



Meeting Agenda

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Monday, April 25, 2022

7:00 PM

Hybrid Meeting - Council
Chambers/Online and Via Phone

Special Meeting

Register to attend virtually:

https://us02web.zoom.us/webinar/register/WN_2JmUtFofRRWwcuo1oXIOpA

1. ROLL CALL

1.A ANNOUNCEMENTS

1.B APPROVAL OF AGENDA

2. SPECIAL RECOGNITION

2.A [22-0411](#) Special Recognition - Proclamation Recognizing Olympia Bicycle Month

Attachments: [Proclamation](#)

3. PUBLIC COMMENT

(Estimated Time: 0-30 Minutes) (Sign-up Sheets are provided in the Foyer.)

During this portion of the meeting, community members may address the City Council regarding items related to City business, including items on the Agenda. In order for the City Council to maintain impartiality and the appearance of fairness in upcoming matters and to comply with Public Disclosure Law for political campaigns, speakers will not be permitted to make public comments before the Council in these three areas: (1) on agenda items for which the City Council either held a Public Hearing in the last 45 days, or will hold a Public Hearing within 45 days, or (2) where the public testimony may implicate a matter on which the City Council will be required to act in a quasi-judicial capacity, or (3) where the speaker promotes or opposes a candidate for public office or a ballot measure.

Individual comments are limited to two (2) minutes or less. In order to hear as many people as possible during the 30-minutes set aside for Public Communication, the City Council will refrain from commenting on individual remarks until all public comment has been taken. The City Council will allow for additional public comment to be taken at the end of the meeting for those who signed up at the beginning of the meeting and did not get an opportunity to speak during the allotted 30-minutes.

COUNCIL RESPONSE TO PUBLIC COMMENT (Optional)

4. CONSENT CALENDAR

(Items of a Routine Nature)

4.A [22-0422](#) Approval of April 19, 2022, City Council Meeting Minutes

Attachments: [Minutes](#)

- 4.B** [22-0409](#) Approval of a Resolution Authorizing the First Amendment to an Interlocal Agreement with the LOTT Clean Water Alliance for a Recreational Vehicle Pumping Program

Attachments: [Resolution](#)
[Agreement](#)

- 4.C** [22-0355](#) Approval of a Resolution Authorizing an Agreement with Catholic Community Services for the Operation of Hope Village.

Attachments: [Resolution](#)
[Agreement](#)

- 4.D** [22-0357](#) Approval of a Resolution Authorizing a Contract Amendment to the Low-Income Housing Institute Contract Related to the Operations of Hope Village

Attachments: [Resolution](#)
[Agreement](#)

- 4.E** [22-0400](#) Approval of a Resolution Authorizing a Washington Wildlife and Recreation Program Grant Application to the Recreation and Conservation Office for Kaiser Woods Park Acquisition and Development

Attachments: [Resolution](#)
[RCO Resolution](#)
[Sample Grant Agreement](#)

- 4.F** [22-0404](#) Approval of a Resolution Authorizing a Washington Wildlife and Recreation Program Grant Application to the Recreation and Conservation Office for Yelm Highway Community Park Phase I

Attachments: [Resolution](#)
[RCO Resolution](#)
[Sample Grant Agreement](#)

- 4.G** [22-0405](#) Approval of a Resolution Authorizing a Youth Athletic Facilities Grant Application to the Recreation and Conservation Office (RCO) for Yelm Highway Community Park Phase I

Attachments: [Resolution](#)
[RCO Resolution](#)
[Sample Grant Agreement](#)

- 4.H** [22-0406](#) Approval of a Resolution Authorizing a Land and Water Conservation Fund Grant Application to the Recreation and Conservation Office (RCO) for Yelm Highway Community Park Phase I

Attachments: [Resolution](#)
[RCO Resolution](#)

[Sample Grant Agreement](#)

- 4.I [22-0412](#) Approval of a Resolution Setting a Public Hearing Date to Consider a Petition to Vacate a Portion of Rose Street
Attachments: [Resolution](#)
[Petition](#)
[Vicinity map](#)
- 4.J [22-0413](#) Approval of a Resolution Setting a Public Hearing Date to Consider a Vacation Petition for a Portion of East Bay Drive
Attachments: [Resolution](#)
[Petition](#)
[Vicinity Map](#)
- 4.K [22-0414](#) Approval of a Resolution Setting a Public Hearing Date to Consider a Vacation Petition for an Alley Right-of-Way south of Union Avenue, between Adams Street and Jefferson Street
Attachments: [Resolution](#)
[Petition](#)
[Vicinity Map](#)

4. SECOND READINGS (Ordinances)

- 4.L [22-0312](#) Approval of an Ordinance Adopting Clarifying Amendments to Titles 14, 15, 16, and 18 of Olympia Municipal Code
Attachments: [Ordinance](#)
[Proposed Amendments](#)
[Public Comments](#)
- 4.M [22-0373](#) Approval of an Ordinance Amending Ordinance 7305 (First Quarter 2022 Budget Amendment)
Attachments: [Ordinance](#)
- 4.N [22-0375](#) Approval of an Ordinance Amending Olympia Municipal Code Chapter 13.08 - Sewers
Attachments: [Ordinance](#)
[Summary Table](#)

4. FIRST READINGS (Ordinances) - NONE**5. PUBLIC HEARING**

- 5.A [22-0351](#) Public Hearing to Consider an Ordinance Declaring a Continuing State of a Public Health Emergency Related to Homelessness and COVID-19 - First and Final Reading

Attachments: [Ordinance](#)

6. OTHER BUSINESS

- 6.A [22-0352](#) Approval of a Resolution Approving a Change of Name for Priest Point Park to Squaxin Park in Recognition of the Squaxin Island Tribe's Historical Habitation Of Olympia's Environs

Attachments: [Resolution](#)

[Squaxin Island Tribal Council Resolution](#)

[Accord](#)

[Presentation](#)

[Public Comments](#)

- 6.B [22-0346](#) Approval of a Resolution Authorizing an Agreement with the Thurston Chamber of Commerce for the Olympia Workforce Training Center

Attachments: [Resolution](#)

[Agreement](#)

7. CONTINUED PUBLIC COMMENT

(If needed for those who signed up earlier and did not get an opportunity to speak during the allotted 30 minutes)

8. COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

9. CITY MANAGER'S REPORT AND REFERRALS

10. ADJOURNMENT

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. If you require accommodation for your attendance at the City Council meeting, please contact the Council's Executive Assistant at 360.753.8244 at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 or 1.800.833.6384.



City Council

Special Recognition - Proclamation Recognizing Olympia Bicycle Month

Agenda Date: 4/25/2022
Agenda Item Number: 2.A
File Number:22-0411

Type: recognition **Version:** 1 **Status:** Recognition

Title

Special Recognition - Proclamation Recognizing Olympia Bicycle Month

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Proclaim May as Olympia Bicycle Month.

Report

Issue:

Whether to proclaim May as Olympia Bicycle Month.

Staff Contact:

Michelle Swanson, AICP, Associate Planner, Public Works/Transportation, 360.753.8575

Presenter(s):

Michelle Swanson, AICP, Associate Planner

Duncan Green, Bicycle Community Challenge Coordinator, Intercity Transit

Background and Analysis:

In 2020, Intercity Transit adapted the Thurston County Bicycle Commuter Challenge (BCC) in response to the COVID-19 pandemic. Participants were encouraged to include all bicycle trips in this annual contest, instead of just commuter trips. This change supported bicycling as an important way for people to get exercise and experience the outdoors, even while practicing social distancing or working from home.

This year, they will make the 'All Rides Count' philosophy permanent and update the name to reflect that change. Thurston County residents are invited to participate in the 35th Annual Bicycle Community Challenge this May.

Last year, 681 people in Thurston County took part in the BCC. They biked a total of 68,986 miles to run errands, commute to work, or explore their neighborhood. Among those people were 53 City employees and family members, who rode a total of 5,678 miles.

Also last year, the City Council adopted Olympia's first Transportation Master Plan (TMP). This plan includes projects to make it easier for people to get around on a bicycle, and it will help advance the City's vision for a multimodal transportation system. This year, we will improve the intersection of State Avenue and East Bay Drive to make it safer for bicycling.

In Thurston County, the transportation sector is the second largest producer of greenhouse gas emissions. Making it easier to bike is an important strategy for reaching our emissions reduction goals.

Attachments:

Proclamation

PROCLAMATION

WHEREAS, bicycling is one of the cleanest and most energy-efficient forms of transportation; and

WHEREAS, bicycling instead of driving can help us reach greenhouse gas emission reduction targets identified in the Thurston Climate Mitigation Plan; and

WHEREAS, bicycling can help reduce traffic congestion and air and water pollution; and

WHEREAS, bicycling is a mode of transportation well suited to small cities like Olympia, where many of our trips are short; and

WHEREAS, riding a bicycle can improve physical and mental health; and

WHEREAS, the City of Olympia has an extensive bicycle network which includes a Bike Corridor, 32 miles of bicycle lanes, and 10 miles of the regional trail system within City limits, and

WHEREAS, the City of Olympia adopted its Transportation Master Plan, which includes projects to expand the bicycle network; and

WHEREAS, Intercity Transit, with many sponsors including local businesses and organizations, is hosting the 35th Annual Bicycle Community Challenge during the month of May 2022.

WHEREAS, the Bicycle Community Challenge will count all bicycling miles this year, including miles for exercise and recreation.

NOW, THEREFORE, BE IT RESOLVED that in recognition of the 52nd Earth Day and the 65th National Bike Month, the Olympia City Council hereby proclaims the month of May 2022 as

“OLYMPIA BICYCLE MONTH”

in the City of Olympia and encourages all citizens to ride their bikes, whether for transportation or recreation, during the month of May and throughout the year.

SIGNED IN THE CITY OF OLYMPIA, WASHINGTON THIS 25th DAY OF April, 2022.

OLYMPIA CITY COUNCIL

*Cheryl Selby
Mayor*



City Hall
601 4th Avenue E.
Olympia, WA 98501
360-753-8244

City Council

Approval of April 19, 2022, City Council Meeting Minutes

Agenda Date: 4/25/2022
Agenda Item Number: 4.A
File Number:22-0422

Type: minutes **Version:** 1 **Status:** Consent Calendar

Title

Approval of April 19, 2022, City Council Meeting Minutes



Meeting Minutes - Draft

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, April 19, 2022

7:00 PM

**Hybrid Meeting: Council
Chambers and
Online/Via Phone**

Register to Attend Virtually:

https://us02web.zoom.us/webinar/register/WN_g3yB6nX3SWG2-Ga0QteCA

1. ROLL CALL

Present: 6 - Mayor Cheryl Selby, Mayor Pro Tem Clark Gilman, Councilmember Jim Cooper, Councilmember Yến Huỳnh, Councilmember Lisa Parshley and Councilmember Dontae Payne

Excused: 1 - Councilmember Dani Madrone

1.A ANNOUNCEMENTS

Mayor Selby asked the community to come forward if they have any information regarding the deceased woman who was recently found behind the Joint Animal Services Building. Information can be shared by calling Detective Marcus at 360-753-8041 or Crime Stoppers at 1-800-222-TIPS.

City Manager Jay Burney discussed the upcoming Reimagining Public Safety Listening and Learning Sessions. More information can be found at engage.olympiawa.gov.

1.B APPROVAL OF AGENDA

The agenda was approved.

2. SPECIAL RECOGNITION

2.A [22-0388](#) Special Recognition - Proclamation Recognizing April as Earth Month

Councilmembers read a proclamation recognizing Earth Month. Community member Dave Sederberg accepted the proclamation and discussed Earth Month.

The recognition was received.

3. PUBLIC COMMENT

The following people spoke: Griff Masters, Mark Johnson, Lisa Ornstein, Beth Doglio and Stewart Henderson.

4. CONSENT CALENDAR

- 4.A [22-0327](#) Approval of March 29, 2022 City Council Meeting Minutes

The minutes were adopted.

- 4.B [22-0385](#) Approval of April 12, 2022 City Council Work Session Meeting Minutes

The minutes were adopted.

- 4.C [22-0377](#) Approval of Bills and Payroll Certification

Payroll check numbers 93415 through 93495, 93497 through 93503, 93505 through 93541 and Direct Deposit transmissions: Total: \$13,831,060.14; Claim check numbers 3742571 through 3744987: Total: \$28,110,104.33.

The decision was adopted.

- 4.D [22-0311](#) Approval of an Appointment to the Parks and Recreation Advisory Committee to a Fill Vacancy

The decision was adopted.

- 4.E [22-0380](#) Approval of 2022 Advisory Committee Work Plans

The decision was adopted.

- 4.F [22-0315](#) Approval of a Labor Contract with the American Federation of State, County and Municipal Employees (AFSCME) Local 618-0

The contract was adopted.

- 4.G [22-0366](#) Approval of a Substantial Amendment to Program Year 2021 Community Development Block Grant Annual Action Plan

The decision was adopted.

- 4.H [22-0364](#) Approval of a Resolution to Establish a 2030 Greenhouse Gas Emissions Reduction Target

The resolution was adopted.

- 4.I [22-0347](#) Approval of a Resolution Ratifying a Contract with Lakeside Industries for Emergency Repairs of Pavement on Henderson Boulevard SE

The resolution was adopted.

- 4.J [22-0365](#) Approval of a Resolution Ratifying Application and Accepting the Washington State Department of Commerce Connecting Housing to Infrastructure Program Grant for The Family Support Center Project

The resolution was adopted.

- 4.K** [22-0369](#) Adoption of a Resolution Approving Amendment No. 1 to the City Manager Employment Agreement with Steven J. ("Jay") Burney and Authorizing Mayor Cheryl Selby to Sign Amendment No. 1 on behalf of the Olympia City Council

The resolution was adopted.

- 4.L** [22-0370](#) Approval of a Resolution Authorizing an Interlocal Agreement with the Thurston County Prosecuting Attorney's Office for Prosecution Services

The resolution was adopted.

- 4.M** [22-0379](#) Approval of a Resolution Authorizing the City Manager to Sign a Contract with Ogden Murphy Wallace, P.L.L.C. for Police Auditor Services

The resolution was adopted.

- 4.N** [22-0392](#) Approval of a Resolution Ratifying and Confirming Authorization and Signature by the City Manager of a Memorandum of Understanding with MultiCare Health System d/b/a MultiCare Capital Medical Center in Support of its Provision of Health Care to the Indigent, Uninsured, and Underinsured

The resolution was adopted.

4. SECOND READINGS (Ordinances) - NONE

4. FIRST READINGS (Ordinances)

- 4.O** [22-0312](#) Approval of an Ordinance Adopting Clarifying Amendments to Titles 14, 15, 16, and 18 of Olympia Municipal Code

The ordinance was approved on first reading and moved to second reading.

- 4.P** [22-0373](#) Approval of an Ordinance Amending Ordinance 7305 (First Quarter 2022 Budget Amendment)

The ordinance was approved on first reading and moved to second reading.

- 4.Q** [22-0375](#) Approval of an Ordinance Amending Olympia Municipal Code Chapter 13.08 - Sewers

The ordinance was approved on first reading and moved to second reading.

Approval of the Consent Agenda

Councilmember Parshley moved, seconded by Councilmember Cooper, to

adopt the Consent Calendar. The motion carried by the following vote:

Aye: 6 - Mayor Selby, Mayor Pro Tem Gilman, Councilmember Cooper, Councilmember Huynh, Councilmember Parshley and Councilmember Payne

Excused: 1 - Councilmember Madrone

5. PUBLIC HEARING - NONE

6. OTHER BUSINESS

6.A [22-0387](#) Regional Fire Authority Planning Briefing

City Manager Burney gave a briefing of the work of the Regional Fire Authority (RFA) Planning Committee, why the cities of Olympia and Tumwater are evaluating an RFA at this time, the project timeline, the project team, governance options to consider and the public engagement plan. Ultimately by October the Committee will be able to bring a recommendation to the City Council regarding whether to bring an RFA to the ballot in April, 2023. He shared the draft guiding values with the Council and asked if they were in agreement with the language. Councilmembers stated they were.

Mr. Burney introduced Karen Reed and Karen Meyer as consultants on the project to answer any questions.

Councilmembers asked clarifying questions.

The report was received.

6.B [22-0386](#) Joint Animal Services Update

Joint Animal Services Executive Director Sarah Hock presented an overview and update on the programs, services and accomplishments provided by Joint Animal Services.

Councilmembers asked clarifying questions.

The report was received.

6.C [22-0391](#) Approval of Appointments of the Inaugural Members of the Social Justice and Equity Commission

Diversity Equity Inclusion Manager Tobi Hill-Meyer presented the 11 candidates proposed to be appointed to the Social Justice and Equity Commission.

Councilmember Payne moved, seconded by Councilmember Huynh, to approve the appointment of the slate of 11 candidates for inaugural membership on the Social Justice and Equity Commission. The motion carried by the following vote:

Aye: 6 - Mayor Selby, Mayor Pro Tem Gilman, Councilmember Cooper, Councilmember Huỳnh, Councilmember Parshley and Councilmember Payne

Excused: 1 - Councilmember Madrone

7. CONTINUED PUBLIC COMMENT - None

8. COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

Councilmembers reported on meetings and events attended.

9. CITY MANAGER'S REPORT AND REFERRALS

City Manager Burney reported this weekend is Arts Walk in downtown. He also recognized the retirement of City Engineer Fran Eide and thanked for her service to the City.

