value of land nor to increases made by lawful order of a county board of equalization, the Department of Revenue, or a county, to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.

B. Project Eligibility

The project meets the following requirements:

1. **Location in the Capitol Boulevard Corridor Subarea** – Confirmed.
2. **Tenant Displacement Prohibited** – Confirmed.
3. **Size** –The project has six dwelling units.
4. **Proposed Completion Date** – The project will need to be completed within three years of application for the MFTE.
5. **Contract with City Approved by City Council** – The applicant must enter into a contract with city approved by City Council. See Attachment B and exhibits.

3.30.050 Project eligibility.

A proposed project must meet the following requirements for consideration for a property tax exemption:

A. Location. The project must be located within a residential target area as designated in TMC 3.30.030.

B. Tenant Displacement Prohibited. The project must not displace existing residential tenants of structures that are proposed for redevelopment. Existing dwelling units proposed for rehabilitation must have been unoccupied for a

minimum of twelve months prior to submission of an application and must have one or more violations of the International Property Maintenance Code of the city of Tumwater. Applications for new construction cannot be submitted for vacant property upon which an occupied residential rental structure previously stood, unless a minimum of twelve months has elapsed from the time of most recent occupancy.

C. Size. The project must include at least four units of multifamily housing within a residential structure or as part of an urban development. A minimum of four new units must be constructed or at least four additional multifamily units must be added to existing occupied multifamily housing. Existing multifamily housing that has been vacant for twelve months or more does not have to provide additional units so long as the project provides at least four units of new, converted, or rehabilitated multifamily housing.

D. Proposed Completion Date. New construction multifamily housing and rehabilitation improvements must be completed within three years from the date of approval of the application.

E. Compliance with Guidelines and Standards. The project must be designed to comply with the city's comprehensive plan, building, housing, and zoning codes, and any other applicable regulations in effect at the time the application is approved. The project must also comply with any other standards and guidelines adopted by the city council for the residential target area in which the project will be developed.

F. At least fifty percent of the space in a new, converted, or rehabilitated multiple unit must be for permanent residential housing. In the case of existing occupied multifamily development, the multifamily housing must also provide for a minimum of four additional multifamily units. Existing multifamily vacant housing that has been vacant for twelve months or more does not have to provide additional units.

G. The applicant must enter into a contract with city approved by city council under which the applicant agrees to the implementation of the development on terms and conditions satisfactory to the city council.

C. Application Procedure

Prior to April 1 of any year, the applicant must submit a complete application that includes the following:

1. A **completed city of application form** setting forth the grounds for the exemption. Applicant has provided a completed form. See Attachment C, Exhibit A, Attachment D, Exhibit B, Attachment E, Exhibit C, and Attachment F, Exhibit D.
2. **Preliminary floor and site plans of the proposed project.** Applicant has provided floor and site plans. See Attachment D, Exhibit B and Attachment E, Exhibit C.

3. **A statement acknowledging the potential tax liability when the project ceases to be eligible under this chapter.** Applicant has provided. See Attachment C, Exhibit A.
4. **Verification by oath or affirmation of the information submitted** – Applicant has provided this. See Attachment C, Exhibit A.

3.30.060 Application procedure.

A property owner who wishes to propose a project for a tax exemption shall complete the following procedures:

- A. *Prior to April 1 of any year, file with the director the required application along with the required fees as established by resolution of the city council.*
- B. *A complete application shall include:*
 1. *A completed city of Tumwater application form setting forth the grounds for the exemption;*
 2. *Preliminary floor and site plans of the proposed project;*
 3. *A statement acknowledging the potential tax liability when the project ceases to be eligible under this chapter; and*
 4. *Verification by oath or affirmation of the information submitted.*

[...]

D. Application Review

Within 90 days of submittal of a complete application on May 8, 2024, the Community Development Director determined the project meets the approval criteria.

3.30.070 Application review and issuance of conditional certificate.

A decision to approve or deny an application shall be made within ninety calendar days of receipt of a complete application.

- A. *Approval. The director may approve the application if he/she finds that:*
 1. *A minimum of four new units are being constructed or in the case of occupied rehabilitation or conversion a minimum of four additional multifamily units are being developed;*
 2. *If applicable, the proposed multi-unit housing project meets the affordable housing requirements as described in RCW 84.14.020;*
 3. *The proposed project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved;*
 4. *The owner has complied with all standards and guidelines adopted by the city under this chapter; and*

5. *The site is located in a residential targeted area of an urban center that has been designated by the city council in accordance with procedures and guidelines of this chapter.*

B. *Before application approval the applicant shall enter into a contract with the city, approved by the city council, regarding the terms and conditions of the project. After city council approval of the contract, and director approval of the application, the director shall issue a conditional certificate of acceptance of tax exemption. The conditional certificate expires three years from the date of approval unless an extension is granted as provided in this chapter.*

C. *Denial. The director shall state in writing the reasons for denial and shall send notice to the applicant at the applicant's last known address within ten calendar days of the denial. An applicant may appeal a denial to the city council within thirty days after receipt of the denial. The appeal before the governing authority must be based upon the record made before the administrative official with the burden of proof on the applicant to show that there was no substantial evidence to support the administrative official's decision. The decision of the governing body in denying or approving the application is final.*

E. Application for Final Certificate

Once the conditions of the contract are met and at the time of temporary or permanent certificate of occupancy, the applicant will need to file an application for final certificate following the process below. The Community Development Director has thirty days to review the application.

3.30.090 Application for final certificate.

Upon completion of the improvements agreed upon in the contract between the applicant and the city and upon issuance of a temporary or permanent certificate of occupancy, the applicant must file with the director the following:

A. *A statement of expenditures made with respect to each multifamily housing unit and the total expenditures made with respect to the entire property;*

B. *A description of the completed work and a statement of qualification for the exemption;*

C. *If applicable, a statement that the project meets the affordable housing requirements as described in RCW 84.14.020; and*

D. *A statement that the work was completed within the required three-year period or any authorized extension.*

Within thirty calendar days of receipt of all materials required for a final certificate, the director shall determine whether the specific improvements, and the affordability of the units, satisfy the requirements of the contract, application, and this chapter.

F. Issuing Final Certificate

Once the Community Development Director has determined the project has met the conditions of the contract, the director will issue the final certificate.

3.30.100 Issuance of final certificate.

If the director determines that the project has been completed in accordance with this chapter and the contract between the applicant and the city has been completed within the authorized time period, the city shall, within ten calendar days of the expiration of the thirty-day review period provided in TMC 3.30.090, file a final certificate of tax exemption with the Thurston County assessor.

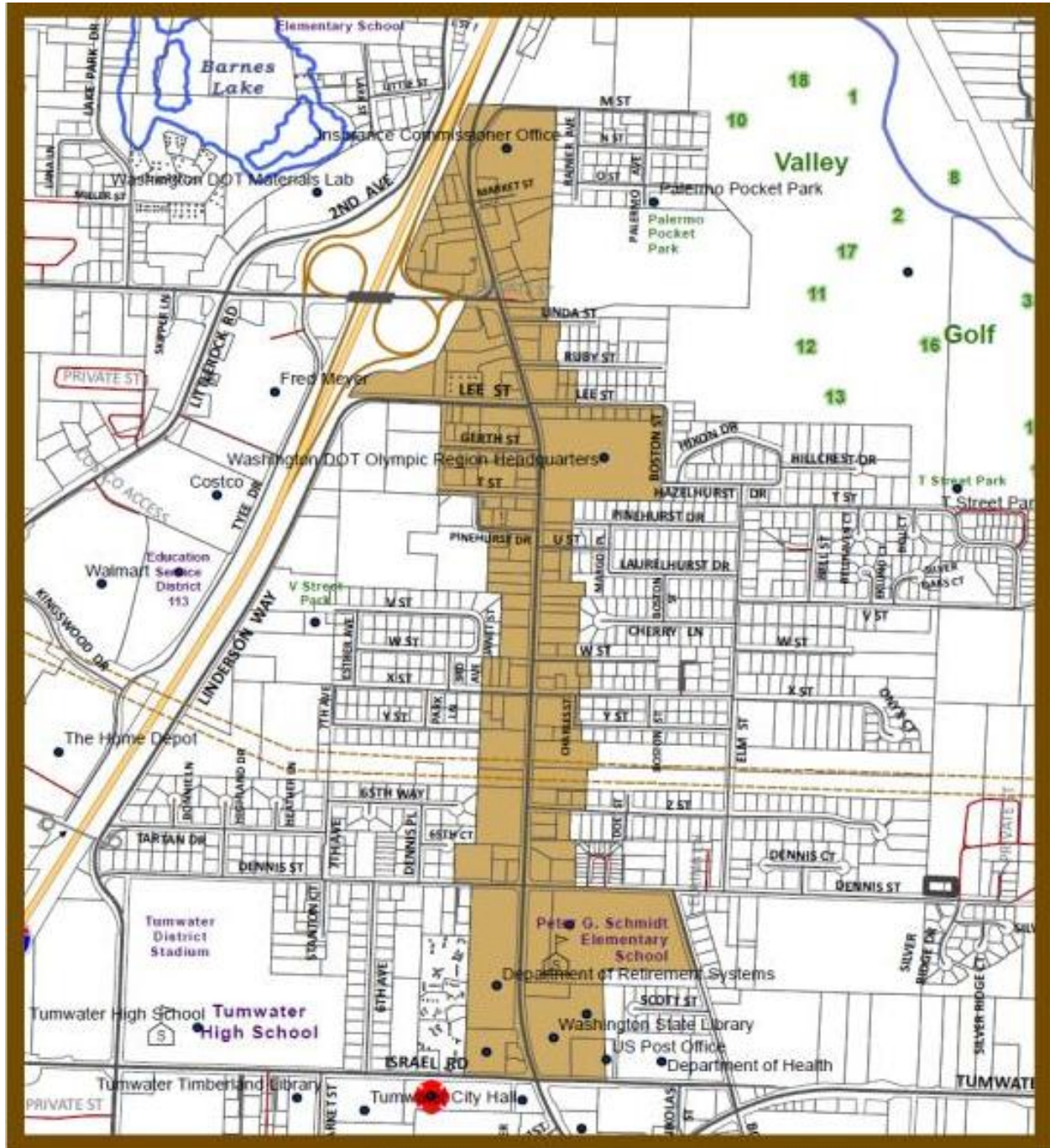
A. Denial and Appeal. The director shall notify the applicant in writing that a final certificate will not be filed if the director determines that:

- 1. The improvements were not completed within the authorized time period;*
- 2. The improvements were not completed in accordance with the application or contract between the applicant and the city; or*
- 3. The owner's property is otherwise not qualified under this chapter.*

Within fourteen calendar days of receipt of the director's denial of a final certificate, the applicant may file an appeal with the city's hearing examiner, as provided in TMC Chapter 2.58.

Appendix A: Multifamily Property Tax Exemption Target Area

Figure 1. Capitol Boulevard Corridor Target Area



**MULTIFAMILY HOUSING
 LIMITED PROPERTY TAX EXEMPTION AGREEMENT
 8-YEAR (X)
 12-YEAR ()**

THIS AGREEMENT is entered into this _____ day of _____, 20____ by and between THE ROOKERY OLYMPIA, LLC, hereafter referred to as “Applicant” and the City of Tumwater, Washington, a municipal corporation hereinafter referred to as the “City”.

WITNESSETH:

WHEREAS, the City has an interest in encouraging new construction or rehabilitation of multifamily housing in Residential Target Areas in order to reduce development pressure on single-family residential neighborhoods, to increase and improve affordable housing opportunities, and to encourage development densities supportive of economic development and transit use; and

WHEREAS, the City has, pursuant to the authority granted to it by Chapter 84.14 RCW, designated various Residential Target Areas for the provision of a limited property tax exemption for new multifamily residential housing; and

WHEREAS, the City has, through Tumwater Municipal Code (TMC) 3.30, enacted a program whereby property owners may qualify for a final certificate of tax exemption which certifies to the Thurston County Assessor that the Applicant is eligible to receive a limited property tax exemption; and

WHEREAS, Applicant is interested in receiving a limited property tax exemption for constructing 6 units of new multifamily housing in the Capitol Boulevard Corridor Subarea; and

WHEREAS, the Applicant is requesting an X eight (8) or a ____ twelve (12) year limited property tax exemption. (For the property to qualify for the twelve-year exemption, the Applicant commits to renting or selling at least twenty percent (20%) of the multifamily housing units constructed on the Site as housing units affordable for low or moderate-income households as defined by Section 3.30.015 TMC, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the City. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this subsection may be satisfied solely through housing affordable to moderate-income households as defined by Section 3.30.015 TMC.); and

WHEREAS, Applicant has submitted to the City preliminary site plans and floor plans for new multifamily residential housing to be constructed on property situated approximately at 6504 Capitol Boulevard SE and described more specifically as follows:

THE ROOKERY OLYMPIA, LLC's The Rookery Apartments (TUM-24-0714)

County Assessor's Parcel Number: 12702230900

Legal Description: 2-17-2W N2-S2-S2-NW TRACT A BLA-7276 12/556 LESS R/W 2463/4 95

Street Address: 6504 Capitol Boulevard SE

Herein referred to as the "Site", and

WHEREAS, the following exhibits, plans and forms are attached to this Agreement and incorporated herein by this reference:

- A. THE ROOKERY OLYMPIA, LLC's The Rookery Apartments (TUM-24-0714) Application
- B. Site Plans, Floor Plans, and Parking Narrative

; and

WHEREAS, the City has determined that the improvements will, if completed and operated as proposed, satisfy the requirements for a final certificate of tax exemption; and

WHEREAS, the Tumwater Municipal Code requires an applicant for a limited property tax exemption to enter into an agreement, in which the applicant agrees to implement the proposed project on terms satisfactory to the Tumwater City Council so as to maintain the improvements' eligibility for the limited property tax exemption;

NOW, THEREFORE, in exchange for the City's consideration of Applicant's request for a final certificate of tax exemption, Applicant and the City mutually agree as follows:

1. Each of the recitals set forth above are by this reference fully incorporated into this Agreement.

2. The City agrees to issue Applicant a conditional certificate of acceptance of tax exemption.
3. Applicant shall construct on the Site multifamily residential housing substantially as described in the most recent site plans, floor plans, and elevations on file with the City as of the date of City approval of this Agreement. In no event shall such construction provide fewer than four new multifamily permanent residential units nor shall it provide fewer than half of its total residential units as permanent housing.
4. The Applicant further agrees that execution of this Agreement by the Mayor, or issuance of a conditional certificate by the City pursuant to TMC 3.30.070, in no way constitutes approval of proposed improvements on the Site or obligates the City to approve proposed improvements.
5. Applicant shall complete construction of the agreed upon improvements within three (3) years from the date the City issues the conditional certificate of acceptance of tax exemption or within any extension thereof granted by the City.
6. Applicant shall, upon completion of the improvements and upon issuance by the City of a temporary or permanent certificate of occupancy, file with the City the following:
 - A. A statement of expenditures made with respect to each multifamily housing unit and the total expenditures made with respect to the entire property;
 - B. A description of the completed work and a statement of qualifications for the exemption;
 - C. A statement that the work was completed within the required three-year period or any authorized extension; and
 - D. If applicable, a statement that the project meets the affordable housing requirements as described in TMC Chapter 3.30.
7. Upon Applicant's successful completion of the improvements in accordance with the terms of this Agreement, Applicant's filing of the materials described in Paragraph 6 above and payment of all fees, and upon the City's approval of a final certificate of tax exemption, the City shall file the final certificate with the Thurston County Assessor and provide a copy to the Applicant. The Applicant shall cause this Agreement to be recorded in the

real property records of Thurston County, Washington. The Applicant shall pay all fees and charges incurred in connection with such recording and shall provide the City with a copy of the recorded document.

8. Applicant shall, within thirty (30) days following the first anniversary of the City's filing of the final certificate of tax exemption and each year thereafter for a period of X eight (8) years or ___ twelve (12) years, file a notarized declaration with the City indicating the following:
 - A. A statement of occupancy and vacancy of the multifamily units during the previous year;
 - B. A certification that the Site continues to be in compliance with this Agreement and TMC Chapter 3.30 and, if applicable, that the Site has been in compliance with the affordable housing requirements as described in RCW 84.14.020 since the date of the approved certificate;
 - C. A description of any subsequent improvements or changes to the Site;
 - D. The total monthly rent by unit;
 - E. The income of each renter household at the time of initial occupancy; and
 - F. Any additional information requested by the city in regards to the units receiving a tax exemption.
9. City staff may also conduct on-site verification of the declaration referenced in Section 8 above.
10. Failure to submit the annual declaration in Section 8 above shall result in a review of the exemption per TMC 3.30.120.
11. If, during the term of any final certificate of tax exemption, Applicant converts to another use any of the new multifamily residential housing units constructed under this Agreement, Applicant shall notify the Thurston County Assessor and the City within sixty (60) days of such change in use. The City may, in its sole discretion, revoke and cancel the final Certificate of tax exemption effective on the date of Applicant's conversion of any of the multifamily residential housing units to another use. The Applicant hereby covenants and agrees not to sell, transfer, or otherwise dispose of the project or any portion thereof without first providing a written statement executed by the purchaser that the purchaser understands the Applicant's duties and

obligations under this Agreement and will enter into an agreement with the City for the continuation of those obligations. Such notice must be received by the City at least ten (10) working days prior to the close of escrow.