10. ADJOURNMENT

Mayor Selby announced next week's Council meeting would be on Monday April 25 instead of the normal Tuesday meeting because of elections.

The meeting adjourned at 9:15 p.m.



City Council

Approval of a Resolution Authorizing the First Amendment to an Interlocal Agreement with the LOTT Clean Water Alliance for a Recreational Vehicle Pumping Program

Agenda Date: 4/25/2022
Agenda Item Number: 4.B
File Number:22-0409

Type: resolution **Version:** 1 **Status:** Consent Calendar

Title

Approval of a Resolution Authorizing the First Amendment to an Interlocal Agreement with the LOTT Clean Water Alliance for a Recreational Vehicle Pumping Program

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve a Resolution authorizing the first amendment to an Interlocal Agreement with the LOTT Clean Water Alliance for a Recreational Vehicle (RV) Pumping Program.

Report

Issue:

Whether to approve a Resolution authorizing the first amendment to an Interlocal Agreement with the LOTT Clean Water Alliance for an RV Pumping Program.

Staff Contact:

Keith Stahley, Assistant City Manager for Community Vitality, 360.753.8227

Presenter(s):

None. Consent item only.

Background and Analysis:

Staff proposes to continue the agreement to provide a recreational vehicle pumping program. This program has been in place for one year and assisted many RV owners living on the streets of Olympia by providing a mobile septic pumping service.

LOTT will pay for the direct cost of service delivery and the City of Olympia will manage the program.

The program will offer pumping services to RVs that are parked along City streets and are being used

as dwellings. While outreach staff will continue to encourage such residents to take advantage of the free dump facilities available at LOTT's downtown treatment facility, some vehicles parked along our streets are inoperable. City staff will focus on these vehicles.

This program will be operated in conjunction with, and part of the Scattered Site Support System being developed in cooperation with Thurston County. As such, the program will be offered County-wide.

The City of Olympia has received water quality violations from the Department of Ecology for fecal coliform discharges into the stormwater system. To reduce the likelihood of such discharges staff researched and developed a proposal to initiate an RV pumping program similar to the one implemented by the City of Seattle.

Neighborhood/Community Interests:

Illicit discharge of fecal coliform laden water is a concern for all residents of Olympia.

Options:

1. Approve the Resolution authorizing an Interlocal Agreement with the LOTT Clean Water Alliance for an RV Pumping Program
2. Do not approve the Resolution authorizing an Interlocal Agreement with the LOTT Clean Water Alliance for an RV Pumping Program
3. Provide feedback and direction to staff to alter the proposed resolution and to return at a later date with an amended Interlocal Agreement

Financial Impact:

LOTT will provide up to \$50,000 to offset the direct costs of program delivery. The City of Olympia will be responsible for the cost of administering the program.

Attachments:

Resolution
Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING THE FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN THE CITY OF OLYMPIA AND THE LOTT CLEAN WATER ALLIANCE FOR PUBLIC HEALTH EMERGENCY SUPPORT FUNDING – RV PUMPING PROGRAM

WHEREAS, the homeless crisis has resulted in a significant increase in homeless people living in recreational vehicles (RVs) along City streets and not being able to afford to pay for dumping of human waste properly, resulting in illegal dumping along streets, sidewalks, and other outdoor areas, and this poses a risk to public health and the environment, as runoff can carry bacteria and nutrients into storm drains and nearby surface waters; and

WHEREAS the LOTT Board of Directors has established a Public Health Emergency Support Program to provide funding to LOTT’s members (its “partner jurisdictions”) to assist in the management of human waste associated with homelessness; and

WHEREAS, LOTT and the City entered into an Interlocal Agreement for Public Health Emergency Support Funding – RV Pumping Program on May 18, 2021, with an expiration date of April 20, 2022; and

WHEREAS, the Parties wish to amend the Interlocal Agreement to extend the term;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The Olympia City Council hereby approves the form of First Amendment to Interlocal Agreement between the City of Olympia and the LOTT Clean Water Alliance for Public Health Emergency Support Funding and the terms and conditions contained therein.
2. The City Manager is authorized and directed to execute on behalf of the City of Olympia the First Amendment to Interlocal Agreement, and any other documents necessary to execute said Agreement, and to make any minor modifications as may be required and are consistent with the intent of the Agreement, or to correct any scrivener's errors.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



DEPUTY CITY ATTORNEY

FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN CITY OF OLYMPIA AND THE LOTT CLEAN WATER ALLIANCE FOR PUBLIC HEALTH EMERGENCY SUPPORT FUNDING- RV PUMPING PROGRAM

This Agreement is entered into as of the date of the last signature affixed hereto between the LOTT CLEAN WATER ALLIANCE, a Washington nonprofit mutual corporation and 501(c)(3) corporation acting as a public agency to provide wastewater resource management services (hereinafter “LOTT”) and City of Olympia, a municipal corporation (hereinafter “City”). LOTT and the City, are referred to herein collectively as “the Parties”.

This Agreement is to amend the Interlocal Agreement between City of Olympia and the LOTT Clean Water Alliance for Public Health Emergency Support Funding – RV Pumping Program entered into on May 18, 2021. Paragraph 2.6 is amended to read as follows:

The term of this Agreement is to begin upon execution of this Agreement and continuing through April 30, 2023, unless otherwise terminated as provided herein.

Parties agree that all other terms and conditions remain in place and unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date of the last signature below.

CITY OF OLYMPIA

LOTT CLEAN WATER ALLIANCE

By: Steven J. Burney, City Manager
jburney@ci.olympia.wa.us

Mike Strub

By: Michael D. Strub, Executive Director
michaelstrub@lottcleanwater.org

Date

04/19/2022

Date

ATTEST: _____
Sean Krier, City Clerk

Approved as to form

Approved as to form

By: [Signature]
Deputy City Attorney

By: [Signature]
Legal Counsel



City Council

Approval of a Resolution Authorizing an Agreement with Catholic Community Services for the Operation of Hope Village.

Agenda Date: 4/25/2022
Agenda Item Number: 4.C
File Number:22-0355

Type: resolution **Version:** 1 **Status:** Consent Calendar

Title

Approval of a Resolution Authorizing an Agreement with Catholic Community Services for the Operation of Hope Village.

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the Resolution authorizing an agreement with Catholic Community Services (CCS) for the Operation of Hope Village.

Report

Issue:

Whether to approve the Resolution authorizing an agreement with CCS for the Operation of Hope Village.

Staff Contact:

Christa Lenssen, Housing Program Specialist, City's Manager's Office, 360.570.3762

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

Westminster Presbyterian Church constructed and hosts eight tiny houses on church property. To support this project, the City of Olympia provides contracted case management services with a community provider, as well as operations support (waste management, portable restroom servicing, graywater tank removal). The City has contracted with the Low-Income Housing Institute (LIHI) to provide case management services to Hope Village. Westminster Presbyterian Church and LIHI mutually agreed that the City should seek another community provider to provide services to the village.

Catholic Community Services of Western Washington (CCS) has experience providing case management and site management services at tiny house sites. The City contracts with CCS to provide services at the Mitigation site.

The proposed funding agreement with CCS will provide part-time case and site management to support village operations and guests. CCS will be responsible for case management, intake of new guests, enforcement of code of conduct, communication with the church and other community partners/resources, and other duties to successfully manage the site. Westminster Presbyterian Church employs a part-time Coordinator, who will work in collaboration with CCS staff to address resident and village needs. The new agreement between the City and CCS will be in place from May 1, 2022 to May 1, 2023.

Neighborhood/Community Interests (if known):

There is significant public interest in homelessness and the City's homeless response efforts.

There is expected to be little community impact by the transition of services from LIHI to CCS. CCS and LIHI have met to plan for transition of services.

Options:

1. Move to approve the Resolution authorizing a funding agreement with CCS.
2. Modify the funding agreement before approving.
3. Do not approve the funding agreement with CCS or direct staff to take other action.

Financial Impact:

The City of Olympia will contract with CCS to provide case and site management services to Hope Village at an annual maximum cost of \$81,090. This cost is lower than the previous provider's rate, so will represent a cost savings to the City.

Attachments:

Resolution
Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OLYMPIA AND CATHOLIC COMMUNITY SERVICES OF WESTERN WASHINGTON FOR HOPE VILLAGE

WHEREAS, due to an unrepresented rise in unsheltered homelessness in the City of Olympia in 2019, Westminster Presbyterian Church (in partnership with the City of Olympia) opened a tiny house village on church property for persons experiencing homelessness; and

WHEREAS, the local, state, and national housing cost and other factors that have led to rises in unsheltered homelessness have not abated; and

WHEREAS, at the Hope Village site, participants are provided basic sanitation, safety, and access to social services; and

WHEREAS, the City seeks to contract with a service provider to take over case management duties at the Hope Village site and provide services and amenities to homeless individuals participating in the site; and

WHEREAS, Catholic Community Services has demonstrated in other projects and at other cities to have the skills, resources, and experience to contract with the City to administer the Hope Village site and is willing to do so;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The Olympia City Council hereby approves the form of Professional Services Agreement between the City of Olympia and Catholic Community Services for the Hope Village site and case management, and the terms and conditions contained therein.
2. The City Manager is authorized and directed to execute on behalf of the City of Olympia the Agreement, and any other documents reasonably necessary to execute said Agreement, and to make any minor modifications as may be required and are consistent with the intent of the Agreement, or to correct any scrivener's errors.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber

CITY ATTORNEY

PROFESSIONAL SERVICES AGREEMENT FOR HOPE VILLAGE SITE MANAGEMENT SERVICES

This Professional Services Agreement ("Agreement") is effective as of the date of the last authorizing signature affixed hereto. The parties ("Parties") to this Agreement are the City of Olympia, a Washington municipal corporation ("City"), and Catholic Community Services of Western Washington, a Washington non-profit public benefit corporation ("Service Provider").

A. The City seeks the temporary professional services of a skilled independent Service Provider capable of working without direct supervision, in the capacity of case and site management services for Hope Village, a tiny house village hosted by Westminster Presbyterian Church; and

B. Service Provider has the requisite skill and experience necessary to provide such services.

NOW, THEREFORE, the Parties agree as follows:

1. Services.

Service Provider shall provide the services more specifically described in **Exhibit "A"** attached hereto and incorporated by this reference ("Services"), in a manner consistent with the accepted practices for other similar services, and when and as specified by the City's representative.

2. Term.

The term of this Agreement shall commence upon the effective date of this Agreement and shall continue until the completion of the Services, but in any event no later than May 1, 2023 ("Term"). This Agreement may be extended for additional periods of time upon the mutual written agreement of the City and the Service Provider.

3. Termination.

Prior to the expiration of the Term, this Agreement may be terminated immediately, with or without cause by the City.

4. Compensation.

A. Total Compensation. In consideration of the Service Provider performing the Services, the City agrees to pay the Service Provider an amount not to exceed Eighty-One Thousand and Ninety Dollars and No Cents (\$81,090.00) as described in **Exhibit "B"** attached hereto and incorporated herein.

B. Method of Payment. Payment by the City for the Services will only be made after the Services have been performed, which invoice shall specifically describe the Services performed, the name of Service Provider's personnel performing such Services, the hourly labor charge rate for such personnel and the same is approved by the appropriate City representative.

Payment shall be made on a monthly basis, within thirty (30) days after receipt of such voucher or invoice.

C. Service Provider Responsible for Taxes. The Service Provider shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Agreement.

5. Service Provider Managers.

The Parties agree that all formal communications about this Agreement, contract deliverables, accomplishments, regulatory oversight, invoicing and requests for amendment must be coordinated directly between the Service Provider and City's Contract Manager unless otherwise approved in writing by the City. The contract managers are identified as follows:

Catholic Community Services

Mike Curry
CCS Southwest Region Director
1323 Yakima Avenue
Tacoma WA 98504-4457
MikeC@ccsww.org

City of Olympia

Darian Lightfoot
Housing Programs Manager
PO Box 1967
Olympia WA 98507-1967
dlightfo@ci.olympia.wa.us

6. Compliance with Laws.

Service Provider shall comply with and perform the Services in accordance with all applicable federal, state, and City laws including, without limitation, all City codes, ordinances, resolutions, standards and policies, as now existing or hereafter adopted or amended.

7. Assurances.

The Service Provider affirms that it has the requisite training, skill and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities, including but not limited to being registered to do business in the City of Olympia by obtaining a City of Olympia business license registration.

8. Independent Contractor/Conflict of Interest.

It is the intention and understanding of the Parties that the Service Provider is an independent contractor, and that the City shall be neither liable nor obligated to pay Service Provider sick leave,

vacation pay or any other benefit of employment, nor to pay any social security or other tax which may arise as an incident of employment. The Service Provider shall pay all income and other taxes due. Industrial or any other insurance that is purchased for the benefit of the City, regardless of whether such may provide a secondary or incidental benefit to the Service Provider, shall not be deemed to convert this Agreement to an employment contract. It is recognized that Service Provider may be performing professional services during the Term for other parties; provided, however, that such performance of other services shall not conflict with or interfere with Service Provider's ability to perform the Services. Service Provider agrees to resolve any such conflicts of interest in favor of the City.

9. Equal Opportunity Employer.

A. In all Service Provider services, programs or activities, and all Service Provider hiring and employment made possible by or resulting from this Agreement, there shall be no unlawful discrimination by Service Provider or by Service Provider's employees, agents, subcontractors or representatives against any person based on any legally protected class status including but not limited to: sex, age (except minimum age and retirement provisions), race, color, religion, creed, national origin, marital status, veteran status, sexual orientation, gender identity, genetic information or the presence of any disability, including sensory, mental or physical handicaps; provided, however, that the prohibition against discrimination in employment because of disability shall not apply if the particular disability prevents the performance of the essential functions required of the position.

This requirement shall apply, but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant shall not violate any of the terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state or local law or regulation regarding nondiscrimination. Any material violation of this provision shall be grounds for termination of this Agreement by the City and, in the case of the Service Provider's breach, may result in ineligibility for further City agreements.

B. In the event of Service Provider's noncompliance or refusal to comply with the above nondiscrimination plan, this Agreement may be rescinded, canceled, or terminated in whole or in part, and the Service Provider may be declared ineligible for further agreements or contracts with the City. The Service Provider, shall, however, be given a reasonable time in which to correct this noncompliance.

C. To assist the City in determining compliance with the foregoing nondiscrimination requirements, Service Provider must complete and return the *Statement of Compliance with Nondiscrimination* attached as **Exhibit "C"**. If the contract amount is \$50,000 or more, the Service Provider shall execute the attached Equal Benefits Declaration - **Exhibit "D"**.

10. Confidentiality.

Service Provider agrees not to disclose any information and/or documentation obtained by

Service Provider in performance of this Agreement that has been expressly declared confidential by the City. Breach of confidentiality by the Service Provider will be grounds for immediate termination.

11. Indemnification/Insurance.

A. Indemnification / Hold Harmless. Service Provider shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Service Provider in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

The City shall defend, indemnify, and hold CCS, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits including attorneys' fees, arising out of resulting from the acts, errors, or omissions of the City in performance of this Agreement, except for injuries and damages caused by the sole negligence of CCS.

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 Service Provider and the City, its officers, officials, employees, and volunteers, the Service Provider's liability hereunder shall be only to the extent of the Service Provider's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Service Provider waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

B. Insurance Term. 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, its agents, representatives, or employees.

C. No Limitation. Service Provider's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Service Provider to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

D. Minimum Scope of Insurance. Service Provider shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as ISO occurrence form (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.

2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, stop gap liability, personal injury and advertising injury. The City shall

be named as an additional insured under the Service Provider's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability insurance appropriate to the Service Provider's profession.

E. **Minimum Amounts of Insurance.** Service Provider shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence and \$2,000,000 general aggregate.

3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

F. **Other Insurance Provisions.** The Service Provider's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Service Provider insurance and shall not contribute with it.

G. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

H. **Verification of Coverage.** Service Provider shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Service Provider before commencement of the work.

I. **Notice of Cancellation.** The Service Provider shall provide the City with written notice of any policy cancellation, within two (2) business days of their receipt of such notice.

J. **Failure to Maintain Insurance.** Failure on the part of the Service Provider to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five (5) business days' notice to the Service Provider to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Service Provider from the City.

K. City's Full Access to Service Provider Limits. If the Service Provider maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Service Provider, irrespective of whether such limits maintained by the Service Provider are greater than those required by this Agreement, or any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Service Provider.

12. Work Product.

Any deliverables identified in the Scope of Work or otherwise identified in writing by the City that are produced by Service Provider in performing the Services under this Agreement and which are delivered to the City shall belong to the City. Any such work product shall be delivered to the City by Service Provider at the termination or cancellation date of this Agreement, or as soon thereafter as possible. All other documents are owned by the Service Provider.

13. Treatment of Assets.

A. Title to all property furnished by the City shall remain in the name of the City.

B. Title to all nonexpendable personal property and all real property purchased by the Service Provider, the cost of which the Service Provider is entitled to be reimbursed as a direct item of cost under this Agreement, shall pass to and vest in the City, or if appropriate, the state or federal department supplying funds therefor, upon delivery of such property by the Service Provider. If the Service Provider elects to capitalize and depreciate such nonexpendable personal property in lieu of claiming the acquisition cost as a direct item of cost, title to such property shall remain with the Service Provider. An election to capitalize and depreciate or claim acquisition cost as a direct item of cost shall be irrevocable.