12. Applicant shall notify the City promptly of any transfer of Applicant's ownership interest in the Site or in the improvements made to the Site under this Agreement.
13. In addition to any other powers reserved to the City by law, the City may, in its sole discretion, cancel the final certificate of tax exemption should Applicant, its successors and assigns, fail to comply with any of the terms and conditions of this Agreement or for any other reason no longer qualifies for an exemption.
14. Notice and Appeal. Upon determining that a tax exemption is to be canceled, the City will notify the Applicant by mail, return receipt requested, of the determination to cancel the exemption. Pursuant to TMC 3.30.120, the Applicant may appeal the determination to the City hearing examiner within thirty (30) days by filing a notice of appeal with the city clerk, which notice must specify the factual and legal basis on which the determination of cancellation is alleged to be erroneous. The hearing examiner will affirm, modify, or repeal the decision of cancellation of exemption based on the evidence received. An aggrieved party may appeal the decision of the hearing examiner to the Thurston County superior court.
15. If the exemption is canceled for non-compliance, the Applicant acknowledges that state law requires that an additional real property tax is to be imposed in the amount of: (1) the difference between the tax paid and the tax that would have been paid if it had included the value of the non-qualifying improvements, dated back to the date that the improvements became non-qualifying; (2) a penalty of twenty percent (20%) of the difference calculated under subsection (1) of this paragraph; and (3) interest at the statutory rate on delinquent property taxes and penalties, calculated from the date the tax would have been due without penalty if the improvements had been assessed without regard to the exemptions provided by Chapter 84.14 RCW and Chapter 3.30 TMC. The Applicant acknowledges that, pursuant to RCW 84.14.110, any additional tax owed, together with interest and penalty, become a lien on that portion of the property on which the improvements are constructed and attach at the time the portion of the Site is removed from multifamily use or the amenities no longer meet applicable requirements, and that the lien has priority to and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the Site may become charged or liable. The Applicant further

acknowledges that RCW 84.14.110 provides that any such lien may be foreclosed in the manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent ad valorem property taxes.

16. No modifications of the Agreement shall be made unless mutually agreed upon by the parties in writing.
17. The provisions, covenants, and conditions contained in this Agreement are binding upon the parties hereto and their legal heirs, representatives, successors, assigns, and subsidiaries.
18. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Venue for any action arising out of this Agreement shall be in Thurston County superior court.
19. In the event that any term or clause of this Agreement conflicts with applicable law, such conflict shall not affect other terms of this Agreement that can be given effect without the conflicting terms or clause, and to this end, the terms of the Agreement are declared to be severable. However, if applicable and if the severable term prevents the City from receiving the benefits of having affordable housing as set forth in Chapter 84.14 RCW and Chapter 3.30 TMC, then this Agreement shall be deemed terminated, or may be terminated, as soon as possible in compliance with any applicable law.
20. The Applicant shall exercise reasonable diligence to comply with the requirements of this Agreement and shall correct any such noncompliance within sixty (60) calendar days after such noncompliance is first discovered by the Applicant or would have been discovered by the exercise of reasonable diligence, or within 60 calendar days after the Applicant receives notice of such noncompliance from the City, whichever is earliest; provided however, that such period for correction may be extended in writing by the City if the Applicant is exercising due diligence to correct the noncompliance. If such noncompliance remains uncured after such period, then the Applicant shall be in default and the City may deny or cancel the tax exemption pursuant to TMC 3.30 or take such other action at law or equity as may appear necessary or desirable to enforce the obligations, covenants, conditions and agreements of the Applicant under this Agreement.
21. A. The Applicant shall maintain complete and accurate records pertaining to the affordable housing units and shall, during regular business hours, permit any duly authorized representative of the City, to inspect the

books and records of the Applicant pertaining to the affordable housing units, including the annual declaration, and if applicable, income documentation of households residing in affordable housing at the Site. The Applicant's failure to maintain such records or failure to allow inspection by the City or any duly authorized representative shall constitute a material default hereunder. The Applicant shall retain all records pertaining to the affordable housing units for at least six (6) years.

B. The City and the Applicant hereby recognize and agree that the representations and covenants set forth herein may be relied upon by City and the Applicant. In performing its duties and obligations hereunder, the City may rely upon statements and declarations of the Applicant, and upon audits of the books and records of the Applicant pertaining to occupancy of the affordable housing units.

22. Notwithstanding anything in this Agreement to the contrary, the Applicant shall submit all documentation required by this Agreement on the forms designated by the City, which may be modified by the City from time to time. Applicant.
23. The Applicant shall not discriminate on the basis of race, creed, religion, color, sex, sexual orientation, age, national origin, marital status, or presence of any mental or physical handicap as set forth in RCW 49.60.030, as now existing and as may be amended, or on the basis of source of income as set forth in RCW 59.18.255, as now existing and as may be amended, in the lease, use, or occupancy of the affordable housing units or in connection with the employment or application for employment of persons for the operation and management of the Site.
24. A. The City and Applicant hereby declare their understanding and intent that the covenants, conditions and restrictions set forth herein directly benefit the land (i) by enhancing and increasing the enjoyment and use of the Site by certain eligible households, and (ii) by furthering the public purposes of providing housing for low-income and moderate-income households as defined in TMC 3.30.015.
- B. The City and the Applicant hereby declare that the covenants and conditions contained herein shall bind and the benefits shall inure to, respectively, the Applicant and all subsequent owners of the Site or any interest therein, and the City. Each and every contract, deed or other instrument hereafter executed conveying the Site or any portion thereof or interest therein shall contain an express provision making such conveyance subject to the covenants and conditions of this Agreement, provided however,

that any such contract, deed or other instrument shall conclusively be held to have been executed, delivered and accepted subject to such covenants and conditions, regardless of whether or not such covenants and conditions are set forth or incorporated by reference in such contract, deed or other instrument.

25. The Applicant shall defend, indemnify, and hold the City, its officers, officials, employees, volunteers and its designee and any other party authorized hereunder to enforce the terms of this Agreement, harmless from any and all claims, injuries, damages, losses, or suits, including attorney fees, arising out of or resulting from this Agreement. This provision shall survive termination or expiration of this Agreement.
26. The provisions of this Agreement and of the documents to be executed and delivered in connection herewith are and will be for the benefit of the Applicant and the City only and, are not for the benefit of any third party (including, without limitation, any tenants or tenant organizations), and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered in connection herewith.

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

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

Applicant:
THE ROOKERY OLYMPIA, LLC
6504 Capitol Boulevard SE
Tumwater, WA 98501

Debbie Sullivan, Mayor

Signature
Name Printed: Tyrell Bradley
Title: Principal

Approved as to form:

Karen Kirkpatrick, City Attorney

State of Washington
County of _____

This record was acknowledged before me on (date) by (name(s) of individuals) as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

(Signature)
Notary Public in and for the State of Washington.
My appointment expires _____.
Date:_____

State of Washington
County of Thurston

I certify that I know or have satisfactory evidence that Debbie Sullivan is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Tumwater to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated:_____

(Signature)

Notary Public in and for the State of Washington.

My appointment expires _____.



CITY OF TUMWATER
 555 ISRAEL RD. SW, TUMWATER, WA 98501
 (360) 754-4180
 Email: cdd@ci.tumwater.wa.us
**TAX EXEMPTION ON MULTI-FAMILY UNITS
 WITHIN A DESIGNATED RESIDENTIAL
 TARGET AREA
 APPLICATION FOR A CONDITIONAL
 CERTIFICATE**

TUM -24-
0714

 Kerri
 RCVD BY

DATE STAMP

 05-08-2024

LEGAL OWNER: Tyrell and Tessa Bradley Email: tbradley@ldccorp.com
 Mailing Address 2800 Forest Hill Dr SE Olympia WA 98501 Phone: (360) 878-0678
 APPLICANT: The Rookery Olympia, LLC Email: tbradley@ldccorp.com
 Mailing Address 6504 Capitol Blvd SE Tumwater WA 98501 Phone: (360) 878-0678
 AGENT: Tyrell Bradley Email: tbradley@ldccorp.com
 Mailing Address 6504 Capitol Blvd SE Tumwater WA 98501 Phone: (360) 878-0678

PROJECT INFORMATION

PROPERTY ADDRESS: 6504 Capitol Blvd SE Tumwater WA 98501
 PARCEL #: 12702230900 PROJECT NAME: The Rookery
 LEGAL DESCRIPTION: 2-17-2W N2-S2-S2-NW TRACT A BLA-7276 12/556 LESS R/W 2463/4 95

RESIDENTIAL TARGET AREA WHERE PROJECT WILL BE LOCATED:

- 8 OR 12 YEAR TAX CREDIT: CAPITOL BOULEVARD CORRIDOR
 BREWERY DISTRICT
 12 YEAR TAX CREDIT ONLY: TUMWATER TOWN CENTER
 LITTLEROCK ROAD SUBAREA

INTEREST IN PROPERTY: FEE SIMPLE CONTRACT PURCHASE OTHER

DESCRIPTION OF THE PROJECT, INCLUDING USES OF ALL PROPOSED BUILDING AND ON-SITE AMENITIES: The proposed project will construct a mixed use building with the ground floor being a commercial office and the two floors above providing six (6) market rate multifamily housing units. On-site amenities will consist of a shared courtyard and rooftop decks that can be accessed by all units.