C. Nonexpendable personal property purchased by the Service Provider under the terms of this Agreement in which title is vested in the City shall not be rented, loaned or otherwise passed to any person, partnership, corporation/association or organization without the prior expressed written approval of the City or its authorized representative, and such property shall, unless otherwise provided herein or approved by the City or its authorized representative, be used only for the performance of this Agreement.

D. As a condition precedent to reimbursement for the purchase of nonexpendable personal property, title to which shall vest in the City, the Service Provider agrees to execute such security agreements and other documents as shall be necessary for the City to perfect its interest in such property in accordance with the "Uniform Commercial Code--Secured Transactions" as codified in Article 9 of Title 62A, the Revised Code of Washington.

E. The Service Provider shall be responsible for any loss or damage to the property of the City including expenses entered thereunto which results from negligence, willful misconduct, or lack of good faith on the part of the Service Provider, or which results from the failure on the part of the Service Provider to maintain and administer in accordance with sound management practices that property, to ensure that the property will be returned to the City in like condition to that in which it was furnished or purchased, fair wear and tear excepted.

F. Upon the happening of loss or destruction of, or damage to, any City property, the Service Provider shall notify the City or its authorized representative and shall take all reasonable steps to protect that property from further damage.

G. The Service Provider shall surrender to the City all property of the City within thirty (30) days after rescission, termination, or completion of this Agreement unless otherwise mutually agreed upon by the parties.

14. Books and Records.

The Service Provider agrees to maintain books, records, and documents which sufficiently and properly reflect all direct and indirect costs related to the performance of the Services and maintain such accounting procedures and practices as may be deemed necessary by the City 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.

Records that meet the definition of a “public record” pursuant to RCW 42.56.010 are subject to disclosure and release under Washington’s Public Records Act. A “public record” includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency, regardless of physical form or characteristics. RCW 42.56.030 requires that the Public Records Act be liberally construed, and its exemptions narrowly construed to promote public policy and to assure that the public interest will be fully protected. For that reason, the City will make the sole determination as to whether or not records possessed by the Service Provider meet the definition of a “public record” as well as whether, and to what extent, any exemption applies.

If the Service Provider disagrees with the City's determination or believes the records are subject to an exemption, the City agrees to notify the Service Provider via written notice to the Service Provider and to provide the Service Provider with ten (10) business days to obtain and serve on the City a court order specifically preventing release of such records. The City agrees not to release any records until the Service Provider is provided such notice and the ten (10) business days to serve an injunction on the City to prohibit such disclosure has elapsed.

Should the Service Provider fail to provide records possessed by Service Provider in its work for the City within ten (10) business days of the City’s request for such records, Service Provider shall indemnify, defend, and hold the City harmless for any public records judgment, including costs and attorney’s fees, against the City involving such withheld records.

15. 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 continue the Agreement after the end of the current fiscal period, and this Agreement will automatically 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.

16. **General Provisions.**

A. **Entire Agreement.** This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.

B. **Modification.** No provision of this Agreement, including this provision, may be amended or modified except by written agreement signed by the Parties.

C. **Full Force and Effect; Severability.** Any provision of this Agreement that is declared invalid or illegal shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect. Further, if it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, the provision that appears to 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 provision.

D. **Assignment.** Neither the Service Provider nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

1. If the Service Provider desires to assign this Agreement or subcontract any of its work hereunder, the Service Provider shall submit a written request to the City for approval not less than fifteen (15) days prior to the commencement date of any proposed assignment or subcontract.

2. Any work or services assigned or subcontracted for hereunder shall be subject to each provision of this Agreement.

3. Any technical/professional service subcontract not listed in this Agreement, which is to be charged to this Agreement, must have prior written approval by the City.

4. The City reserves the right to inspect any assignment or subcontract document.

E. **Successors in Interest.** Subject to the foregoing Subsection, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs, and assigns.

F. **Attorneys' Fees.** In the event either of the Parties defaults on the performance of any term of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, the prevailing party shall be entitled to its reasonable attorneys' fees, costs and expenses to be paid by the other Party.

G. **No Waiver.** Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to

declare one breach or default does not act as a waiver of the City's right to declare another breach or default.

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

I. Authority. Each individual executing this Agreement on behalf of the City and Service Provider represents and warrants that such individuals are duly authorized to execute and deliver this Agreement on behalf of the Service Provider or the City.

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

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

L. Performance. Time is of the essence in performance of this Agreement and each and all of its provisions in which performance is a factor. Adherence to completion dates set forth in the description of the Services is essential to the Service Provider's performance of this Agreement.

M. Remedies Cumulative. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the City at law, in equity or by statute.

N. Counterparts. This Agreement may be executed in a number of identical counterparts which, taken together, constitute collectively one Agreement; but in making proof of this Agreement, it is not necessary to produce or account for more than one such counterpart. Additionally, (i) the signature pages taken from separate individually executed counterparts of this Agreement may be combined to form multiple fully executed counterparts; and (ii) a facsimile signature or an electronically scanned signature, or an electronic or digital signature where permitted by law, must be deemed to be an original signature for all purposes. All executed counterparts of this Agreement are originals, but all such counterparts, when taken together, constitute one and the same Agreement.

O. Equal Opportunity to Draft. The parties have participated and had an equal opportunity to participate in the drafting of this Agreement, and the Exhibits, if any, attached. No ambiguity shall be construed against any party upon a claim that that party drafted the ambiguous language.

P. Venue. All lawsuits or other legal actions whatsoever with regard to this agreement shall be brought in the Superior Court of Thurston County, Washington.

Q. Ratification. Any work performed prior to the effective date that falls within the scope of this Agreement and is consistent with its terms is hereby ratified and confirmed.

R. Certification Regarding Debarment, Suspension, and Other Responsibility Matters.

1. By signing the agreement below, the Service Provider certifies to the best of its knowledge and belief, that it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

b. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph 1.b. of this certification; and

d. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.

2. Where the Service Provider is unable to certify to any of the statements in this certification, such Service Provider shall attach an explanation to this proposal.

S. Early Retirement from the State of Washington - Certification. By signing this form, you certify that no one being directly compensated for their services pursuant to this Agreement has retired from the Washington State Retirement System using the 2008 Early Retirement Factors with restrictions on returning to work.

[SIGNATURES FOLLOW ON NEXT PAGE]

CITY OF OLYMPIA

By: _____

Steven J. Burney, City Manager

PO Box 1967

Olympia WA 98507-1967

Date of Signature: _____

APPROVED AS TO FORM:

Mark Barber _____

City Attorney

I certify that I am authorized to execute this Agreement on behalf of the Service Provider.

CATHOLIC COMMUNITY SERVICES OF WESTERN WASHINGTON

By: Mike Curry _____

Mike Curry

CCS Southwest Region Director

1323 Yakima Avenue Tacoma WA 98504-4457

Date of Signature: 04/19/2022 _____

EXHIBIT "A" SCOPE OF WORK HOPE VILLAGE

Catholic Community Services of Western Washington (CCS) shall provide onsite oversight and case management as a service provider at Hope Village, located at Westminster Presbyterian Church, 1925 Boulevard Rd SE, Olympia, WA. The City of Olympia (City) and Westminster Presbyterian Church (Westminster) will also have responsibilities detailed in this Scope of Work.

Westminster Presbyterian Church (Westminster) hosts 8 tiny homes on its property, provides a community kitchen and gathering space, access to showers in main church building, and funds a parttime Hope Village Coordinator (Coordinator) to support program operations. The City will provide contract management and communication support to both Westminster and CCS. CCS has experience managing tiny house villages for people experiencing homelessness and providing case management services to connect residents to essential services in order to support a successful transition to permanent housing.

Key Terms of Contract

The City agrees to retain CCS for a not-to-exceed budget of \$81,090. The term of the contract is May 1, 2022 to May 1, 2023. The contract can be extended upon mutual approval by both parties.

CCS Responsibilities:

Administrative and Site Management:

1. Attend monthly meetings with Westminster and City.
2. Attend Hope Village Community meetings. Communicate guest needs, transitions into and out of the village, and any major compliance issues or police responses onsite.
3. Participate in regular planning meetings with Hope Village Coordinator.
4. Hire, onboard, and support staff to provide part-time case management (20 hours/week) and part-time site management (10 hours/week).
5. Have knowledge of community information and referral resources for individuals experiencing homelessness.
6. Provide outreach information to guests; including individual and group meetings, distribution of flyers, letters, brochures, and handwritten materials.
7. Engage in direct resident support as needed.
8. Coordinate with referring agencies through Thurston County Coordinated Entry when there is an available unit onsite.
9. Networking with outreach workers and other community organizations to develop and maintain effective working relationships.
10. Oversee and coordinate assessment and interview process for potential new Hope Village guests, using Westminster criteria.
11. Conducts intake paperwork for new potential guests.
12. Perform criminal history background check inclusive of crimes committed outside Washington State to screen guests for compliance with Hope Village Guest Criteria.
13. Contribute to the development of a community that values cultural diversity.
14. Oversee adherence with guest Code of Conduct, including documentation of noncompliance, termination and exit of guests, when needed.
15. Support Westminster in trespassing guests or visitors when needed.
16. Assists with tiny house inspections on a quarterly basis.

17. Provide feedback on any proposed updates by Westminster to Guest Criteria.
18. Monitor and comply with Thurston County Health guidelines related to COVID-19 and other health and safety protocol and practices.

Case Management:

1. Attend weekly Hope Village Community meetings. Communicate guest needs, transitions into and out of the village, and any major compliance issues or police responses onsite.
2. Meet with each guest at Hope Village at a minimum of once every two weeks to make progress on the employment and housing goals set during the interview process.
3. Keep regular, posted office hours that are communicated with guests.
4. Formally and informally assess guests' current level of functioning and social service needs.
5. Provide information and referrals to guests, including through distribution of written material.
6. Maintain updated information tools for guest use in accessing community resources.
7. Make referrals or initiate services to address mental health, substance abuse, and disability issues wherever possible.
8. Provide guidance to guests as needed, provide information and referral assistance to guests.
9. Coordinate with local agencies to provide services that meet the needs of guests.
10. Work collaboratively with Westminster and CCS staff to increase stability and retention of guests at Hope Village.
11. Initiate and encourage guest involvement in community-building activities, such as community meetings, meals, and support groups.
12. Attend training to support competency in de-escalation, harm reduction (like Narcan administration), CPR/First Aid, and other related topics.
13. Provide feedback on any proposed updates by Westminster to Guest Criteria.
14. Ensure coordination with Thurston County Coordinated Entry System.
15. Maintain records of activities and contacts with guests/agencies and case management records.
16. Ensure clients are entered into the HMIS system. Track intakes, exits, and progress with HMIS reporting procedures provided by Thurston County. Maintain records of individuals served, service provided, outreach activities conducted, surveys completed and other reporting as requested by City of Olympia and submit reports monthly with invoices to the City of Olympia.
17. Complete other records and reports appropriate to the position as required by CCS.

Westminster Responsibilities:

1. Attend monthly meetings with City and CCS.
2. Fund part-time Coordinator position.
3. Provide access to showers in church building by fixed schedule and coded access cards.
4. Connect guests with activities and facilitates support from Westminster, CCS, and partner churches.
5. Recruit volunteers, engage partner churches, provide tours of the facility to interested parties, accept donations, and work with Westminster leadership to support operations of the site.
6. Attend weekly Hope Village community meetings and additional meetings as scheduled.
7. Attend Hope Village Committee meetings (once every two weeks). Coordinate with CCS staff on guest needs, compliance issues, guest transitions into and from the village.
8. Prep and clean houses at move-in/move-out.
9. Consult with CCS staff when proposing updates to Guest Criteria.
10. Provide Guest Criteria to City, and provide written notice if the criteria changes.
11. Conduct maintenance visits and perform required maintenance tasks as needed.

12. Monitor and comply with Thurston County Health guidelines related to COVID-19 and other health and safety protocol and practices.

City Responsibilities:

1. Attend monthly meetings with Westminster and CCS.
2. Ensure case management contract at Hope Village is satisfactory to CCS and Westminster.
3. Payment for operational costs: portable toilet servicing, graywater removal, waste removal.

EXHIBIT “B” BUDGET

Staffing for the site will include 10 hours/week site management and 20 hours/week case management, plus additional support from CCS’ Program Director.

Operational costs will include office supplies, furniture and equipment, phone and internet, postage, printing, and mileage (reimbursable trips include purchasing supplies, taking clients to appointments, attending training, or other staff trips specifically for Hope Village business). A client assistance fund shall be used for transitions to long-term housing, employment, or other opportunities (first/last month rent to move into housing, moving costs, clothing, shoes or supplies for starting employment, books for school, etc).

Payroll, Human Resources and other Administrative costs are reimbursable.

Cost	Annual Limit
Staffing Expenses	\$53,672
Operating Expenses	\$16,025
Administrative Fee	\$11,393
TOTAL	\$81,090

Invoicing

Invoices must be emailed to Christa Lenssen at clenssen@ci.olympia.wa.us.

The invoice must be signed by an authorized employee who is certifying that all amounts are a true accounting of expenses that have been incurred and paid by CCS and are eligible expenses as outlined in this Agreement.

Attach Supporting Documentation to Invoice

Staffing Documentation must include the staff person name, title, number of hours worked under the Agreement and amount paid for the billing period (amount paid includes salary, benefits, and employee taxes). No other documentation for salary and benefits is required to be submitted with the invoice; however, the City reserves the right to request more detail if specific questions arise related to the invoice submitted.

Operating expenses documentation must include copies of invoices paid or receipts of items purchased. Receipts need to show date of purchase and items purchased.

Mileage reimbursement documentation must include staff name, title, date of travel, purpose of travel, number of miles traveled, and rate per mile.

Exhibit "C"
STATEMENT OF COMPLIANCE WITH NONDISCRIMINATION REQUIREMENT

The Olympia City Council has made compliance with the City's *Nondiscrimination in Delivery of City Services or Resources* ordinance (OMC 1.24) a high priority, whether services are provided by City employees or through contract with other entities. It is important that all contract agencies or vendors and their employees understand and carry out the City's nondiscrimination policy. Accordingly, each City agreement or contract for services contains language that requires an agency or vendor to agree that it shall not unlawfully discriminate against an employee or client based on any legally protected status, which includes but is not limited to: race, creed, religion, color, national origin, age, sex, marital status, veteran status, sexual orientation, gender identity, genetic information, or the presence of any disability. Listed below are methods to ensure that this policy is communicated to your employees, if applicable.

- Nondiscrimination provisions are posted on printed material with broad distribution (newsletters, brochures, etc.).
- Nondiscrimination provisions are posted on applications for service.
- Nondiscrimination provisions are posted on the agency's web site.
- Nondiscrimination provisions are included in human resource materials provided to job applicants and new employees.
- Nondiscrimination provisions are shared during meetings.

Failure to implement at least two of the measures specified above or to comply with the City of Olympia's nondiscrimination ordinance constitutes a breach of contract.

By signing this statement, I acknowledge compliance with the City of Olympia's nondiscrimination ordinance by the use of at least two of the measures specified above.

Mike Curry
(Signature)

04/19/2022
(Date)

Mike Curry
Print Name of Person Signing

Alternative Section for Sole Proprietor: I am a sole proprietor and have reviewed the statement above. I agree not to discriminate against any client, or any future employees, based on any legally protected status.

(Sole Proprietor Signature)

(Date)

Exhibit "D"
EQUAL BENEFITS COMPLIANCE DECLARATION

Contractors or Service Provider on City agreements or contracts estimated to cost \$50,000 or more shall comply with Olympia Municipal Code, Chapter 3.18. This provision requires that if contractors or Service Provider provide benefits, they do so without discrimination based on age, sex, race, creed, color, sexual orientation, national origin, or the presence of any physical, mental or sensory disability, or because of any other status protected from discrimination by law. Contractors or Service Provider must have policies in place prohibiting such discrimination, prior to contracting with the City.

I declare that the Service Provider listed below complies with the City of Olympia Equal Benefits Ordinance, that the information provided on this form is true and correct, and that I am legally authorized to bind the Service Provider.

CATHOLIC COMMUNITY SERVICES OF WESTERN WASHINGTON
Service Provider Name

Mike Curry
Signature

Mike Curry
Name

04/19/2022
Date

CCS Southwest Region Director
Title



City Council

Approval of a Resolution Authorizing a Contract Amendment to the Low-Income Housing Institute Contract Related to the Operations of Hope Village

Agenda Date: 4/25/2022
Agenda Item Number: 4.D
File Number:22-0357

Type: resolution **Version:** 1 **Status:** Consent Calendar

Title

Approval of a Resolution Authorizing a Contract Amendment to the Low-Income Housing Institute Contract Related to the Operations of Hope Village

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the Resolution authorizing an amendment to the current funding agreement with the Low-Income Housing Institute related to the operations of Hope Village.

Report

Issue:

Whether to approve the resolution authorizing an amendment to the funding agreement with the Low-Income Housing Institute related to operations of Hope Village.

Staff Contact:

Christa Lenssen, Housing Program Specialist, City's Manager's Office, 360.570.3762

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

The City of Olympia has a funding agreement with the Low-Income Housing Institute (LIHI) to provide site and case management services at the Plum Street Village tiny house project and at the Hope Village tiny house project. The Hope Village tiny house project was constructed in response to a rise in homelessness and has been hosted by Westminster Presbyterian Church since 2019. Eight homes are hosted onsite. LIHI allocates a .5 FTE case manager and limited operations expenses (client assistance fund, mileage, etc) to provide services at Hope Village. Westminster Presbyterian Church employs a part-time Village Coordinator, who works in collaboration with LIHI staff to address

resident and village needs.