TOTAL NUMBER OF DWELLING UNITS PROPOSED: 6

NUMBER OF UNITS: EXISTING EMPTY: 0 EXISTING OCCUPIED: 0

** IF EXISTING UNITS ARE VACANT, DATE LAST OCCUPIED: _____
 ** AFFIDAVIT OF VACANCY MUST BE ATTACHED**

TERM OF TAX EXEMPTION REQUESTED: 8 YEAR TAX CREDIT OR 12 YEAR TAX CREDIT

NUMBER OF UNITS FOR WHICH A TAX EXEMPTION IS REQUESTED: 6

(Must be 4 or more)

EXPECTED START DATE: June 15, 2024

EXPECTED COMPLETION DATE: June 15, 2025

TYPE OF PROJECT: NEW CONSTRUCTION CONVERSION OF EXISTING STRUCTURE

REHABILITATION OF MULTIFAMILY STRUCTURE

IF THE PROJECT IS TO REHABILITATE EXISTING UNITS, HOW LONG HAVE THE UNITS BEEN VACANT: _____

COMPLETE THE FOLLOWING TABLE:

PROPOSED DWELLING UNITS	STUDIO	1-BR	2-BR	3-BR+	TOTAL UNITS
NUMBER OF INCOME-RESTRICTED UNITS	_____	_____	_____	_____	_____
NUMBER OF MARKET-RATE UNITS	_____	<u>6</u>	_____	_____	<u>6</u>
AVERAGE MONTHLY RENT (INCOME-RESTRICTED)	_____	_____	_____	_____	_____
AVERAGE MONTHLY RENT (MARKET-RATE)	_____	_____	_____	_____	_____
AVERAGE UNIT SIZE (SF)	_____	<u>817 SF</u>	_____	_____	_____
DEVELOPMENT COST PER UNIT	_____	_____	_____	_____	_____
NUMBER OF UNITS VACANT FOR 12 MONTHS OR MORE*	_____	_____	_____	_____	_____
NUMBER OF UNITS THAT ARE CURRENTLY OCCUPIED*	_____	_____	_____	_____	_____

* COMPLETE IF APPLICANT WILL REHABILITATE EXISTING UNITS

TOTAL SITE AREA: 0.30 PROPOSED DENSITY: 20 units/acre

PERCENTAGE OF SPACE FOR PERMANENT RESIDENTIAL HOUSING: 61%

NON-RESIDENTIAL FLOOR AREA: 3,123 SF

DESCRIBE BUILDING USE AND SQUARE FEET INTENDED FOR EACH USE: 3,123 sf of the building will be used as commercial office space and 4,958 sf will be used as residential multifamily in perpetuity.

PROJECTED COST OF CONSTRUCTION / REHABILITATION: \$2,774,597

PROPERTY ACQUISITION COST \$299,000

ESTIMATED TOTAL PROJECT COST: \$3,073,597

SOURCE OF COST ESTIMATE: Bids from general contractor and sub contractors

EXPECTED DATE TO START PROJECT: June 15, 2024

PROPOSED COMPLETION DATE: June 15, 2025

FOR PROJECTS SEEKING A 12-YEAR EXEMPTION OR ANY PROGRAM WITH AFFORDABILITY REQUIREMENTS, COMPLETE THE FOLLOWING TABLE:

PROPOSED DWELLING UNITS	STUDIO	1-BR	2-BR	3-BR+	TOTAL UNITS
NUMBER OF INCOME-RESTRICTED UNITS	_____	_____	_____	_____	_____
NUMBER OF UNITS AT OR BELOW 80% AMI (LOW-INCOME)	_____	_____	_____	_____	_____
AVERAGE RENT FOR LOW-INCOME UNITS	_____	_____	_____	_____	_____
NUMBER OF UNITS AT OR BELOW 115% AMI (MODERATE-INCOME)	_____	_____	_____	_____	_____
AVERAGE RENT FOR MODERATE-INCOME UNITS	_____	_____	_____	_____	_____

STATEMENT OF POTENTIAL TAX LIABILITY

AS OWNER OF THE LAND DESCRIBED IN THIS APPLICATION, I HEREBY INDICATE BY MY SIGNATURE THAT I AM AWARE OF THE ADDITIONAL TAX LIABILITY IF AND WHEN THE PROPERTY CEASES TO BE ELIGIBLE FOR EXEMPTION. I AM AWARE THAT THE TAX EXEMPTION MUST BE CANCELLED IF THE PROPERTY IS CONVERTED FROM MULTIFAMILY TO ANOTHER USE. I AM AWARE THAT IF I DECIDE TO CONVERT THE MULTIFAMILY HOUSING TO ANOTHER USE OR INTEND TO DISCONTINUE COMPLIANCE WITH THE AFFORDABLE HOUSING REQUIREMENTS, I MUST NOTIFY THE CITY COMMUNITY DEVELOPMENT DEPARTMENT AND THE COUNTY ASSESSOR WITHIN 60 DAYS OF THE CHANGE IN USE OR INTENDED DISCONTINUANCE.

OWNER SIGNATURE: *Dyrell E. Bradley* *Ann Bradley*

DATE: 5/1/2024

AFFIRMATION

AS TAXPAYER(S) OF THE LAND DESCRIBED IN THIS APPLICATION, I HEREBY INDICATE BY MY SIGNATURE THAT I AM AWARE THAT THE EXEMPTION DOES NOT BEGIN UNTIL AFTER THE PROJECT IS COMPLETE AND I HAVE APPLIED FOR A FINAL CERTIFICATE OF EXEMPTION. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THIS APPLICATION AND ANY ACCOMPANYING DOCUMENTS HAVE BEEN EXAMINED BY ME AND THAT THEY ARE TRUE, CORRECT, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

OWNER SIGNATURE: *Dyrell E. Bradley* *Ann Bradley*

DATE: 5/1/2024

IF APPLYING FOR A 12-YEAR CREDIT, PLEASE ATTACH A STATEMENT ADDRESSING THE FOLLOWING QUESTIONS:

1. Total number of units being proposed
2. Estimated rent per unit
3. Number of units rented to low or moderate income households (or other households)
4. Estimated income of those households
5. Method for insuring program compliance over the period of the exemption

A COMPLETE APPLICATION SHALL INCLUDE:

1. A completed City of Tumwater application setting forth the grounds for the exemption;
2. Preliminary floor and site plans of proposed project;

3. A statement acknowledging the potential tax liability when the project ceases to be eligible under this chapter;
4. Verification by oath or affirmation of the information submitted;
5. If the project is to rehabilitate existing units and if the units are occupied, provide a statement of how will the applicant provide existing tenants with relocation assistance;
6. If mixed use project, provide detail on residential and non-residential parking area.

For rehabilitation projects, the applicant shall also submit an affidavit that existing dwelling units have been unoccupied for a period of twelve months prior to filing the application and shall secure from the City verification of property noncompliance with the City's applicable building or housing codes.

Before application approval, the applicant shall enter into a contract with the City, approved by the City Council, regarding the terms and conditions of the project. After City Council approval of the contract, and Director of Community Development approval of the application, the Director shall issue a conditional Certificate of Acceptance of Tax Exemption. The Conditional Certificate expires three years from the date of approval unless an extension is granted as provided in this chapter.”