Both LIHI and Westminster Presbyterian Church would like to terminate LIHI's services at Hope Village. A new community partner has been selected to provide services at the site.

The current funding agreement with LIHI has been amended to reflect the reduction in services provided by LIHI at Hope Village. The funding and scope of work for LIHI's operation of Plum Street Village remains unchanged. LIHI's services at Hope Village will end on April 30, 2022.

Neighborhood/Community Interests (if known):

There is significant public interest in homelessness and the City's homeless response efforts.

There is expected to be little community impact by the transition of services from LIHI to a new community services provider. Meetings have taken place between both service providers and are scheduled to take place with Westminster Presbyterian Church to ease this transition.

Options:

1. Move to approve the resolution authorizing an amendment to the funding agreement with the Low-Income Housing Institute.
2. Modify the amendment to the funding agreement before approving.
3. Do not approve the amendment to the funding agreement with the Low-Income Housing Institute or direct staff to take other action. (This action would impact the transition of services to the new service provider).

Financial Impact:

The City of Olympia has reduced the funding agreement with the Low-Income Housing Institute by \$102,569 to reflect the termination of services at Hope Village. Funding for staff salaries and benefits will be reduced by \$92,244. Other operational expenses (mileage, client assistance funds) will be reduced by \$1,000. The funding agreement with LIHI allows a 10% administrative fee intended for reimbursement of advertising and hiring, background checks, insurance, program support and other expenses related to operations of Plum Street Village and Hope Village. The administrative fee has been amended from a current annual maximum of \$50,757 to an updated annual maximum of \$41,432.

Attachments:

Resolution
Agreement

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING
AMENDMENT NO. 1 TO THE FUNDING AGREEMENT BETWEEN THE CITY OF OLYMPIA AND
THE LOW-INCOME HOUSING INSTITUTE (LIHI) TO TERMINATE SERVICES AT HOPE VILLAGE**

WHEREAS, on February 3, 2021, the City and the Low-Income Housing Institute (LIHI) entered into a Funding Agreement (“Agreement”) to provide site and case management services at the Plum Street Village project and at the Hope Village project; and

WHEREAS, the Hope Village project was constructed in response to a rise in homelessness and has been hosted by Westminster Presbyterian Church since 2019; and

WHEREAS, both LIHI and Westminster Presbyterian Church would like to terminate LIHI’s services at Hope Village; and

WHEREAS, a new community partner has been selected to provide services at the Hope Village site; and

WHEREAS, the City and LIHI agree that the Funding Agreement should be amended to reduce the total funding to reflect the termination of services provided by LIHI at Hope Village;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The Olympia City Council hereby approves the form of Amendment No. 1 to the Funding Agreement between the City and LIHI to terminate services provided by LIHI at Hope Village.
2. The City Manager is authorized and directed to execute on behalf of the City of Olympia the Amendment to the Funding Agreement with LIHI, and any other documents necessary to execute said Amendment, and to make any minor modifications as may be required and are consistent with the intent of the Agreement, or to correct any scrivener’s errors.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber

CITY ATTORNEY

**AMENDMENT NO. 1
FUNDING AGREEMENT WITH
LOW-INCOME HOUSING INSTITUTE**

THIS AMENDMENT is effective as of the date of the last authorizing signature affixed hereto by and between the **CITY OF OLYMPIA**, a Washington municipal corporation (the “City”), and **LOW-INCOME HOUSING INSTITUTE**, a Washington non-profit corporation (“LIHI”).

RECITALS

1. On February 3, 2021, the City of Olympia and the Low-Income Housing Institute entered into the Plum Street Village Funding Agreement (“Agreement”).
2. The term of the Agreement was to run until December 31, 2022, with compensation not to exceed One Million One Hundred Fifty-eight Thousand Three Hundred Thirty and No/100 Dollars (\$1,158,330.00) as follows: a maximum of \$600,000.00 in 2021 and a maximum of \$558,330.00 in 2022 as set forth in Exhibit C.
3. The Agreement also provided that its budget could be amended “. . . with a mutual written agreement. . .” between the City and the Low-Income Housing Institute, and that modification of the Agreement’s terms had to be in writing and signed by both Parties.
4. The City has reached a separate agreement with Catholic Community Services (CCS) to provide management services for Hope Village.
4. The City and Low-Income Housing Institute desire to amend the compensation in the Agreement since Low-Income Housing Institute will no longer be providing services for Hope Village.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Section 5 of the Agreement, FUNDING, is hereby amended to read as follows:
 5. **Funding.** LIHI will operate the existing tiny house village which serves approximately 40 people as outlined in the Scope of Operations in **Exhibit B**, in exchange for reimbursement funding not to exceed the total amount set forth in the Budget in **Exhibit C**.
 - A. **Total Funding.** The City agrees to fund LIHI in an amount not to exceed one million, one hundred ~~fifty-eight thousand, three hundred thirty-five thousand, seven hundred sixty-one~~ and no/100 dollars (~~\$1,158,330.00~~ \$1,055,761.00) as follows: a maximum of \$600,000.00 in 2021 and a maximum of ~~\$558,330.00~~ \$455,761.00 in 2022 as set forth in **Exhibit C**.
 - B. **Method of Funding.** Funding by the City will be provided on a reimbursement basis only with proper receipts for items purchased or staff employed,

accompanying a properly completed invoice, the requirement of which are outlined in **Exhibit C**, Budget. ***In the event LIHI fails to submit an invoice that includes proper documentation to the City within 60 days from the end of the month in which the expense is incurred, LIHI forfeits any right to reimbursement for that expense.***

C. LIHI Responsible for Taxes. LIHI shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of LIHI's business operations.

2. Exhibit C of the Agreement, Budget, is hereby amended to read as attached.
3. All remaining provisions of the *2021 – 2022 PLUM STREET VILLAGE FUNDING AGREEMENT* dated February 3, 2021, and not hereby amended or supplemented shall remain as written in said Agreement, and shall continue in full force and effect.

IN WITNESS WHEREOF, the City and the Contractor have executed this **Amendment No. 1** of the Agreement as of the date and year written above.

CITY OF OLYMPIA

By: _____
Steven J. Burney, City Manager
P.O. Box 1967
Olympia WA 98507-1967
Date of Signature: _____

APPROVED AS TO FORM:

Mark Barber

City Attorney

LOW-INCOME HOUSING INSTITUTE

By: Sharon Lee
Sharon Lee, Executive Director
1253 South Jackson St
Seattle WA 98144
206.571.5730
sharonl@lihi.org
Date of Signature: 04/21/2022

EXHIBIT "C"
BUDGET
PLUM STREET VILLAGE OPERATIONS

LIHI's expenses for operating Plum Street Village in 2020 consisted of 72% for staff (salary and benefits) and 28% for other recurring expenses. The 2021 and 2022 budgets were drafted using these same percentages.

The 2022 budget amount is calculated by adding a 3% increase to each of the budget categories allowed in 2021 less case manager salary and benefits. In 2020 the offsite case manager wasn't fully staffed. If it had been, the total amount for case manager salary and benefits would have been approximately \$105,422. Assuming at least half of the case manager salary/benefits will be billed to Medicaid through the Foundational Community Supports Program ($\$105,422/2 = \$52,711$), the 2022 staffing expenses were figured as ($\$390,250 - \$52,711 = \$337,539$). $\$337,539 \times 3\% = \$10,126$. $\$337,539 + \$10,126 = \$347,665$. In 2022 LIHI is expected to bill most case manager salaries and benefits to Medicaid through the Foundational Community Supports Program.

<i>Budget</i>	2021	2022
Staffing Expenses	\$449,715	\$315,606 \$407,850
Other Operational Expenses	\$95,785	\$98,723 \$99,723
Subtotal	\$545,500	\$414,329 \$507,573
10% Admin Fee	\$54,500	\$41,432 50,757
Maximum Annual Budget	\$600,000	\$455,761 \$558,330

Allowable Reimbursable Expenses

Staffing- Staffing expenses are defined as the total wages (salary and benefits) paid to employees for work done under the Plum Street Village Agreement including case management, security, and site maintenance.

- \$105,422 is currently budgeted per case manager (2 total FTE) for a total budgeted amount of \$210,844. With the reduction in case management services at Hope Village and billing to Foundational Community Supports Program, funding for staffing will be reduced by \$92,244 (assuming 75% of case manager salary/benefits are reimbursable by FCS contract), leaving \$118,600 remaining for case management salary/benefits at 1.5 FTE.

Other Operational Expenses - Other operational expenses eligible for reimbursement include:

- Client assistance: emergency hotel stays; bus or train transportation out of state; first/last month rent to move into housing; moving costs; clothing, shoes, and supplies for starting employment; books and tools for school or work, etc.
- Electricity
- Mileage: staff trips specifically for Plum Street Village business including attending training, purchasing supplies, taking clients to appointments, etc.
- Phone service: 2 landlines (one for security with fax capability, one for residents for local calls only); 3 smartphones (one for case manager, one for special projects manager, and one for Village organizer/security attendant)
- Site maintenance and repair
- Staff training: CPR; first aid; use of NARCAN; de-escalation; domestic violence; boundary; anti-discrimination; HMIS; how to work with difficult people; homelessness, housing affordability, etc.
- Supplies: office, parts, sanitation, hygiene, cutlery, garbage bags, food, special needs, etc.
- WIFI: may include hotspots for staff and residents or internet services

Other Operational Expenses continued –

- The 2021 budget allows up to \$15,000 of administrative costs for negotiation of a Foundational Community Supports contract and training of administrative and other LIHI staff.

Admin Fee – This is a maximum monthly fee of 1/12 of the annual total 10% Admin Fee allowable under this Agreement (\$4,541.66 per invoice in 2021 and \$4229.75 in 2022). It is intended to reimburse items such as human resources, hiring and advertising, management, supervision, administration, insurance, program support, fundraising, volunteer coordination, background checks through WSP, etc. in support of Plum Street Village and other off-site operations to support Plum Street Village that are included in this Agreement.

Invoices

In the event LIHI fails to submit an invoice that includes proper documentation to the City within 60 days from the end of the month in which the expense is incurred, LIHI forfeits any right to reimbursement for that expense. Invoices must be submitted on a monthly basis

Invoices must be emailed to the City at ~~ecobb@ci.olympia.wa.us~~ and ~~cretlin@ci.olympia.wa.us~~ dlightfo@ci.olympia.wa.us.

The invoice must be signed by an authorized employee who is certifying that all amounts billed are a true accounting of expenses that have been incurred and paid for by LIHI and are eligible expenses as outlined in this agreement.

Attach Supporting Documentation to Invoice

Staffing documentation for salary and benefits should include the staff person name, title, number of hours worked under the Agreement and amount paid for the billing period. No other documentation for salary and benefits is required to be submitted with the invoice; however, the City reserves the right to request more detail if specific questions arise related to the invoice submitted.

Other operational Expenses documentation should include copies of invoices paid or receipts of items purchased. Receipts need to show date of purchase and item(s) purchased.

Mileage reimbursement documentation should include staff name, title, date of travel, purpose of travel, # of miles travelled, and rate per mile.

Reporting Requirements to be Submitted with each Invoice

1. HMIS Report for billing period.
2. A narrative progress report that supplements the HMIS report and includes with includes total number of guests, length of stay, exits for behavioral issues, code of conduct violations, moves to permanent housing, and unknown or exits back to homelessness.
3. Dates of 4 required community meetings held annually.



City Council

Approval of a Resolution Authorizing a Washington Wildlife and Recreation Program Grant Application to the Recreation and Conservation Office for Kaiser Woods Park Acquisition and Development

Agenda Date: 4/25/2022
Agenda Item Number: 4.E
File Number:22-0400

Type: resolution **Version:** 1 **Status:** Consent Calendar

Title

Approval of a Resolution Authorizing a Washington Wildlife and Recreation Program Grant Application to the Recreation and Conservation Office for Kaiser Woods Park Acquisition and Development

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the Resolution authorizing City Staff to apply for a Recreation and Conservation Office (RCO) grant for Kaiser Woods Park and authorizing the City Manager to receive the grant funds should the grant be successful.

Report

Issue:

Whether to approve the Resolution authorizing City Staff to apply for an RCO grant for Kaiser Woods Park and authorizing the City Manager to receive the grant funds should the grant be successful.

Staff Contact:

Tammy LeDoux, Finance & Policy Coordinator, Parks Arts and Recreation, 360.753.8053

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

The Parks, Arts and Recreation Department is preparing an RCO grant application for the current funding cycle. The application is due May 3, 2022 and is required to include formal City Council authorization.

The Washington Wildlife and Recreation Program provides funding for a broad range of land protection and outdoor recreation, including local and state parks, trails, water access, and the conservation and restoration of state land. The Washington Wildlife and Recreation Program was envisioned as a way for the state to accomplish two goals: acquire valuable recreation and habitat lands before they were lost to other uses and develop recreation areas for a growing population.

In 2018, the City was awarded a \$516,170 reimbursement grant for the acquisition of the 68-acre Kaiser Woods Park parcel.

In the summer of 2020, two parcels, totaling 2.51 acres, were purchased adjacent to the southern boundary of Kaiser Woods Park for the purposes of parking and accessing the park off Black Lake Boulevard.

The grant would reimburse the City approximately \$125,000 of the land acquisition cost and would provide approximately \$500,000 towards trail development and parking at Kaiser Woods Park.

Neighborhood/Community Interests (if known):

The development of Kaiser Woods Park was included in the 2022 Parks, Arts and Recreation Plan, which was developed with significant public involvement and strong community interest.

Options:

1. Approve the Resolution authorizing a grant application to the Recreation and Conservation Office (RCO) for Kaiser Woods Park.
2. Do not approve the Resolution. Staff would be unable to pursue the grant opportunity.

Financial Impact:

The grant totals approximately \$625,000.

Attachments:

Resolution

RCO Resolution

Sample Grant Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING THE APPLICATION FOR A GRANT BETWEEN THE CITY OF OLYMPIA AND WASHINGTON STATE RECREATION AND CONSERVATION OFFICE (RCO) FOR A WASHINGTON WILDLIFE AND RECREATION PROGRAM LOCAL PARKS GRANT FOR THE KAISER WOODS PARK ACQUISITION AND DEVELOPMENT PROJECT

WHEREAS, on September 30, 2016, the City of Olympia purchased 68 acres off Park Drive in southwest Olympia for natural open space and recreational trails; and

WHEREAS, on July 24, 2020, the City of Olympia purchased 2.51 acres off Black Lake Boulevard for additional access into the park and for development of parking; and

WHEREAS, the City is currently working with the community on a Park Master Plan and Conceptual Design to develop nature trails for hiking and mountain biking; and

WHEREAS, the 2022 Parks, Arts and Recreation Plan highlights trails as a community priority; and

WHEREAS, the Washington Wildlife and Recreation Program provides funding for a broad range of land protection and outdoor recreation; and

WHEREAS, the Washington Wildlife and Recreation Program grant would require a grant match of up to \$500,000; and

WHEREAS, the City has committed to development of the Kaiser Woods property which will exceed the \$500,000 that serves as the required match for this grant; and

WHEREAS, the Recreation and Conservation Office requires an authorizing resolution as part of the grant application;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The Olympia City Council hereby approves the application for a grant between the City of Olympia and Washington State Recreation and Conservation Office for the Kaiser Woods Park Acquisition and Development Project and the terms and conditions contained therein.
2. The City Manager is directed and authorized to execute on behalf of the City of Olympia the RCO Applicant Resolution/Authorization, the Grant Agreement, and any other documents necessary to obligate funds for Project 22-1543C, Kaiser Woods Acquisition and Development, and to make any amendments or minor modifications or to correct any scrivener's errors as may be required and are consistent with the intent of the Grant Application.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber
CITY ATTORNEY



Applicant Resolution/Authorization

Organization Name (sponsor) _____

Resolution No. or Document Name _____

Project(s) Number(s), and Name(s) _____

This resolution/authorization authorizes the person(s) identified below (in Section 2) to act as the authorized representative/agent on behalf of our organization and to legally bind our organization with respect to the above Project(s) for which we seek grant funding assistance managed through the Recreation and Conservation Office (Office).

WHEREAS, grant assistance is requested by our organization to aid in financing the cost of the Project(s) referenced above;

NOW, THEREFORE, BE IT RESOLVED that:

1. Our organization has applied for or intends to apply for funding assistance managed by the Office for the above "Project(s)."
2. Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	
Project contact (day-to-day administering of the grant and communicating with the RCO)	
RCO Grant Agreement (Agreement)	
Agreement amendments	
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typical recorded on the property with the county.	

The above persons are considered an "authorized representative(s)/agent(s)" for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

3. Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.
4. Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.
5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.
6. Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.
7. Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.
8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
9. [for Recreation and Conservation Funding Board Grant Programs Only] If match is required for the grant, we understand our organization must certify the availability of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.
10. Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.
11. [for Acquisition Projects Only] Our organization acknowledges that any property acquired with grant assistance must be dedicated for the purposes of the grant in perpetuity unless otherwise agreed to in writing by our organization and the Office. We agree to dedicate the property in a signed "Deed of Right" for fee acquisitions, or an "Assignment of Rights" for other than fee acquisitions (which documents will be based upon the Office's standard versions of those documents), to be recorded on the title of the property with the county auditor. Our organization acknowledges that any property

acquired in fee title must be immediately made available to the public unless otherwise provided for in policy, the Agreement, or authorized in writing by the Office Director.