SUMMARY OF PROCESS STEPS

1. **Pre-application meeting:** A meeting with staff to discuss the process and criteria is recommended prior to application.
2. **Application:** Complete the attached application and submit the applicable materials listed on the form along with the required filing fee. The application must be submitted prior to applying for a building permit.
3. **Review process:**
 - a. The Community Development Department reviews the application and within 90 days determines whether it is consistent with the program criteria.
 - b. If the proposal is found to be consistent, the Community Development Department Director may certify the project as eligible for the tax exemption. The applicant shall then enter into a contract with the City regarding the terms and conditions of the project.
 - c. Upon approval of the contract by Community Development Department Director, the Director issues a Conditional Certificate of Tax Exemption. The Conditional Certificate expires three years from the date of approval unless an extension is granted.
 - d. If the Community Development Department Director denies the eligibility for tax exemption, the applicant may file an appeal within 30 days of receipt of notice. The City Council decides the appeal.
4. **Application for final certificate:** Upon completion of the improvements agreed upon in the contract between the applicant and the City and upon issuance of a temporary or permanent certificate of occupancy, the applicant may request a Final Certificate of Tax Exemption. The applicant must file with the Community Development Department the following:
 - a. A statement of expenditures made with respect to each multifamily housing unit and the total expenditures made with respect to the entire property.
 - b. A description of the completed work with evidence of final City inspection of all work completed and a statement of qualification for the exemption.
 - c. A statement that the work was completed within the required three-year period or any authorized extension.
 - d. If applicable, a statement that the project meets the affordability requirements.
 - e. Other requirements, if applicable
 - f. Within 30 days of receipt of all materials required for the Final Certificate, the Community Development Department Director determines whether the project has been completed in accordance with the contract.
5. **Issuance of final certificate.**
 - a. If approved, the Community Development Department Director files a Final Certificate of Exemption with the county assessor.
 - b. If denied, within fourteen calendar days of receipt of the director's denial of a final certificate, the applicant may file an appeal with the City's hearing examiner, as provided in TMC Chapter 2.58.
6. **Annual compliance review.** Within thirty calendar days after the first anniversary of the date of filing the final certificate of tax exemption and each year thereafter for the tax exemption period, the

property owner shall file a notarized declaration with the director indicating the following:

- a. A statement of occupancy and vacancy of the multifamily units during the previous year;
- b. A certification that the property continues to be in compliance with the contract with the City and this chapter and, if applicable, that the property has been in compliance with the affordable housing requirements as described in RCW 84.14.020 since the date of the approved certificate;
- c. A description of any subsequent improvements or changes to the property; and
- d. Any additional information requested by the City in regards to the units receiving a tax exemption.
- e. City staff may also conduct on-site verification of the declaration.
- f. Failure to submit the annual declaration shall result in a review of the exemption per TMC 3.30.120.

PROJECT ELIGIBILITY CHECKLIST


The proposed project:

- Is in a designated residential targeted area.
- Does not displace any existing residential tenants from the property proposed for development without providing residents with comparable housing and opportunities to relocate.
- Is a multi-family or mixed-use project, which is at minimum 50% housing and provides at minimum four (4) new dwelling units.
- Will be completed within three years from the effective date of the City Council approved Conditional Contract of Tax Exemption, with the possibility of an extension under the ordinance.

(FOR CITY USE)

- Building is in a Multi-Family Tax Exemption Target Areas
- Building is not in compliance with the City’s Minimum Housing Code
- Required Preliminary Plans are attached: Plans Site Plan Floor Plan
- \$100 application fee received

I certify under penalty of perjury that the information furnished by me is true and correct to the best of my knowledge, and further, that I am the owner of this property or am authorized by the owner to perform the work for which this permit application is made. I further agree to hold harmless, the City of Tumwater as to any claim (including costs, expenses, and attorney fees incurred in investigation and defense of such claim), which may be made by any person, including the undersigned, and filed against the City of Tumwater, to the extent such claim arises out of the reliance of the City, including its officers and employees, upon the accuracy of the information supplied to the City as part of this application.


 05/01/2024

Signature of Owner

Date

Tessa Bradley & Tyrell Bradley

Print Name



05/01/2024

Signature of Applicant/Agent

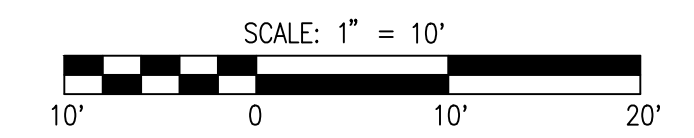
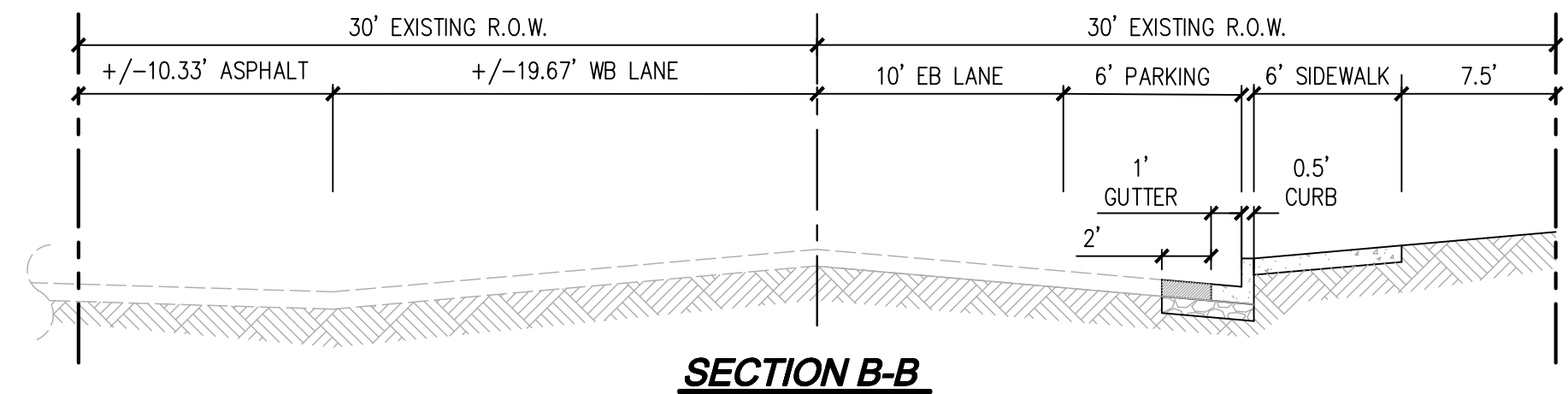
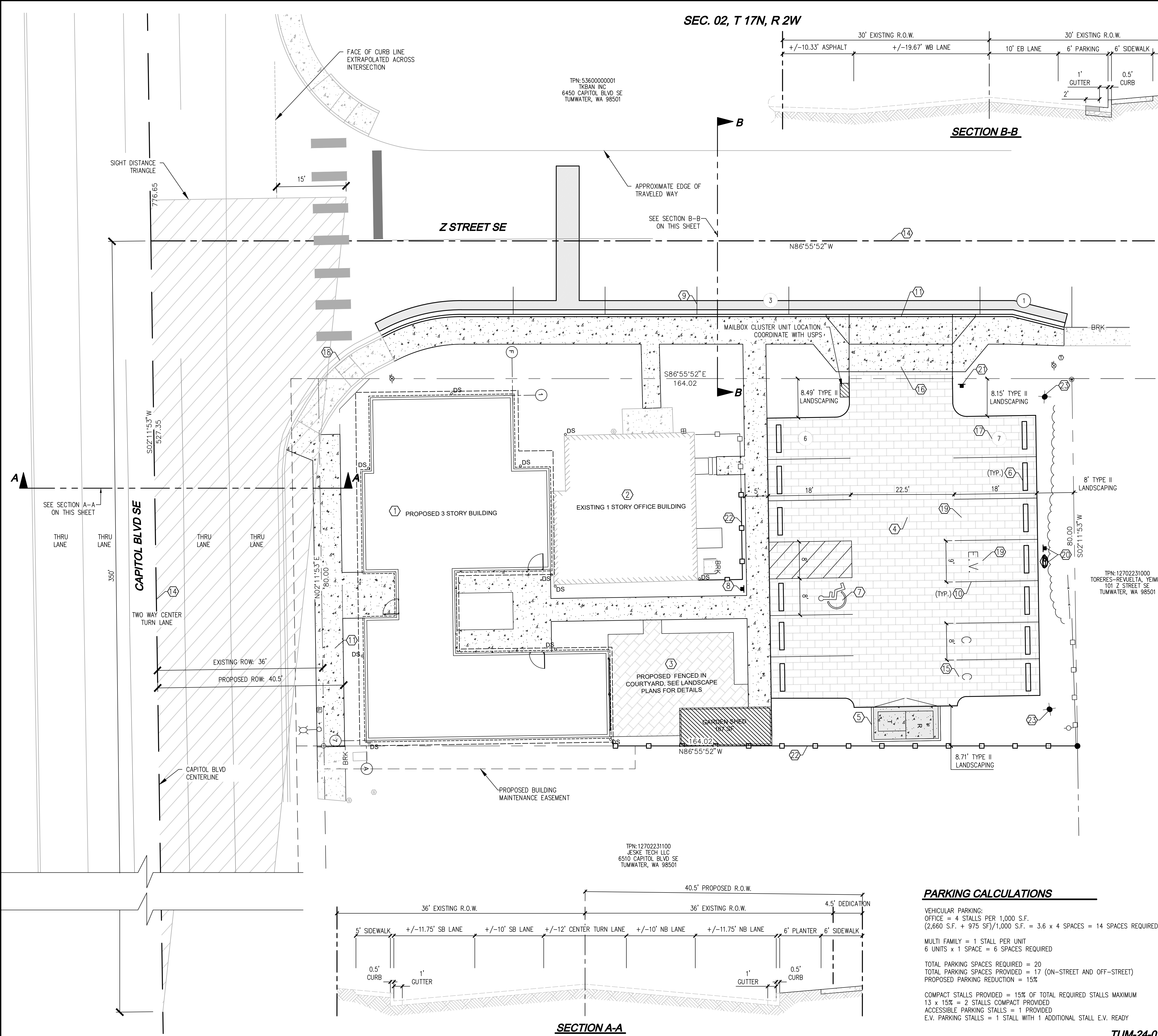
Date