12. [for Development, Renovation, Enhancement, and Restoration Projects Only–If our organization owns the project property] Our organization acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.
13. [for Development, Renovation, Enhancement, and Restoration Projects Only–If your organization DOES NOT own the property] Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.
14. [Only for Projects located in Water Resources Inventory Areas 1-19 that are applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, Riparian Protection, or Urban Wildlife Habitat grant categories; Aquatic Lands Enhancement Account; or the Puget Sound Acquisition and Restoration program, or a Salmon Recovery Funding Board approved grant] Our organization certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.
15. This resolution/authorization is deemed to be part of the formal grant application to the Office.
16. Our organization warrants and certifies that this resolution/authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

This resolution/authorization is signed and approved on behalf of the resolving body of our organization by the following authorized member(s):

Signed _____

Title _____ Date _____

On File at: _____

This Applicant Resolution/Authorization was adopted by our organization during the meeting held:
(Local Governments and Nonprofit Organizations Only):

Location: _____ Date: _____

Washington State Attorney General's Office

Approved as to form Brian Tallen 2/13/2020
Assistant Attorney General Date

You may reproduce the above language in your own format; however, text may not change.

This agreement template is used by the Recreation and Conservation Office (RCO) for the management of the grant and other programs it administers. This example is provided for review by applicants' and their counsel as they seek grant funding managed by RCO.

This grant agreement will contain changes at issuance based on the specifics of each funded project. For instance, changes will occur based on the applicant, funding program, fund source, project type, rule or law changes, and other factors. Applicants that receive funding from RCO are encouraged to thoroughly review their customized grant agreement prior to final signature.

RCO reserves the right to make updates to this template.

RCO GRANT AGREEMENT

Project Name: _____

Project Number: _____

Issuance Date: _____

A. PARTIES OF THE GRANT AGREEMENT.

1. This Recreation and Conservation Office Grant Agreement (Agreement) is entered into between the State of Washington {FundingAgency} Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and {PrimarySponsorNameAddress} {SecondarySponsorNameAddress}, and shall be binding on the agents and all persons acting by or through the parties.
2. The Sponsor's Data Universal Numbering System (DUNS) Number is {DUNNSNumber}.
3. All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.
4. Prior to and During the Period of Performance, Per the Applicant Resolution/Authorizations submitted by all sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project, including but not limited to, full authority to: (1) sign a grant application for grant assistance, (2) enter into this project agreement on behalf of the Sponsor(s) including indemnification, as provided therein, (3) enter any amendments thereto on behalf of Sponsor(s), and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all Sponsors, unless otherwise allowed in the AMENDMENTS TO AGREEMENT Section.
 - a. During the Period of Performance, in order for a Sponsor to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization the Sponsor must provide the RCO a new Applicant

Resolution/Authorization signed by its governing body. Unless a new Applicant Resolution/Authorization has been provided, the RCO shall proceed on the basis that the person who is listed as the Authorized Representative in the last Resolution/Authorization that RCO has received is the person with authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.

- b. Amendments After the Period of Performance. RCO reserves the right to request and Sponsor has the obligation to provide, authorizations and documents that demonstrate any signatory to an amendment has the authority to legally bind the Sponsor as described in the above Sections A and J.
5. For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS Section).

B. PURPOSE OF AGREEMENT.

This Agreement sets out the terms and conditions by which a grant is made from the {AccountName} of the State of Washington. The grant is administered by the RCO.

C. DESCRIPTION OF PROJECT.

{ProjectDescription}

D. PERIOD OF PERFORMANCE.

1. The period of performance begins on {StartDate} (project start date) and ends on {EndDate} (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.
2. The RCO reserves the right to summarily dismiss any request to amend this Agreement if not made at least 60 days before the project end date.

E. STANDARD TERMS AND CONDITIONS INCORPORATED.

The RCO Standard Terms and Conditions of the Agreement are hereby incorporated by reference as part of this Agreement.

F. LONG-TERM OBLIGATIONS.

(This is a custom section based on project, program, and sponsor type. See [attached spreadsheet of those that may apply.](#))

G. PROJECT FUNDING.

The total grant award provided for this project shall not exceed {RCOAmount}. The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

{FundingTable}

H. FEDERAL FUND INFORMATION.

(This section only appears if there is federal funding nexus)

{FederalFundingInfo}

This funding is not research and development (R&D).

If the Sponsor's total federal expenditures are \$750,000 or more during the Sponsor's fiscal-year, the Sponsor is required to have a federal single audit conducted for that year in compliance with 2 C.F.R. Part 200, Sub Part F—Audit Requirements, Section 500 (2013). The Sponsor must provide a copy of the final audit report to RCO within nine months of the end of the Sponsor's fiscal year, unless a longer period is agreed to in advance by the federal agency identified in this section.

Sponsor shall comply with the federal "Omni-circular" (2 C.F.R. Part 200).

RCO may suspend all reimbursements if the Sponsor fails to timely provide a single federal audit; further the RCO reserves the right to suspend any and all RCO Agreement(s) with the Sponsor if such noncompliance is not promptly cured.

I. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS.

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved and/or amended as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless the terms in the Agreement are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

The following Exhibits are attached as part of this Agreement:

(This is a custom section listing things like "Expanded Scope of Work," "Milestones," and "Eligible Scope Items," which become part of this agreement.)

If an exhibit is referenced in this Agreement as an exhibit or attached to this Agreement, regardless whether it is on this list, it shall still be considered part of this Agreement.

J. AMENDMENTS TO AGREEMENT.

1. Except as provided herein, no amendment (including without limitation, deletions) of this Agreement will be effective unless set forth in writing signed by all parties. Exception: extensions of the Period of Performance and minor scope adjustments need only be signed by

RCO's director or designee and consented to in writing (including email) by the Sponsor's Authorized Representative/Agent or Sponsor's designated point of contact for the implementation of the Agreement (who may be a person other than the Authorized Agent/Representative), unless otherwise provided for in an amendment. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

2. It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so.
3. Unless otherwise expressly stated in an amendment, any amendment to this Agreement shall be deemed to include all current federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone. However, any such amendment, unless expressly stated, shall not extend or reduce the long-term obligation term.

K. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES.

1. This Agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, applicable RCO manuals as identified below, Exhibits, and any applicable federal program and accounting rules effective as of the date of this Agreement or as of the effective date of an amendment, unless otherwise provided in the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone unless otherwise expressly stated in the amendment.
2. For the purpose of this Agreement, {WAC...} shall apply as terms of this Agreement.
3. For the purpose of this Agreement, the following RCO manuals are deemed applicable and shall apply as terms of this Agreement:

{CustomApplicableManuals}

Provided, where a manual refers to a funding board's responsibility and/or authority but the funding board is not involved with the grant or successor to an entity that was involved, the RCO director shall have that responsibility and/or authority if such responsibilities and/or authority falls within the RCO's statutory responsibilities and/or authority or within a lawful delegation by the board to the RCO.

L. SPECIAL CONDITIONS.

{CustomSpecialConditionsAsMayApply}

M. AGREEMENT CONTACTS.

The parties will provide all written communications and notices under this Agreement to either or both the mail address and/or the email address listed below:

{CustomProjectContacts}

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Unless otherwise provided for in this Agreement, decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

N. ENTIRE AGREEMENT.

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

O. EFFECTIVE DATE.

1. Unless otherwise provided for in this Agreement, this Agreement, for project {ProjectNumber}, shall not be effective and binding until the date signed by both the sponsor and the RCO's authorized representative, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE Section are allowed only when this Agreement is fully executed and an original is received by RCO.
2. The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

Signatures:

Sponsor/Date

Recreation and Conservation Office/Date

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Example

STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT

Last Updated: February 12, 2020

1. CITATIONS, HEADINGS AND DEFINITIONS.

- A)** Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B)** Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C)** Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

acquisition project – A project that purchases or receives a donation of a right to or in real property including, but not limited to, fee simple land acquisition, conservation easement, access/trail/recreational easements, covenants, leases, water rights, and mineral rights.

Agreement, terms of the Agreement, or project agreement – The document entitled “RCO GRANT AGREEMENT” accepted by all parties to the present project and transaction, including without limitation the Standard Terms and Conditions of the RCO Grant Agreement, all exhibits, attachments, addendums, amendments, and applicable manuals, and any intergovernmental agreements, and/or other documents that are incorporated into the Agreement subject to any limitations on their effect under this Agreement.

applicable manual(s), manual -- A manual designated in this Agreement to apply as terms of this Agreement, subject (if applicable) to substitution of the “RCO director” for the term “board” in those manuals where the project is not approved by or funded by the referenced board, or a predecessor to the board.

applicable WAC(s) -- Designated chapters or provisions of the Washington Administrative Code that apply by their terms to the type of grant in question or are deemed under this Agreement to apply as terms of the Agreement, subject to substitution of the “RCO director” for the term “board” or “agency” in those cases where the RCO has contracted to or been delegated to administer the grant program in question.

applicant – Any party, prior to becoming a Sponsor, who meets the qualifying standards/eligibility requirements for the grant application or request for funds in question.

application – The documents and other materials that an applicant submits to the RCO to support the applicant’s request for grant funds; this includes materials required for the “Application” in the RCO’s automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

archeological, cultural, and historic resources - Archeological sites and artifacts, and traditional areas or items of religious, ceremonial and/or social (significance to) (uses of) tribes affected by or interested in the project. This also refers to built environments and places with historical significance for the nation, state, or local area.

authorized representative/agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor’s signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

C.F.R. – Code of Federal Regulations

completed project or project completion - The status of a project when all of the following have occurred:

1. The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily,
2. A final project report is submitted to and accepted by RCO,
3. Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO
4. A final reimbursement request has been paid by RCO.
5. Property rights (including RCO’s as may apply) have been recorded (as may apply)

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

compliance period, or long-term compliance period – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

conversion – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

development project – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources. A development project may also involve activities that redevelop or renovate an existing facility, and these may occur exclusively in the project or in combination with new construction. For projects in the Boating Facilities Program, the term “development project” includes all of the above and may also include those activities that are defined as maintenance in 50 C.F.R 86.

director or Director – The chief executive officer of the Recreation and Conservation Office or that person’s designee.

education project – A project that provides information, education, and outreach programs and/or services for the benefit of outdoor recreationists. This project may involve limited amounts of capital construction or installation of tangible property.

education and enforcement project – A project that provides information, education, and outreach programs or services; encourages responsible recreational behavior, and may provide law enforcement for the benefit of outdoor recreationists. This project may involve limited amounts of capital construction or installation of tangible property, and equipment purchases.

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

enhancement project – A project that (i) supports hatchery reform to improve hatchery effectiveness to minimize impacts to wild fish populations, (ii) ensures compatibility between hatchery production and salmon recovery programs, or (iii) supports sustainable fisheries (WAC 420.04.010).

equipment – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. § 200.33 (2013)).

funding board or board – The Washington State Recreation and Conservation Funding Board, or the Washington State Salmon Recovery Funding Board. Or both as may apply.

Funding Entity – the entity that approves the project that is the subject to this Agreement.

grant program – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).

compliance period, or long-term compliance period – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

long-term obligations – Sponsor's obligations after the project end date, as specified in the Agreement and manuals and other exhibits as may apply.

landowner agreement – An agreement that is required between a Sponsor and landowner for projects located on land not owned or otherwise controlled by the Sponsor.

maintenance project – A project that maintains existing areas and facilities through repairs and upkeep for the benefit of outdoor recreation.

maintenance and operation project – A project that maintains and operates existing areas and facilities through repairs, upkeep, and routine services for the benefit of outdoor recreationists.

match or matching share – The portion of the total project cost provided by the Sponsor.

milestone – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

monitoring project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

monitoring and research project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

Office – Means the Recreation and Conservation Office or RCO.

notice of grant – As required by RCO or another authority, a document that has been legally recorded on the property title of the project area(s) in the county or counties where the project property is located, or with the United States Government, that describes the project area on the property, the funding sources, and agencies responsible for awarding the grant.

pass-through entity – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance – The period beginning on the project start date and ending on the project end date.

planning project - A project that results in one or more of the following: 1) a study, a plan, assessment, project design, inventory, construction plans and specifications, and permits; or 2) a project that provides money to facilitate the work of an organization engaged in planning and coordination, or resource stewardship.

pre-agreement cost – A project cost incurred before the period of performance.

primary Sponsor – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. Administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project – The undertaking that is funded by this Agreement either in whole or in part with funds administered by RCO.

project area - A geographic area that delineates a grant assisted site which is subject to project agreement requirements.

project area (for projects where WAC 420 is applied) - The area consistent with the geographic limits of the scope of work of the project and subject to project agreement requirements. For restoration projects, the project area must include the physical limits of the project's final site plans or final design plans. For acquisition projects, the project area must include the area described by the legal description of the properties acquired for or committed to the project (WAC 420.04.010).

completed project or project completion - The status of a project when all of the following have occurred:

1. The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily,
2. A final project report is submitted to and accepted by RCO,
3. Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO
4. A final reimbursement request has been paid by RCO.
5. Property rights (including RCO's as may apply) have been recorded (as may apply)

project cost – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (see also 2 C.F.R. § 200.83 (2013) for federally funded projects).

project end date – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

project start date – The specific date identified in the Agreement on which the period of performance starts.

RCFB – Recreation and Conservation Funding Board

RCO – Recreation and Conservation Office – The state agency that administers the grant that is the subject of this Agreement. RCO includes the director and staff.

RCW – Revised Code of Washington

Recreational Trails Program (RTP) – A Federal Highways Administration grant program.

reimbursement – RCO's payment of funds to the Sponsor for eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

renovation project – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

research project – Means a project that studies salmon and the effectiveness of recovery restoration efforts on the population or habitat condition.

restoration project – A project intended to bring a site back to its historic function as part of a natural ecosystem, or one intended to improve the ecological or habitat functionality or capacity of (or part of) a site, landscape, marine environment, or watershed.

restoration and enhancement project – A project intended to bring a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site or a larger ecosystem which improvement may include benefiting (or exclusively benefit) fish stocks.

secondary Sponsor – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor – A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

SRFB – Salmon Recovery Funding Board

State. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of Washington state government.

subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in the PROJECT FUNDING Section.

subrecipient – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

tribal consultation – Outreach, and consultation with one or more federally recognized tribes (or a partnership or coalition or consortium of such tribes, or a private tribal enterprise) whose rights will or may be significantly affected by the proposed project. This includes sharing with potentially-affected tribes the scope of work in the grant and potential impacts to natural areas, natural resources, and the built environment by the project. It also includes responding to any tribal request from such tribes and considering tribal recommendations for project implementation which may include not proceeding with parts of the project, altering the project concept and design, or relocating the project or not implementing the project, all of which RCO shall have the final approval of.

useful service life – Period during which a built asset, equipment, or fixture is expected to be useable for the purpose it was acquired, installed, developed, and/or renovated, or restored per this Agreement.

WAC – Washington Administrative Code.

2. PERFORMANCE BY THE SPONSOR.

- a. The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO (to include any RCO approved changes or amendments thereto). All submitted documents are incorporated by this reference as if fully set forth herein.
- b. Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

3. ASSIGNMENT.

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written approval of the RCO.

4. RESPONSIBILITY FOR PROJECT.

- a. While RCO administers the grant that is the subject of this Agreement, the project itself remains the sole responsibility of the Sponsor. The RCO and Funding Entity (if different from the RCO) undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement.
- b. The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project has more than one Sponsor, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.
- c. The RCO, its employees, assigns, consultants and contractors, and members of any funding board or advisory committee or other RCO grant review individual or body, have no responsibility for reviewing, approving, overseeing or supervising design, construction, or safety of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO, its employees, assigns, consultants and contractors, and any funding board or advisory committee or other RCO grant review individual or body will act only to confirm at a general, lay person, and nontechnical level, solely for the purpose of project eligibility and payment and not for safety or suitability, that the project apparently is proceeding or has been completed as per the Agreement.

5. INDEMNIFICATION.

- a. The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees,

contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

- b. Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.
- c. Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents or employees, and (b) the State, or its employees or agents the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or its agents, or employees.
- d. As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51. Sponsor's waiver of immunity under this provision extends only to claims against Sponsor by Indemnitee RCO, and does not include, or extend to, any claims by Sponsor's employees directly against Sponsor.
- e. Sponsor shall ensure that any agreement relating to this project involving any contractors, subcontractors and/or vendors of any tier shall require that the contracting entity indemnify, defend, waive RCW 51 immunity, and otherwise protect the State as provided herein as if it were the Sponsor. This shall not apply to a contractor or subcontractor is solely donating its services to the project without compensation or other substantial consideration.
- f. The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

- g. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

6. INDEPENDENT CAPACITY OF THE SPONSOR.

- a. The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO or Funding Entity. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or the Funding Entity, or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06.
- b. The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

7. CONFLICT OF INTEREST.

- a. Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the Sponsor in the procurement of, or performance under, this Agreement.
- b. In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

8. COMPLIANCE WITH APPLICABLE LAW.

- a. In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:
 - i. Nondiscrimination Laws. The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Employment Act (if applicable). In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the RCO or Funding Entity. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law. Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for

construction of this project: "During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."

- ii. Secular Use of Funds. No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
 - iii. Wages and Job Safety. The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.40. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.
 - Pursuant to RCW 39.12.040(1)(a), all contractors and subcontractors shall submit to Sponsor a statement of intent to pay prevailing wages if the need to pay prevailing wages is required by law. If a contractor or subcontractor intends to pay other than prevailing wages, it must provide the Sponsor with an affirmative statement of the contractor's or subcontractor's intent. Unless required by law, the Sponsor is not required to investigate a statement regarding prevailing wage provided by a contractor or subcontractor.
 - iv. Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130). If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided: (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization's management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.
- b. Restrictions on Grant Use. No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or

propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

- c. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.
- d. Debarment and Certification. By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."
- e. Requirements for RTP Subawards.
 - i. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.
 - ii. Sponsor may be required to pay prevailing wage rates as required by the Davis Bacon Act as amended.

9. ARCHAEOLOGICAL AND CULTURAL RESOURCES RESPONSIBILITIES

RCO shall administratively review, and Sponsor shall assist RCO in such review, For all funded projects, including land acquisitions for the purpose of capital construction or renovation, not undergoing Section 106 review under the National Historic Preservation Act of 1966, RCO shall review and, if it deems appropriate, confer with the Washington State Department of Archeology and Historic Preservation, tribes, and with any other party/parties that have an interest in, or responsibility for, Project review and protection of archeological, cultural, and historical resources, to determine potential impacts to archeological, cultural and historic resources and plans for protection of such resources. The Sponsor shall cooperate in all such reviews.

1. Plans. Sponsor shall comply with all plans RCO or another state or federal agency may develop for the protection of archeological, cultural, and historical resources in the project area, and adjacent areas that may be impacted by the project. This subsection also applies to those projects where a categorical exclusion (subsection 5) may apply.

2. Authorities. At a minimum, review, management, and protection of archeological, cultural, and historic resources, and tribal consultation, shall be performed in the project area and adjacent areas impacted by the project for compliance with the following authorities (as may apply and as in effect at the time of the review):
 - i. Washington State Department of Archeology and Historic Preservation policies and procedures and rule,
 - ii. Sponsor, RCO, and landowners' plans, policies and procedures, directives, laws and rules,
 - iii. State Environmental Policy Act,
 - iv. National Environmental Policy Act,
 - v. National Historic Preservation Act of 1966,
 - vi. Governor's Executive Order 05-05,
3. Scope of Archeological, Cultural, and Historic Resources Review. RCO recognizes that the project area may include multiple parcels with multiple landowners, and additional parties with property rights in the project area. The Sponsor shall apply this section independently to each separately owned property, provided that reviews undertaken must include impacts to individual parcels and cumulative impacts.
4. Compliance. At all times, the Sponsor shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological, cultural, and historic resources in the project area, and adjacent areas that may be impacted by the project, and comply with any RCO direction for such avoidance, minimization, and mitigation, and reporting and notification thereof.
5. Categorical Exemption. If the Sponsor has reviewed the activities in this grant for impacts to archeological, cultural, and historical resources, and the same for any planned projects in any land acquired with this grant, and determined the project is categorically exempt from further archaeological, historical and cultural resources review, as well as tribal consultation, Sponsor shall notify the RCO in writing prior to beginning the project describing 1) the specific statutory or regulatory exemptions that apply, and 2) their applicability to the specific project. Alternatively, the RCO may determine the project is covered by a categorical exemption, in whole or in part, and notify the Sponsor of such determination.

However, any categorical exemption must meet the standards of and be consistent and allowable by ALL of the following:

1. the project area landowner(s) legal documents and governing documents (if applicable),
2. Sponsor's own policies and procedures and rules,
3. All applicable laws,
4. RCO applicable policies, manuals and/or other guidance, and
5. Washington Department of Archaeology and Historic Preservation's rules and policies.

Alternatively, the RCO may assign a categorical exemption to the project based on its own review.

Regardless of the applicability of any categorical exemption, the RCO reserves the right at any time to require Sponsor to comply with any and all of the provisions of this section.

6. Project Areas Reviewed by a Permitting Authority. For those project areas where a permitting authority for the project conducts an archeological, cultural, and historical resources review and tribal consultation under section 106 of the Historic Preservation Act, NEPA, SEPA, or Governor's Executive Order 05-05, such review and consultation shall substitute for the land owner's, provided that such substitution is allowed only if (a)the permitting authority and landowner are not the same, and (b)the RCO determines that the review and consultation performed by the permitting authority meets RCO standards. When a permitting authority conducts such reviews and tribal consultation, all other subsections herein shall still apply to the Sponsor(s).
7. Project Areas on Sponsor-Owned Property. Unless a categorical exemption applies as stated above, the Sponsor shall perform and be bound by the following:
 - a. Project Review. For project areas not reviewed by a permitting authority (see above), prior to implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas where project mitigation shall occur, or any other areas that may be affected by project implementation, the Sponsor shall review the project for its potential and actual impacts, including any planned projects on lands acquired as part of the project, to any and all archaeological, cultural and historical resources in and adjacent to the project area, in areas where project mitigation shall occur, or other areas that may be affected by project implementation. In this review, Sponsor shall follow its policies and procedures, plans, guidance, rules, and directives, as well as act in compliance with Governor's Executive Order 05-05, the National Historic Preservation Act, the State Environmental Policy Act, the National Environmental Policy Act, and any local laws as may apply. If another governmental agency is responsible in whole or in part for this review the Sponsor shall assist with such review.
 - b. Tribal Consultation. For project areas not reviewed by a permitting authority (see above), prior to implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas where project mitigation shall occur, or any other areas that may be affected by project implementation, Sponsor shall conduct tribal consultation with any interested or affected tribes as defined above. .
 - c. Reporting to RCO and Approval of Project Activities. Sponsor shall provide RCO evidence (which RCO shall prescribe) that it has conducted project review and tribal consultation as described and receive written approval of such review and consultation from RCO prior to Sponsor implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas

- where project mitigation shall occur, or any other areas that may be affected by project implementation.
- d. Changes to Project. RCO reserves the right to request Sponsor change its scope of work and project outcomes to avoid, mitigate, or minimize impacts to archeological, cultural, and historic resources.
 - e. Termination. RCO retains the right at any time to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
 - f. Monitoring. RCO may require on-site monitoring for impacts to archeology, cultural, and historic resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology, cultural, and historical resource impacts or concerns.
 - g. Inadvertent Discovery Plan. The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan (IDP), and keep the IDP at the project site, make the IDP readily available to anyone working at the project site, discuss the IDP with staff and contractors working at the project site, and Implement the IDP when cultural resources or human remains are found at the project site.
 - h. Discovery. If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources until such time as the reviewing authority with jurisdiction over the found object(s) and areas notifies Sponsor and RCO that work can resume.
 - i. Human Remains. If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the RCO provides a new notice to proceed on the project. Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP). The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with

the affected parties as to the future preservation, excavation, and disposition of the remains and the resumption of work.

8. Project Areas on State or Federal Property Not Owned By Sponsor.

Categorical Exemption. For project area(s) owned by a state or federal agency, and not under review via a permitting nexus (see above), the state or federal agency landowner performing archeological, cultural, and historic resources review and tribal consultation shall make the determination that the project, in whole or in part, is covered by a categorical exemption, and may notify and report such to the Sponsor, or to RCO on behalf of Sponsor.

Project Review and Tribal Consolation. If the project is not categorical exception to archeological, cultural, and historical resources review and tribal consultation, and the project area is located on property owned by the State of Washington or a federal agency, Sponsor shall:

- a. Follow its own policies and procedures, rules, and any applicable laws, for the review, protection, and management of archaeological, cultural, and historic resources, and tribal consultation and other consultations as may apply.
- b. Assist the land owner and other applicable agencies, and the RCO, with its/their review of archaeological, cultural and historic resources, and tribal consultation for the project area.
 - i. RCO may consult directly with the landowner to complete land owner project review and tribal consultation.
- c. Provide RCO evidence that the landowner has 1) conducted archeological, cultural and historic resources review and tribal consultation according to its policies and procedures and applicable laws, and 2) provided Sponsor with permission to begin project implementation in the project area owned by the state or federal agency.
- d. Changes to Project. RCO reserves the right to request Sponsor change its scope of work and project outcomes to avoid, mitigate, or minimize impacts to archeological, cultural, and historic resources.
- e. Termination. RCO retains the right at any time to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
- f. Monitoring. RCO or the federal or state landowner may require on-site monitoring for impacts to archeology and cultural resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology and cultural resource impacts or concerns.
- g. Inadvertent Discovery Plan. The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan (IDP), and keep the IDP at the project site, make the IDP readily available to anyone working at the project site, discuss the IDP with staff and contractors

working at the project site, and Implement the IDP when cultural resources or human remains are found at the project site.

- h. Discovery. If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.
 - i. Human Remains. If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the RCO provides a new notice to proceed on the project. Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP). The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.
- 9. Costs. Costs associated with Sponsor's responsibilities under this section of the Agreement are eligible for reimbursement under this Agreement. Costs that exceed the budget grant amount shall be the responsibility of the Sponsor.

10. RECORDS.

- a. Digital Records. If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- b. Maintenance and Retention. The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of nine years from the date RCO deems the project complete, as defined in the PROJECT REIMBURSEMENTS Section. If any litigation, claim or audit is started before the expiration of the nine (9) year period, the records

shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

- c. In order to satisfy 15 CFR 24.42(b) & (c) and 2 CFR 200.333, for projects that contain Pacific Coast Salmon Recovery Funds or are used as match to Pacific Coast Salmon Recovery Funds the sponsor shall retain records for a period of nine years from the date RCO deems the project complete as defined in the PROJECT REIMBURSEMENTS Section.
- d. Access to Records and Data. At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- e. Public Records. Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04 (which ever applies). Additionally, the Sponsor agrees to disclose any information in regards to the expenditure of that funding as if the project sponsor were subject to the requirements of chapter 42.56 RCW. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

11. PROJECT FUNDING.

- a. Authority. This Agreement and funding is made available to Sponsor through the RCO.
- b. Additional Amounts. The RCO or Funding Entity shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the RCO director and incorporated by written amendment into this Agreement .
- c. Before the Agreement. No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by the RCO director, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.

- d. Requirements for Federal Subawards. Pre-Agreement costs before the federal award date in the FEDERAL FUND INFORMATION Section are ineligible unless approved by the federal award agency (2 C.F.R § 200.458 (2013)).
- e. After the Period of Performance. No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO or Funding Entity may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

12. PROJECT REIMBURSEMENTS.

- a. Reimbursement Basis. This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12, whichever has been designated to apply. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in the PROJECT FUNDING Section. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- b. Reimbursement Request Frequency. The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recent applicable RCO manuals and this Agreement regarding reimbursement requirements.
- c. Compliance and Payment. The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- d. Conditions for Payment of Retainage. RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the following has occurred:
 - i. RCO has accepted the project as a completed project, which acceptance shall not be unreasonably withheld.
 - ii. On-site signs are in place (if applicable); Any other required documents and media are complete and submitted to RCO; Grant related fiscal transactions are complete, and
 - iii. RCO has accepted a final boundary map of the project area for which the Agreement terms will apply in the future.

- iv. A Notice of Grant for any property rights acquired or donated (if applicable) have been filed with the county lands records office (or United State Government) and a stamped copy received by RCO, and any property rights owned to RCO have been likewise recorded.
- e. Requirements for Federal Subawards: Match. The Sponsor's matching share must comply with 2 C.F.R. § 200.306 (2013). Any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions, can be accepted as part of the Sponsor's matching share when such contributions meet all of the following criteria:
 - i. Are verifiable from the non-Federal entity's (Sponsor's) records;
 - ii. Are not included as contributions for any other Federal award;
 - iii. Are necessary and reasonable for accomplishment of project or program objectives;
 - iv. Are allowable under 2 C.F.R. Part 200, Subpart E—Cost Principles (2013);
 - v. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
 - vi. Are provided for in the approved budget when required by the Federal awarding agency identified in the FEDERAL FUND INFORMATION Section of this Agreement; and
 - vii. Conform to other provisions of 2 C.F.R. Part 200, Subpart D—Post Federal Award Requirements (2013), as applicable.
- f. Requirements for Federal Subawards: Close out. Per 2 C.F.R § 200.343 (2013), the non-Federal entity (Sponsor) must:
 - i. Submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity (RCO) may approve extensions when requested by the Sponsor.
 - ii. Liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
 - iii. Refund any balances of unobligated cash that the Federal awarding agency or pass-through entity (RCO) paid in advance or paid and that are not authorized to be retained by the non-Federal entity (Sponsor) for use in other projects. See OMB Circular A-129 and see 2 C.F.R § 200.345 Collection of amounts due (2013), for requirements regarding unreturned amounts that become delinquent debts.
 - iv. Account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with 2 C.F.R §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property (2013).

13. ADVANCE PAYMENTS.

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements.

14. RECOVERY OF PAYMENTS.

- a. Recovery for Noncompliance. In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- b. Return of Overpayments. The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time the Sponsor received such overpayment. Unless the overpayment is due to an error of RCO, the payment shall be due and owing on the date that the Sponsor receives the overpayment from the RCO. If the payment is due to an error of RCO, it shall be due and owing 30 days after demand by RCO for refund.
- c. Requirements for Federal Subawards. RCO, acting as a pass-through entity, may impose any of the remedies as authorized in 2 C.F.R §§ 200.207 Specific conditions and/or 200.338 Remedies for noncompliance (2013).

15. COVENANT AGAINST CONTINGENT FEES.

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

16. INCOME (AND FEES) AND USE OF INCOME.

See WAC 286-13-110 for additional requirements for projects funded from the RCFB.

Income.

- a. Farm and Forest Account (Farmland and Forestland Preservation Grants). Excepted from this section is income generated and fees paid on/for properties which received funds from the Farm and Forest Account (RCW 79A.15.130).
- b. Firearms and Archery Range Recreation Projects. Excepted from this section are safety classes (firearm and/or hunter) for which a facility/range fee must not be charged (RCW 79A.25.210).

- c. Compatible source. The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any applicable manuals, RCWs, and WACs.
- d. Use of Income. Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, rent, franchise fees, ecosystem services, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
 - i. The Sponsor's matching resources;
 - ii. The project's total cost;
 - iii. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the grant funding;
 - iv. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
 - v. Capital expenses for similar acquisition and/or development and renovation; and/or
 - vi. Other purposes explicitly approved by RCO.
- e. Fees. User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored and shall be consistent with the:
 - i. Grant program laws, rules, and applicable manuals;
 - ii. Value of any service(s) furnished;
 - iii. Value of any opportunities furnished; and
 - iv. Prevailing range of public fees in the state for the activity involved.
- f. Requirements for Federal Subawards. Sponsors must also comply with 2 C.F.R. § 200.307 Program income (2013).

17. PROCUREMENT REQUIREMENTS.

- a. Procurement Requirements. If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists the Sponsor must follow these minimum procedures:
 - i. Publish a notice to the public requesting bids/proposals for the project;
 - ii. Specify in the notice the date for submittal of bids/proposals;
 - iii. Specify in the notice the general procedure and criteria for selection; and
 - iv. Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
 - v. Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer. Alternatively, Sponsor may choose a bid from a bidding

cooperative if authorized to do so. This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

b. Requirements for Federal Subawards.

- i. For all Federal subawards, non-Federal entities (Sponsors) must follow 2 C.F.R §§ 200.318 General procurement standards through 200.326 Contract Provisions (2013).
- ii. For RTP subawards, Sponsors shall follow such policies and procedures allowed by the State when procuring property and services under a Federal award (2 C.F.R § 1201.317 (2013)).

18. TREATMENT OF EQUIPMENT AND ASSETS.

- a. Equipment shall be used and managed only for the purpose of this Agreement , unless otherwise provided herein or in the applicable manuals, or approved by RCO in writing.
- b. Discontinued Use. Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.
- c. Loss or Damage. The Sponsor shall be responsible for any loss or damage to equipment.
- d. Requirements for Federal Subawards. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award or match for the award, until disposition takes place will, at a minimum, meet the following requirements (2 C.F.R § 200.313 (2013)):
 - i. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the Federal Award Identification Number), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
 - ii. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
 - iii. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
 - iv. Adequate maintenance procedures must be developed to keep the property in good condition.

- v. If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- e. Requirements for RTP Subawards.
 - i. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.

19. RIGHT OF INSPECTION.

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement. If a landowner agreement or other form of control and tenure limits access to the project area, it must include (or be amended to include) the RCO's right to inspect and access lands acquired or developed with this funding assistance.

20. STEWARDSHIP AND MONITORING.

Sponsor agrees to perform monitoring and stewardship functions as stated in the applicable WACs and manuals, this Agreement, or as otherwise directed by RCO consistent with the existing laws and applicable manuals. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the RCO; provided that RCO does not represent that any monitoring it may recommend will be adequate to reasonably assure project performance or safety. It is the sole responsibility of the Sponsor to perform such additional monitoring as may be adequate for such purposes.

21. PREFERENCES FOR RESIDENTS.

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents, but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

22. ACKNOWLEDGMENT AND SIGNS.

- a. Publications. The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.
- b. Signs.
 - i. During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless waived by the director; and

- ii. During the period of long-term obligations, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.
- c. Ceremonies. The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies and in all advertisements and mailings thereof, and any and all of its related digital media publications.
- d. Federally Funded Projects. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, Sponsors shall clearly state:
 - i. The fund source;
 - ii. The percentage of the total costs of the project that is financed with federal money;
 - iii. The dollar amount of federal funds for the project; and
 - iv. The percentage and dollar amount of the total costs of the project that is financed by nongovernmental sources.

23. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS.

- a. The following provisions shall be in force:
 - i. Operations and Maintenance. Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted per this Agreement and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration. It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
 - ii. Document Review and Approval. Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.
- b. Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the RCO must receive prior written approval of the RCO.

- c. Control and Tenure. The Sponsor must provide documentation that shows appropriate tenure and term (such as long-term lease, perpetual or long-term easement, or perpetual or long-term fee simple ownership, or landowner agreement or interagency agreement for the land proposed for construction, renovation, or restoration. The documentation must meet current RCO requirements identified in this Agreement as of the effective date of this Agreement unless otherwise provided in any applicable manual, RCW, WAC, or as approved by the RCO.
- d. Use of Best Management Practices. Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include “Integrated Streambank Protection Guidelines”, 2002; “Land Use Planning for Salmon, Steelhead and Trout: A land use planner’s guide to salmonid habitat protection and recovery”, 2009”, “Protecting Nearshore Habitat and Functions in Puget Sound”, 2010; “Stream Habitat Restoration Guidelines”, 2012; “Water Crossing Design Guidelines”, 2013; and “Marine Shoreline Design Guidelines”, 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in “Reducing Accidental Introductions of Invasive Species” which is available on the WISC Web site.
- e. At no time shall the Sponsor design, construct, or operate this grant funded project in a way that unreasonably puts the public, itself, or others at risk of injury or property damage. The Sponsor agrees and acknowledges that the Sponsor is solely responsible for safety and risk associated with the project, that RCO does not have expertise, capacity, or a mission to review, monitor, or inspect for safety and risk, that no expectation exists that RCO will do so, and that RCO is in no way responsible for any risks associated with the project.

24. PROVISIONS APPLYING TO ACQUISITION PROJECTS.

- a. The following provisions shall be in force:
 - i. Evidence of Land Value. Before disbursement of funds by RCO as provided under this Agreement, the Sponsor agrees to supply documentation acceptable to RCO that the cost of the property rights acquired has been established according to all applicable manuals and RCWs or WACs.
 - ii. Evidence of Title. The Sponsor agrees to provide documentation that shows the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
 - iii. Legal Description of Real Property Rights Acquired. The legal description of any 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 delivered to RCO before final payment.
 - iv. Conveyance of Rights to the State of Washington. When real property rights (both fee simple and lesser interests) are acquired, the Sponsor agrees to execute an appropriate document (provided or approved by RCO) conveying certain rights and responsibilities to RCO or the Funding Entity on behalf of the State of Washington or another agency of the

- state, or federal agency, or other organization. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
- v. Deed of Right. The Deed of Right as described in RCO Manual #3 conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. Sponsors 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 Sponsor has acquired a perpetual easement for public purposes.
 - vi. Assignment of Rights. The Assignment of Rights as described in RCO Manual #3 document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 - vii. Easements and Leases. The Sponsor 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; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
 - viii. Real Property Acquisition and Relocation Assistance. In the event that housing and relocation costs and procedures are required by local, state, tribal, or federal law, or rule; the Sponsor agrees to provide such housing and relocation assistance as a condition of the Agreement and receiving grant funds.
- b. Buildings and Structures. In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with COMPLIANCE WITH APPLICABLE LAW SECTION, Archeological and Cultural Resources paragraph.
- c. Hazardous Substances.
- i. Certification. The Sponsor 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(13), and certify:
 - ii. No hazardous substances were found on the site, or
 - iii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
 - iv. Responsibility. Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
 - v. Hold Harmless. The Sponsor will defend, protect and hold harmless the State 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 Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The Funding Entity and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

- d. Requirements for Federal Subawards. The non-federal entity (Sponsor) must submit reports the federal funding agency, through RCO, at least annually on the status of real property in which the federal government retains an interest, unless the federal interest in the real property extends 15 years or longer. In those instances where the federal interest attached is for a period of 15 years or more, the federal awarding agency or the pass-through entity (RCO), at its option, may require the Sponsor to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a federal awarding agency or RCO may require annual reporting for the first three years of a federal award and thereafter require reporting every five years) (2 C.F.R § 200.329 (2013)).
- e. Developing and Restoring Purchased Property. If the Sponsor intends to develop or restore the property acquired it shall do so within the timeline and deadline provided by the funding program or board policies that apply to the grant funded project, or as provided for in this Agreement.

25. LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS.

- a. Long-Term Obligations. This section applies to completed projects only.
- b. Perpetuity. For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by applicable manual, policy, program rules, or this Agreement, or approved in writing by RCO. The RCO requires that the project area continue to function for the purposes for which these grant funds were approved, in perpetuity.
- c. Conversion. The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/ or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property (or a portion of it) to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policies or unless a transfer or change in use is approved by the RCO through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon all terms of the Agreement, and all applicable state of federal laws or regulation.

- i. For acquisition projects that are expressly term-limited in the Agreement, the restriction on conversion shall apply only for the length of the term, unless otherwise provided by this Agreement and incorporated documents, WACs, or any applicable state or federal law or regulation.
- ii. When a conversion has been determined to have occurred, the Sponsor shall remedy the conversion as set forth in this Agreement (with incorporated documents) and as required by all applicable policies, manuals, WACs and laws that exist at the time the remedy is implemented or the right to the remedy is established by a court or other decision-making body, and the RCO may pursue all remedies as allowed by the Agreement or law.

26. CONSTRUCTION, OPERATION, USE, AND MAINTENANCE OF ASSISTED PROJECTS.

- a. The following provisions shall be in force for this agreement:
 - i. Property and facility operation and maintenance. Sponsor must ensure that properties or facilities assisted with the grant funds, including undeveloped sites, are built, operated, used, and maintained:
 - a. According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
 - b. In a reasonably safe condition for the project's intended use;
 - c. Throughout its estimated useful service life so as to prevent undue deterioration;
 - d. In compliance with all federal and state nondiscrimination laws, regulations and policies.
 - ii. Open to the public. Unless otherwise specifically provided for in the Agreement, and in compliance with applicable statutes, rules, and applicable WACs and manuals, facilities must be open and accessible to the general public, and must:
 - a. Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
 - b. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
 - c. Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals or, by a decision of the RCO director in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

27. RECORDED NOTICE OF GRANT.

At the request of RCO, another state agency, or a federal agency, Sponsor shall record a notice of grant on property subject to this Agreement and shall submit to the RCO a recorded and registry stamped copy of such notice. The purpose of the notice of grant is to provide constructive notice of the grant and project and to ensure that the present and future use of the project area is and shall remain subject to the terms and conditions described in this Agreement. The notice of grant shall be in a format specified by RCO.

28. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS.

- a. A corporate Sponsor, including any nonprofit Sponsor, shall:
 - i. Maintain corporate status with the state, including registering with the Washington Secretary of State's office, throughout the Sponsor's obligation to the project as identified in the Agreement.
 - ii. Notify RCO before corporate dissolution at any time during the period of performance or long-term obligations. Within 30 days of dissolution the Sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities, and transfer all property and assets to the successor. A qualified successor is any party eligible to apply for funds in the subject grant program and capable of complying with the terms and conditions of this Agreement. RCO will process an amendment transferring the Sponsor's obligation to the qualified successor if requirements are met.
 - iii. Maintain sites or facilities open to the public and may not limit access to members.

29. PROVISIONS FOR FEDERAL SUBAWARDS.

The following provisions shall be in force for this agreement:

- a. Sub-Recipient (Sponsor) must comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement to include match and any in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.
- b. Binding Official. Per 2 CFR 200.415, Sponsor certifies through its actions or those of authorized staff, at the time of a request for reimbursement, the following: "To the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."
- c. Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319,

12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, paragraph C.

- d. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- e. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.
- f. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities (Sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity (Sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (Sponsor) must report all suspected or reported violations to the federal awarding agency identified in the Federal Fund Information Section. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U. S. C. 3145), as supplemented by Department of Labor regulations (29 C.F.R Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient (Sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (Sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION.

- g. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-federal entity (Sponsor) in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- h. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 C.F.R § 401.2(a) and the recipient or subrecipient (Sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient (Sponsor) must comply with the requirements of 37 C.F.R Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- i. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION and the Regional Office of the Environmental Protection Agency (EPA).
- j. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). By signing this Agreement, the Sponsor certifies (per the certification requirements of 31 U.S.C.) that none of the funds that the Sponsor has (directly or indirectly) received or will receive for this project from the United States or any agency thereof, have been used or shall be used to engage in the lobbying of the Federal Government or in litigation against the United States. Such lobbying includes any influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this project. Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying

with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier-to-tier up to the non-federal award.

- k. Procurement of Recovered Materials. A non-federal entity (Sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- l. Required Insurance. The non-federal entity (Sponsor) must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R § 200.310 (2013)).
- m. Debarment and Suspension (Executive Orders 12549 and 12689). The Sponsor must not award a contract to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R § 180 that implement Executive Orders 12549 (3 C.F.R part 1986 Comp., p. 189) and 12689 (3 C.F.R part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- n. Conflict of Interest. Sponsor agrees to abide by the conflict of interest policy and requirements of the federal funding agency established pursuant to 2 C.F.R 200.

30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS.

Use of Sport Fish Restoration Logo. Per 50 CFR 86 Sec 75 and 76, the user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from; any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo. No one may use any part of the logo in any other manner unless the United States Fish and Wildlife Service's Assistant Director for Wildlife and Sport Fish Restoration or Regional Director approves in writing.

31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS.

The following provisions shall be in force for this agreement:

- a. **Liability Insurance.** The Sponsor of a firearms or archery range recreation project shall procure an endorsement, or other addition, to liability insurance it carries, or shall procure a new policy of liability insurance, in a total coverage amount the Sponsor deems adequate to ensure it will have resources to pay successful claims of people who may be killed or injured, or suffer damage to property, while present at the range facility to which this grant is related, or by reason of being in the vicinity of that facility; provided that the coverage shall be at least one million dollars (\$1,000,000) for the death of, or injury to, each person.
- b. **Insurance Endorsement.** The liability insurance policy, including any endorsement or addition, shall name Washington State, the funding board, and RCO as additional insured and shall be in a form approved by the funding board or director.
- c. **Length of Insurance.** The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the Sponsor's obligation to the project as identified in this Agreement.
- d. **Notice of Cancellation.** The policy, as modified by any endorsement or other addition, shall provide that the issuing company shall give written notice to RCO not less than thirty (30) calendar days in advance of any cancellation of the policy by the insurer, and within ten (10) calendar days following any termination of the policy by the Sponsor.
- e. **Government Agencies.** The requirement of Subsection a through d above shall not apply if the Sponsor is a federal, state, or municipal government which has established an adequate program of self-insurance or a policy of self-insurance with respect to claims arising from its facilities or activities generally, including such facilities as firearms or archery ranges, when the applicant declares and describes that program or policy to the RCO.
- f. **Sole Duty of the Sponsor.** By this requirement, the funding board and RCO does undertake to review, approve, or monitor the safety of the design, construction, or operation of the project and does not assume any duty to any individual person with respect to death, injury, or damage to property which that person may suffer as a result of the project which this grant relates. Any such person, or any other person making claims based on such death, injury, or damage, must look to the Sponsor, or others, for any and all remedies that may be available by law.

32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS.

This project has been approved by the National Park Service, US Department of the Interior, for funding assistance from the federal Land and Water Conservation Fund (LWCF), therefore the "Land and Water Conservation Fund General Provisions" are made part of this Agreement and incorporated herein. The Sponsor shall abide by these LWCF General Provisions, in addition to this Agreement, as they now exist or are hereafter amended. Further, the Sponsor agrees to provide RCO with reports or documents needed to meet the requirements of the LWCF General Provisions.

33. PROVISIONS FOR FARMLAND AND FORESTLAND PRESERVATION PROJECTS.

The following sections of this Agreement shall not apply if they are included and covered separately in a recorded RCO-approved Agricultural Conservation Easement, or Forest Conservation Easement (or other method):

- a. Income and Income Use; Stewardship and Monitoring; Acknowledgement and Signs; Provisions Applying To Acquisition Projects: Conveyance of Rights to the State of Washington, Building and Structures, and Hazardous Substances; Long-Term Obligations of the Projects and Sponsors: Perpetuity; and Construction, Operation, Use and Maintenance of Assisted Projects.

34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS.

For habitat restoration projects funded in part or whole with federal funds administered by the SRFB the Sponsor shall not commence with clearing of riparian trees or in-water work unless either the Sponsor has complied with 50 C.F.R. § 223.203 (b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this Agreement. This section shall not be the basis for any enforcement responsibility by RCO.

35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS.

The following provisions shall be in force for this Agreement if the project is funded in part or wholly from the Puget Sound Acquisition and Restoration program. The Sponsor agrees to the following terms and conditions:

- a. Cost Principles/Indirect Costs For State Agencies. GRANT RECIPIENT agrees to comply with the cost principles of 2 CFR 200 Subpart E as appropriate to the award. In addition to the US Environmental Protection Agency's General Terms and Conditions "Indirect Cost Rate Agreements," if the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.
- b. Credit and Acknowledgement. In addition to the ACKNOWLEDGEMENT AND SIGNS section, materials produced must display both the Environmental Protection Agency (EPA) and Puget Sound Partnership (PSP) logos and the following credit line: "This project has been funded wholly or in part by the United States Environmental Protection Agency. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use." This requirement is for the life of the product, whether during or after the Agreement period of performance.
- c. Hotel Motel Fire Safety Act. Sponsor agrees to ensure that all conference, meeting, convention, or training space funded in whole or part with federal funds, complies with the federal Hotel and Motel Fire Safety Act (PL 101-391, as amended). Sponsors may search the Hotel-Motel National Master List @ <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance or to find other information about the Act.

- d. Drug Free Workplace Certification. Sub-recipient (Sponsor) shall make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 2 C.F.R. Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization shall identify all known workplaces under its federal awards, and keep this information on file during the performance of the award. Sponsors who are individuals must comply with the drug-free provisions set forth in 2 C.F.R. Part 1536 Subpart C. The consequences for violating this condition are detailed under 2 C.F.R. Part 1536 Subpart E.
- e. Management Fees. Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term “management fees or similar charges” refers to the expenses added to direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities or for other similar costs that are not allowable. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except for the extent authorized as a direct cost of carrying out the scope of work.
- f. Trafficking in Persons and Trafficking Victim Protection Act of 2000 (TVPA). This provision applies only to a sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor), if any. Sub-recipient (Sponsor) shall include the following statement in all sub-awards made to any private entity under this Agreement: “You as the sub-recipient, your employees, sub-awardees under this award, and sub-awardees’ employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under this Award.” The sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor) must inform RCO immediately of any information you receive from any source alleging a violation of this prohibition during the award term. The federal agency funding this Agreement may unilaterally terminate, without penalty, the funding award if this prohibition is violated, Section 106 of the Trafficking Victims Protection Act of 2000, as amended.
- g. Lobbying. The chief executive officer of this recipient agency (Sponsor) shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States, unless authorized under existing law. The recipient (Sponsor) shall abide by its respective Cost Principles (OMB Circulars A-21, A-87, and A-122), which generally prohibits the use of federal grant funds for litigation against the United States, or for lobbying or other political activities. The Sponsor agrees to comply with 40 C.F.R. Part 34, New Restrictions on Lobbying. Sponsor shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly. In accordance with the Byrd Anti-Lobbying Amendment, any Sponsor who makes a prohibited expenditure under 40 C.F.R. Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure. All contracts awarded by Sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at 40 C.F.R. Part 30. Pursuant to Section 18 of the Lobbying Disclosure Act, Sponsor

affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c)(4) of the code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

- h. Reimbursement Limitation. If the Sponsor expends more than the amount of RCO funding in this Agreement in anticipation of receiving additional funds from the RCO, it does so at its own risk. RCO is not legally obligated to reimburse the Sponsor for costs incurred in excess of the RCO approved budget.
- i. Disadvantaged Business Enterprise Requirements. The Sponsor agrees to comply with the requirements of EPA's Utilization of Small, Minority and Women's Business Enterprises in procurements made under this award.
- j. Minority and Women's Business Participation. Sponsor agrees to solicit and recruit, to the maximum extent possible, certified minority owned (MBE) and women owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement.

These goals are expressed as a percentage of the total dollars available for purchase or agreement and are as follows: Purchased Goods 8% MBE 4% WBE; Purchased Services 10% MBE 4% WBE; Professional Services 10% MBE 4% WBE. Meeting these goals is voluntary and no agreement award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and Sponsor and ALL prospective bidders or people submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement:
 - i. Include qualified minority and women's businesses on solicitation lists.
 - ii. Assure that qualified minority and women's business are solicited whenever they are potential sources of services or supplies.
 - iii. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
 - iv. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
 - v. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.
- k. MBE/WBE Reporting. In accordance with the deviation from 40 C.F.R. §33.502, signed November 8, 2013, DBE reporting is limited to annual reports and only required for assistance agreements where one or more the following conditions are met:
 - l. There are any funds budgeted in the contractual/services, equipment or construction lines of the award; and/or \$3,000 or more is included for supplies; or there are funds budgeted for subawards or loans in which the expected budget(s) meet the conditions as described in items

(a) and (b). When completing the form, recipients (Sponsors) should disregard the quarterly and semi-annual boxes in the reporting period Section 1B of the form. For annual submissions, the reports are due by October 30th of each year or 90 days after the end of the project period, whichever comes first. The reporting requirement is based on planned procurements. Recipients (Sponsors) with funds budgeted for non-supply procurement and/or \$3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in Section 5B when completing the form. MBE/WBE reports should be sent to the DBE Coordinator in the Sponsor's region. Contact information can be found at <http://www.epa.gov/osbp/contactpage.htm>. The coordinators also can answer any questions. Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. To be in compliance with regulations, the Sponsor must submit a final MBE/WBE report. Non-compliance may impact future competitive grant proposals. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

- m. Procurement involving an EPA Financial Assistance Agreement. Pursuant to 40 C.F.R. § 33.301, the Sponsor agrees to make the following six good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients (Sponsors), and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained.
- n. Ensure Disadvantaged Business Enterprise (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For State and Local and Government Sponsors, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- o. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- p. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For State and local Government Sponsors, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- q. Encourage contracting with a consortium of DBEs when an agreement is too large for one of these firms to handle individually.
- r. Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development of the Department of Commerce.