Tyrell Bradley

Print Name

SEC. 02, T 17N, R 2W

Exhibit "B"



LEGEND

- RIGHT OF WAY CENTERLINE
- PROPERTY LINE
- PROPOSED BUILDING
- CONCRETE SIDEWALK PER CITY OF TUMWATER STD DETAIL ST-4 SHOWN ON SHEET SP-02
- CONCRETE TRASH ENCLOSURE PAD PER DETAIL ON SHEET SP-02
- ASPHALT PAVEMENT PER DETAIL SHOWN ON SHEET SP-02
- PERMEABLE PAVEMENT PER DETAIL SHOWN ON SHEET SP-02
- CEMENT CONCRETE TRAFFIC CURB PER DETAIL SHOWN ON SHEET SP-02
- STALL COUNT
- ELECTRIC VEHICLE PARKING STALL
- ELECTRIC VEHICLE CHARGING STATION PEDESTAL. SEE ELECTRICAL PLANS FOR ADDITIONAL INFORMATION
- WHEEL STOP PER DETAIL ON SHEET SP-02

SITE PLAN NOTES

1. PROPOSED BUILDING THREE STORY MIXED USE BUILDING WITH GROUND FLOOR COMMERCIAL, FOUR APARTMENTS ON THE SECOND FLOOR, AND TWO APARTMENT UNITS ON THE THIRD FLOOR
2. EXISTING OFFICE BUILDING TO REMAIN
3. PROPOSED OUTDOOR OPEN SPACE/COURTYARD. SEE LANDSCAPE PLANS FOR DETAILS
4. PROPOSED 13 STALL PERMEABLE PAVER PARKING LOT
5. PROPOSED TRASH/REFUSE ENCLOSURE. SEE BUILDING PLANS FOR ENCLOSURE DETAILS
6. PROPOSED WHEEL STOPS PER DETAIL ON SHEET SP-02
7. PROPOSED ACCESSIBLE PARKING STALL, SEE DETAILS ON SHEET SP-02
8. PROPOSED ADA PARKING SIGN AND POST PER DETAIL ON SHEET SP-02
9. PROPOSED ON-STREET PARKING
10. PROPOSED STANDARD PARKING STALL PER DETAIL ON SHEET SP-02
11. PROPOSED FRONTAGE IMPROVEMENTS
12. SEE LANDSCAPE PLAN FOR PLANTINGS
13. PROPOSED SHED (+/- 100 SF)
14. EXISTING CENTERLINE OF RIGHT OF WAY
15. PROPOSED COMPACT PARKING STALL
16. PROPOSED WSDOT TYPE 2 DRIVEWAY ENTRANCE PER DETAIL ON SHEET SP-03
17. PARKING STALL COUNT
18. EXISTING RAMP TO REMAIN
19. PROPOSED E.V. PARKING STALL
20. PROPOSED E.V. SIGNAGE AND CHARGING STATION. SEE ELECTRICAL PLANS FOR CHARGING STATION DETAILS, SEE SHEET SP-02 FOR E.V. SIGNAGE
21. PROPOSED PERMEABLE PAVEMENT SIGN PER DETAIL ON SHEET SP-02
22. PROPOSED 6' TALL CEDAR FENCE. MATCH EXISTING FENCE IN KIND
23. PROPOSED PARKING LOT LIGHTING. SEE ELECTRICAL SITE PLAN FOR LIGHTING STANDARD AND PHOTOMETRIC ANALYSIS.

GENERAL NOTES

- ON-SITE PARKING STALLS PROVIDED: 13
- COMPACT STALLS PROVIDED: 2
- ADA PARKING STALLS PROVIDED: 1 (VAN ACCESSIBLE)
- ON STREET PARKING STALLS PROVIDED: 4

UTILITY NOTE

UTILITIES SHOWN HEREON ARE FROM FIELD MAPPING VISIBLE SURFACE APPURTENANCES, AND MAPPING UTILITY PAINT MARKS FROM A UTILITY LOCATING SERVICE. BURIED UTILITIES ARE ONLY SHOWN AS APPROXIMATE AND SHOULD BE VERIFIED BEFORE CONSTRUCTION.

Call 2 Business Days Before You Dig
811 or 1-800-424-5555
Utilities Underground Location Center

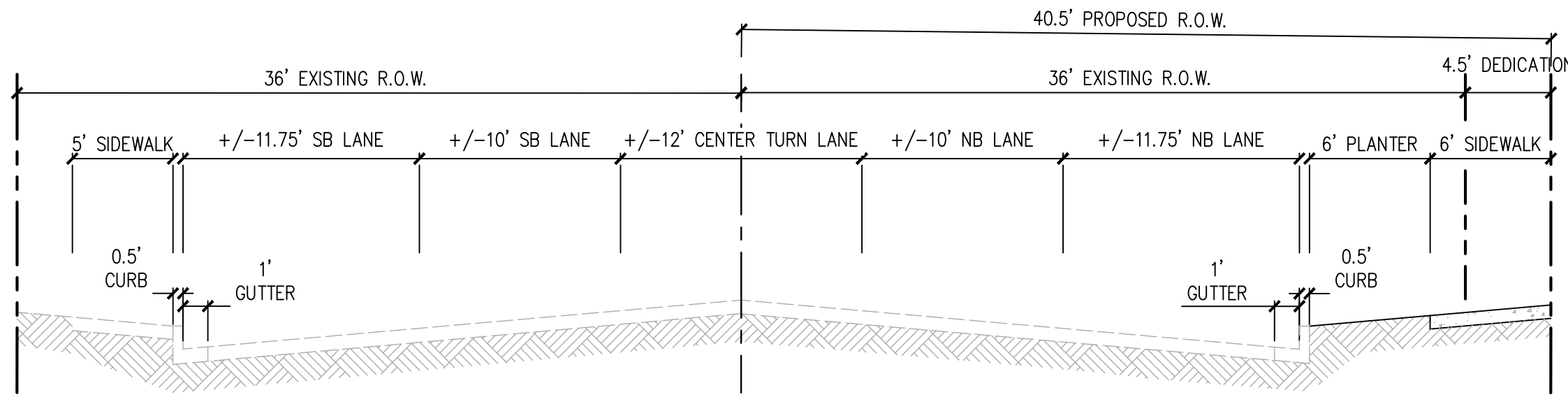
PARKING CALCULATIONS

VEHICULAR PARKING:
OFFICE = 4 STALLS PER 1,000 S.F.
(2,660 S.F. + 975 SF)/1,000 S.F. = 3.6 x 4 SPACES = 14 SPACES REQUIRED

MULTI FAMILY = 1 STALL PER UNIT
6 UNITS x 1 SPACE = 6 SPACES REQUIRED

TOTAL PARKING SPACES REQUIRED = 20
TOTAL PARKING SPACES PROVIDED = 17 (ON-STREET AND OFF-STREET)
PROPOSED PARKING REDUCTION = 15%

COMPACT STALLS PROVIDED = 15% OF TOTAL REQUIRED STALLS MAXIMUM
13 x 15% = 2 STALLS COMPACT PROVIDED
ACCESSIBLE PARKING STALLS = 1 PROVIDED
E.V. PARKING STALLS = 1 STALL WITH 1 ADDITIONAL STALL E.V. READY



SECTION A-A

TUM-24-0220

REVISIONS

NO.	DATE	DESCRIPTION

BY

LDC | Surveying Engineering Planning

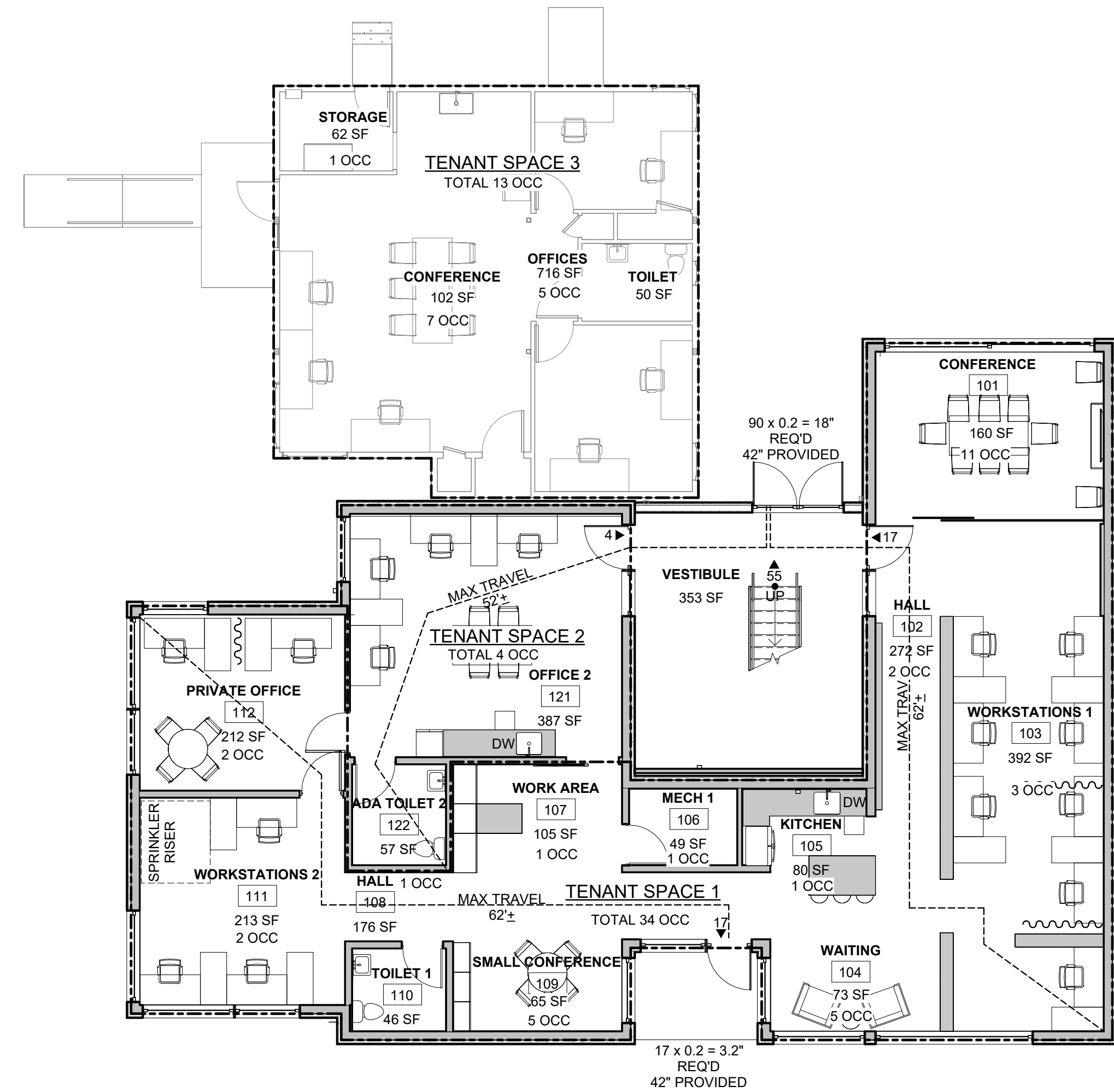
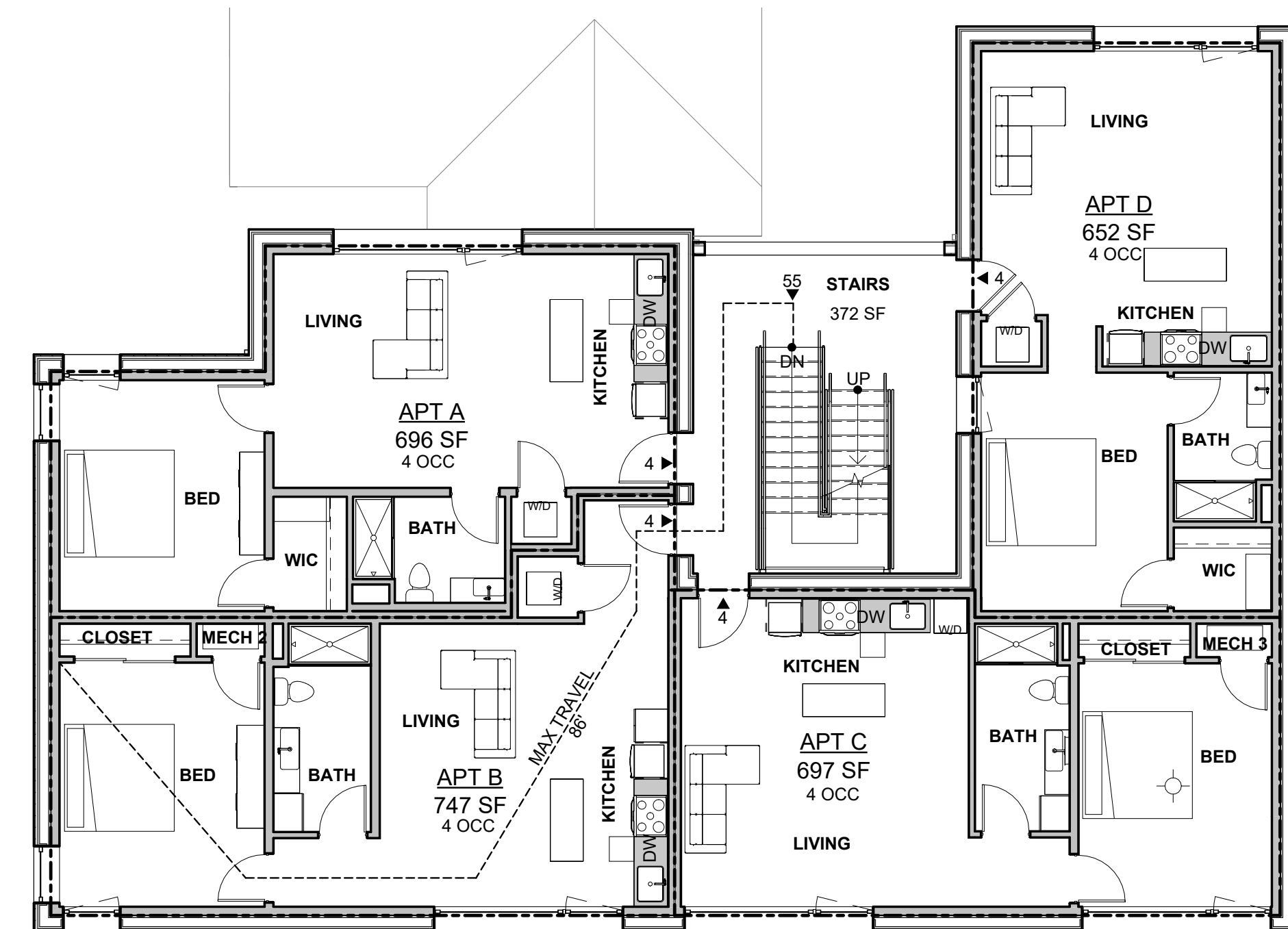
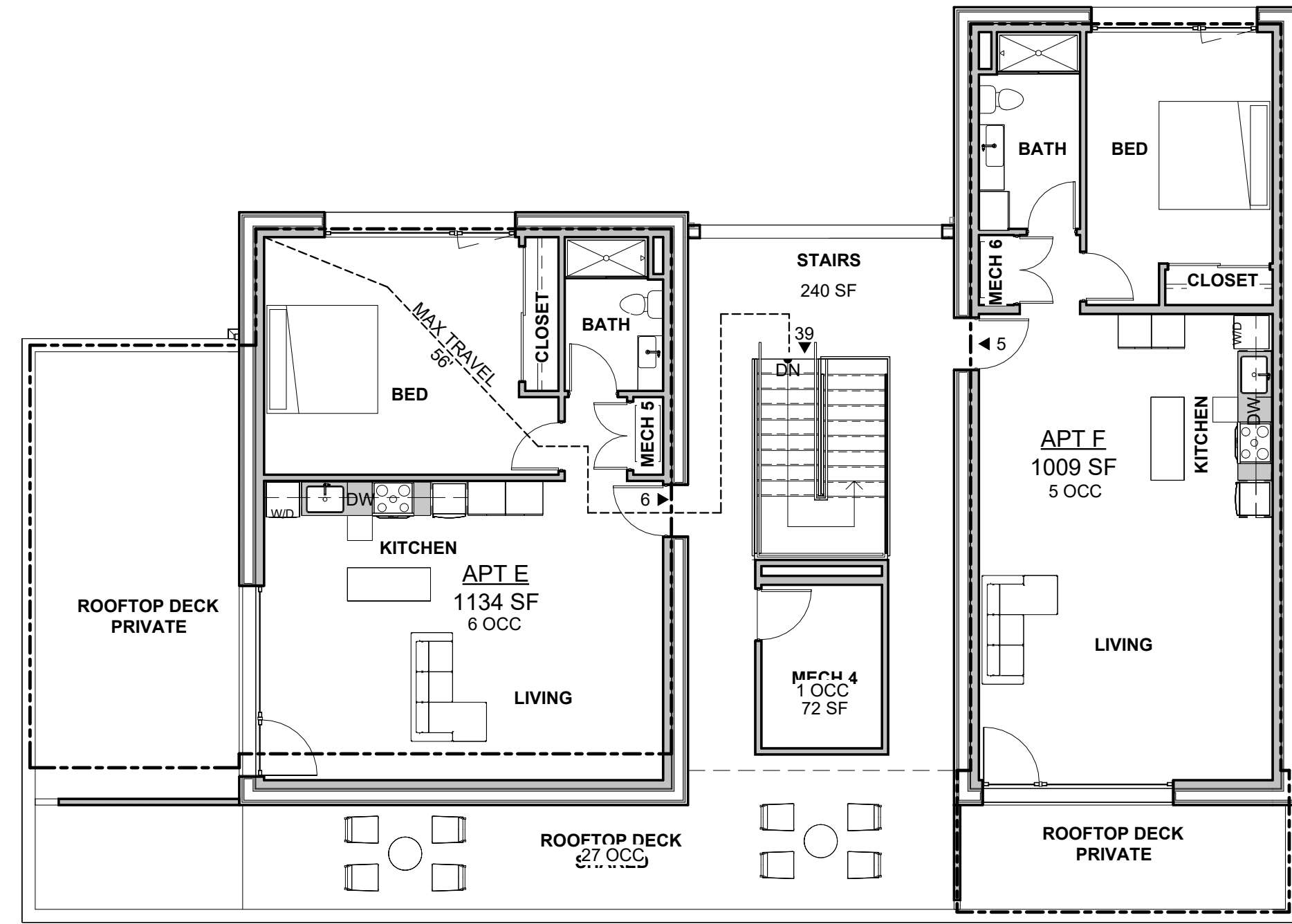
Woodinville 20210 142nd Avenue NE Woodinville, WA 98072
Kent 1851 Central Pl. S, #100 Kent, WA 98030
T 425.806.1869 www.LDCcorp.com F 425.482.2893

THE ROOKERY OLYMPIA, LLC
THE ROOKERY
SITE IMPROVEMENT PLAN

THE ROKERY OLYMPIA, LLC
1851 Central Pl. S, #100
Kent, WA 98030
T 425.806.1869 www.LDCcorp.com F 425.482.2893

JOB NUMBER:
DRAWING NAME: SP-01
DESIGNER:
DRAFTING BY:
DATE: APRIL, 2024
SCALE: AS NOTED
JURISDICTION: TUMWATER

SP-01
SHEET 4 OF 11



May 7, 2024

Exhibit "D"

City of Tumwater
Community Development
Attn: Brad Medrud, Long Range Planning Manager

RE: TUM-24-0220 The Rookery MFTE Parking Narrative

Dear Mr. Medrud,

The purpose of this letter is to provide a narrative for the parking being provided as part of the mixed use building being constructed under City of Tumwater project number TUM-24-0220. Tumwater municipal code requires twenty (20) total parking spaces with an allowance to reduce this requirement by 15% administratively, bringing the total to seventeen (17) required parking spaces. This project will be providing the required seventeen (17) total parking spaces with eleven (11) parking spaces for the ground floor offices and six (6) parking spaces for the six (6) one-bedroom multifamily units. At this time, there is not a plan to assign parking spaces.

Sincerely,

LDC, Inc.



Tyrell Bradley
Principal Engineer
Olympia Office

321 Cleveland Avenue SE, Suite 209 • Tumwater, WA 98501 • ph: 425.806.1869 • fx: 425.482.2893 • www.LDCcorp.com

Contract Approval for an Eight-Year Multifamily Tax Exemption – The Rookery Apartments (TUM-24-0714)



Background

- In 2014, the City Council adopted the Capitol Boulevard Corridor Plan
- The Plan recommended establishing a Multifamily Tax Exemption program to improve the financial viability of redevelopment in the Corridor



Purpose of the MFTE Program

- In 2017, the City Council adopted the MFTE program to stimulate desired multifamily housing development within key areas of the City
- The City's MFTE program includes an eight-year tax exemption for providing market rate multifamily housing to help encourage further development in the designated areas, such as the Capitol Boulevard Corridor
- The eight-year tax exemption does not include an affordable housing component, as it is intended to stimulate overall multifamily housing development in support of the wider redevelopment of the Corridor



Purpose of the MFTE Program

- Provides a catalyst for economic redevelopment as identified in the Capitol Boulevard Corridor Plan
- Encourages increased residential opportunities within targeted areas
- Stimulates new construction for multifamily housing
- Helps direct future population growth to targeted areas, reducing development pressure on existing neighborhoods
- Provides the needed residential densities to support retail and other services within the target areas
- Helps to achieve residential densities more conducive to transit use in target areas



MFTE Effect on Revenue

- An approved MFTE is a shift in revenue from property tax
- When the City Council sets the City's property tax levy, the City levies a total dollar amount that will be collected for City operations
- When certain property owners get discounts, such as through the MFTE program, that cost is re-distributed to the other property owners in the City
- No matter how many MFTE discounts the City provides, the City still collects the same amount of property tax dollars



MFTE – Units to Date

Units by Conditional and Final Approvals Through April 2024

Approvals	All Units	Market Rate Units	Affordable Units
Conditional	300	263	37
Final	141	112	29
Total	441	375	66



MFTE – Units to Date

Units Approved By Target Area Through April 2024

Target Areas	All Units	Market Rate Units	Affordable Units
<i>Eight- and Twelve-Year Options</i>			
Brewery District	119	119	0
Capitol Corridor	0	0	0
<i>Twelve-Year Option Only with 20% Affordable</i>			
Littlerock Subarea	322	256	66
Town Center	0	0	0
Total	441	375	66



The Rookery Apartments (TUM-24-0714)

- Project Number: TUM-24-0714
- 6501 Capitol Boulevard SE, north of the intersection of Capitol Boulevard SE and Dennis Street SE
- Six units of new multifamily housing
- Eight-year Multifamily Tax Exemption



The Rookery Apartments (TUM-24-0714)



Project Site



Approval Process – Conditional Certificate

TMC 3.30 Multifamily Housing Tax Exemptions establishes the review and approval process for MFTE applications:

1. The applicant has filed a complete Conditional Certificate Application with the City
2. City staff has reviewed the application and determined it is complete and meets the requirements of TMC 3.30
3. The Community Development Director has approved the Conditional Certificate



Approval Process – Conditional Certificate

4. To complete the Conditional Certificate approval process, the applicant must enter into a contract with City that is approved by City Council, under which the applicant agrees to complete the development as outlined in the contract
5. An approved Conditional Certificate and contract are valid for three years from the date of approval



Approval Process – Final Certificate

1. Upon completion of the improvements agreed upon in the contract and issuance of a certificate of occupancy, the applicant then files a Final Certificate Application
2. The complete Final Certificate Application is reviewed and approved by the Community Development Director
3. The Community Development Director files a Final Certificate of Tax Exemption with the Thurston County Assessor



Recommended Action

Authorize the Mayor to sign the contract for an 8-Year Multifamily Tax Exemption for the Rookery Apartments (TUM-24-0714) as recommended by the General Government Committee at their June 12, 2024, meeting