- s. If the Sponsor awards subcontracts, require the Sponsor to take the steps in paragraphs (a) through (e) of this section.
- t. Lobbying & Litigation. By signing this Agreement, the Sponsor certifies that none of the funds received from this Agreement shall be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The chief executive officer of this Sponsor agency shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The Sponsor shall abide by its respective Attachment in 2 C.F.R. Part 200, which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities. For subawards exceeding \$100,000, EPA requires the following certification and disclosure forms:
 - I. Certification Regarding Lobbying, EPA Form 6600-06:
http://www.epa.gov/ogd/AppKit/form/Lobbying_sec.pdf
 - II. Disclosure of Lobbying Activities, SF LLL:
http://www.epa.gov/ogd/AppKit/form/sflllin_sec.pdf
- u. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.
- v. Payment to Consultants. EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients (Sponsors) or by a recipients' (Sponsor's) contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with his/her normal travel reimbursement practices). Subagreements with firms for services that are awarded using the procurement requirements in 40 C.F.R. Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient (Sponsor) with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 C.F.R. § 30.27(b) or 40 C.F.R. § 31.369(j), as applicable, for additional information. As of January 1, 2020, the limit is \$654.71 per day \$81.83 per hour.
- w. Peer Review. Where appropriate, prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review, and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.
- x. International Travel (Including Canada). All International Travel must be approved by the US Environmental Protection Agency's Office of International and Tribal Affairs (OITA) BEFORE

travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your Partnership Project manager as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can submit a request to the EPA Project Officer if they approve of such travel.

- y. Unliquidated Obligations (ULO). Sub-recipients, and all sub-awardees of Sub-Recipients, if any, should manage their agreement and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are unspent (not yet drawn down through disbursements to sub-recipients and sub-awardees).

- z. Light Refreshments And/Or Meals.

Unless the event(s) and all of its components are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops, and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- 1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- 2) A description of the purpose, agenda, location, length and timing for the event; and,
- 3) An estimated number of participants in the event and a description of their roles.

Cost for light refreshments and meals for recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements.

- aa. State grant cybersecurity.

- (a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.
- (b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.
(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the AGecy using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange.

36. ORDER OF PRECEDENCE.

- a. This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

- i. Federal law and binding executive orders;

- ii. Code of federal regulations;
- iii. Terms and conditions of a grant award to the state from the federal government;
- iv. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
- v. State Constitution, RCW, and WAC;
- vi. Agreement Terms and Conditions and Applicable Manuals
- vii. Applicable deed restrictions, and/or governing documents.

37. LIMITATION OF AUTHORITY.

Only RCO's Director or RCO's delegate authorized in writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

38. WAIVER OF DEFAULT.

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH.

The Funding Entity (if different from RCO) and RCO rely on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

40. SPECIFIC PERFORMANCE.

RCO may enforce this Agreement by the remedy of specific performance, which means Sponsors' completion of the project and/or its completion of long-term obligations as described in this Agreement. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

41. TERMINATION AND SUSPENSION.

- a. The RCO requires strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.
- b. For Cause.

- i. The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a. If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b. If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
 - c. If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;
 - d. Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
 - ii. RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.
- c. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:
- i. The Sponsor was not in default; or
 - ii. Failure to perform was outside Sponsor's control, fault or negligence.
- d. Rights of Remedies of the RCO.
- i. The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
 - ii. In the event this Agreement is terminated by the director, after any portion of the grant amount has been paid to the Sponsor under this Agreement, the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.
 - iii. Non-Availability of Funds. The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation

- is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.
- iv. **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.
 - v. **No Waiver.** The failure or neglect of RCO to require strict compliance with any term of this Agreement or to pursue a remedy provided by this Agreement or by law shall not act as or be construed as a waiver of any right to fully enforce all rights and obligations set forth in this Agreement and in applicable state or federal law and regulations.

42. DISPUTE HEARING.

- a. Except as may otherwise be provided in this Agreement, when a dispute arises between the Sponsor and the RCO, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:
 - i. The disputed issues;
 - ii. The relative positions of the parties;
 - iii. The Sponsor's name, address, project title, and the assigned project number.
- b. In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the persons chosen by the Sponsor and director shall be dismissed and an alternate person chosen by the Sponsor, and one by the director shall be appointed and they shall agree on a third person. This process shall be repeated until a three person panel is established.
- c. Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.
- d. The parties shall be bound by the majority decision of the dispute panelists, unless the remedy directed by that panel is beyond the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

- e. Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.
- f. All costs associated with the implementation of this process shall be shared equally by the parties.

43. ATTORNEYS' FEES.

In the event of litigation or other action brought to enforce the terms of this Agreement each party agrees to bear its own attorney fees and costs.

44. GOVERNING LAW/VENUE.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in the Superior Court of a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

45. SEVERABILITY.

The provisions of this Agreement 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 Agreement.

46. END OF AGREEMENT.

This is the end of the agreement.



City Council

Approval of a Resolution Authorizing a Washington Wildlife and Recreation Program Grant Application to the Recreation and Conservation Office for Yelm Highway Community Park Phase I

Agenda Date: 4/25/2022
Agenda Item Number: 4.F
File Number:22-0404

Type: resolution **Version:** 1 **Status:** Consent Calendar

Title

Approval of a Resolution Authorizing a Washington Wildlife and Recreation Program Grant Application to the Recreation and Conservation Office for Yelm Highway Community Park Phase I

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the Resolution authorizing City Staff to apply for a recreation and Conservation Office (RCO) grant for Yelm Highway Community Park Phase I and authorizing the City Manager to receive the grant funds should the grant be successful.

Report

Issue:

Whether to approve the Resolution authorizing City Staff to apply for an RCO grant for Yelm Highway Community Park Phase I and authorizing the City Manager to receive the grant funds should the grant be successful.

Staff Contact:

Tammy LeDoux, Finance & Policy Coordinator, Parks Arts and Recreation, 360.753.8053

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

The Parks, Arts and Recreation Department is preparing an RCO grant application for the current funding cycle. The application is due May 3, 2022 and is required to include formal City Council authorization.

The Washington Wildlife and Recreation Program provides funding for a broad range of land protection and outdoor recreation, including local and state parks, trails, water access, and the conservation and restoration of state land. The Washington Wildlife and Recreation Program was envisioned as a way for the state to accomplish two goals: acquire valuable recreation and habitat lands before they were lost to other uses and develop recreation areas for a growing population.

If successful, the grant would reimburse the City approximately \$500,000 towards Phase 1 development of the Yelm Highway Community Park.

In 2021, the City was awarded a \$1,000,000 reimbursement grant for the acquisition of the Yelm Highway Community Park parcel.

Neighborhood/Community Interests (if known):

The development of Yelm Highway Community Park was included in the 2022 Parks, Arts and Recreation Plan, which was developed with significant public involvement and strong community interest.

Options:

1. Approve the Resolution authorizing a grant application to the Recreation and Conservation Office (RCO) for Yelm Highway Community Park.
2. Do not approve the Resolution. Staff would be unable to pursue the grant opportunity.

Financial Impact:

The grant totals approximately \$500,000.

Attachments:

Resolution
RCO Resolution
Sample Grant Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING THE APPLICATION FOR A GRANT BETWEEN THE CITY OF OLYMPIA AND WASHINGTON STATE RECREATION AND CONSERVATION OFFICE (RCO) FOR A WASHINGTON WILDLIFE AND RECREATION PROGRAM LOCAL PARKS GRANT FOR THE YELM HIGHWAY COMMUNITY PARK PHASE I DEVELOPMENT PROJECT

WHEREAS, on August 3, 2018, the City of Olympia purchased 83 acres on Yelm Highway for use as a public park for recreation and open space purposes; and

WHEREAS, currently the City is working with the community on a Park Master Plan and Conceptual Design to develop the property into a community park; and

WHEREAS, the 2022 Parks, Arts and Recreation Plan highlights development of this park as a long-standing community priority; and

WHEREAS, the Washington Wildlife and Recreation Program provides funding for a broad range of land protection and outdoor recreation; and

WHEREAS, the Washington Wildlife and Recreation Program grant would require a grant match of up to \$500,000; and

WHEREAS, the City has committed to Phase 1 development for the Yelm Highway property which will exceed the \$500,000 that serves as the required match for this grant; and

WHEREAS, the Recreation and Conservation Office requires an authorizing resolution as part of the grant application;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The Olympia City Council hereby approves the application for a grant between the City of Olympia and Washington State Recreation and Conservation Office for the Yelm Highway Community Park Phase I Development Project and the terms and conditions contained therein.
2. The City Manager is directed and authorized to execute on behalf of the City of Olympia the RCO Applicant Resolution/Authorization, the Grant Agreement, and any other documents necessary to obligate funds for Project 22-1445D, Yelm Highway Community Park Phase I, and to make any amendments or minor modifications or to correct any scrivener's errors as may be required and are consistent with the intent of the Grant Application.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber

CITY ATTORNEY



Applicant Resolution/Authorization

Organization Name (sponsor) _____

Resolution No. or Document Name _____

Project(s) Number(s), and Name(s) _____

This resolution/authorization authorizes the person(s) identified below (in Section 2) to act as the authorized representative/agent on behalf of our organization and to legally bind our organization with respect to the above Project(s) for which we seek grant funding assistance managed through the Recreation and Conservation Office (Office).

WHEREAS, grant assistance is requested by our organization to aid in financing the cost of the Project(s) referenced above;

NOW, THEREFORE, BE IT RESOLVED that:

1. Our organization has applied for or intends to apply for funding assistance managed by the Office for the above "Project(s)."
2. Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	
Project contact (day-to-day administering of the grant and communicating with the RCO)	
RCO Grant Agreement (Agreement)	
Agreement amendments	
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typical recorded on the property with the county.	

The above persons are considered an "authorized representative(s)/agent(s)" for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

3. Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.
4. Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.
5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.
6. Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.
7. Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.
8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
9. [for Recreation and Conservation Funding Board Grant Programs Only] If match is required for the grant, we understand our organization must certify the availability of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.
10. Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.
11. [for Acquisition Projects Only] Our organization acknowledges that any property acquired with grant assistance must be dedicated for the purposes of the grant in perpetuity unless otherwise agreed to in writing by our organization and the Office. We agree to dedicate the property in a signed "Deed of Right" for fee acquisitions, or an "Assignment of Rights" for other than fee acquisitions (which documents will be based upon the Office's standard versions of those documents), to be recorded on the title of the property with the county auditor. Our organization acknowledges that any property

acquired in fee title must be immediately made available to the public unless otherwise provided for in policy, the Agreement, or authorized in writing by the Office Director.

12. [for Development, Renovation, Enhancement, and Restoration Projects Only–If our organization owns the project property] Our organization acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.
13. [for Development, Renovation, Enhancement, and Restoration Projects Only–If your organization DOES NOT own the property] Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.
14. [Only for Projects located in Water Resources Inventory Areas 1-19 that are applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, Riparian Protection, or Urban Wildlife Habitat grant categories; Aquatic Lands Enhancement Account; or the Puget Sound Acquisition and Restoration program, or a Salmon Recovery Funding Board approved grant] Our organization certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.
15. This resolution/authorization is deemed to be part of the formal grant application to the Office.
16. Our organization warrants and certifies that this resolution/authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

This resolution/authorization is signed and approved on behalf of the resolving body of our organization by the following authorized member(s):

Signed _____

Title _____ Date _____

On File at: _____

This Applicant Resolution/Authorization was adopted by our organization during the meeting held:
(Local Governments and Nonprofit Organizations Only):

Location: _____ Date: _____

Washington State Attorney General's Office

Approved as to form Brian Tallen 2/13/2020
Assistant Attorney General Date

You may reproduce the above language in your own format; however, text may not change.

This agreement template is used by the Recreation and Conservation Office (RCO) for the management of the grant and other programs it administers. This example is provided for review by applicants' and their counsel as they seek grant funding managed by RCO.

This grant agreement will contain changes at issuance based on the specifics of each funded project. For instance, changes will occur based on the applicant, funding program, fund source, project type, rule or law changes, and other factors. Applicants that receive funding from RCO are encouraged to thoroughly review their customized grant agreement prior to final signature.

RCO reserves the right to make updates to this template.

RCO GRANT AGREEMENT

Project Name: _____

Project Number: _____

Issuance Date: _____

A. PARTIES OF THE GRANT AGREEMENT.

1. This Recreation and Conservation Office Grant Agreement (Agreement) is entered into between the State of Washington {FundingAgency} Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and {PrimarySponsorNameAddress} {SecondarySponsorNameAddress}, and shall be binding on the agents and all persons acting by or through the parties.
2. The Sponsor's Data Universal Numbering System (DUNS) Number is {DUNNSNumber}.
3. All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.
4. Prior to and During the Period of Performance, Per the Applicant Resolution/Authorizations submitted by all sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project, including but not limited to, full authority to: (1) sign a grant application for grant assistance, (2) enter into this project agreement on behalf of the Sponsor(s) including indemnification, as provided therein, (3) enter any amendments thereto on behalf of Sponsor(s), and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all Sponsors, unless otherwise allowed in the AMENDMENTS TO AGREEMENT Section.
 - a. During the Period of Performance, in order for a Sponsor to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization the Sponsor must provide the RCO a new Applicant

Resolution/Authorization signed by its governing body. Unless a new Applicant Resolution/Authorization has been provided, the RCO shall proceed on the basis that the person who is listed as the Authorized Representative in the last Resolution/Authorization that RCO has received is the person with authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.

- b. Amendments After the Period of Performance. RCO reserves the right to request and Sponsor has the obligation to provide, authorizations and documents that demonstrate any signatory to an amendment has the authority to legally bind the Sponsor as described in the above Sections A and J.
5. For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS Section).

B. PURPOSE OF AGREEMENT.

This Agreement sets out the terms and conditions by which a grant is made from the {AccountName} of the State of Washington. The grant is administered by the RCO.

C. DESCRIPTION OF PROJECT.

{ProjectDescription}

D. PERIOD OF PERFORMANCE.

1. The period of performance begins on {StartDate} (project start date) and ends on {EndDate} (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.
2. The RCO reserves the right to summarily dismiss any request to amend this Agreement if not made at least 60 days before the project end date.

E. STANDARD TERMS AND CONDITIONS INCORPORATED.

The RCO Standard Terms and Conditions of the Agreement are hereby incorporated by reference as part of this Agreement.

F. LONG-TERM OBLIGATIONS.

(This is a custom section based on project, program, and sponsor type. See [attached spreadsheet of those that may apply.](#))

G. PROJECT FUNDING.

The total grant award provided for this project shall not exceed {RCOAmount}. The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

{FundingTable}

H. FEDERAL FUND INFORMATION.

(This section only appears if there is federal funding nexus)

{FederalFundingInfo}

This funding is not research and development (R&D).

If the Sponsor's total federal expenditures are \$750,000 or more during the Sponsor's fiscal-year, the Sponsor is required to have a federal single audit conducted for that year in compliance with 2 C.F.R. Part 200, Sub Part F—Audit Requirements, Section 500 (2013). The Sponsor must provide a copy of the final audit report to RCO within nine months of the end of the Sponsor's fiscal year, unless a longer period is agreed to in advance by the federal agency identified in this section.

Sponsor shall comply with the federal "Omni-circular" (2 C.F.R. Part 200).

RCO may suspend all reimbursements if the Sponsor fails to timely provide a single federal audit; further the RCO reserves the right to suspend any and all RCO Agreement(s) with the Sponsor if such noncompliance is not promptly cured.

I. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS.

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved and/or amended as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless the terms in the Agreement are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

The following Exhibits are attached as part of this Agreement:

(This is a custom section listing things like "Expanded Scope of Work," "Milestones," and "Eligible Scope Items," which become part of this agreement.)

If an exhibit is referenced in this Agreement as an exhibit or attached to this Agreement, regardless whether it is on this list, it shall still be considered part of this Agreement.

J. AMENDMENTS TO AGREEMENT.

1. Except as provided herein, no amendment (including without limitation, deletions) of this Agreement will be effective unless set forth in writing signed by all parties. Exception: extensions of the Period of Performance and minor scope adjustments need only be signed by

RCO's director or designee and consented to in writing (including email) by the Sponsor's Authorized Representative/Agent or Sponsor's designated point of contact for the implementation of the Agreement (who may be a person other than the Authorized Agent/Representative), unless otherwise provided for in an amendment. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

2. It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so.
3. Unless otherwise expressly stated in an amendment, any amendment to this Agreement shall be deemed to include all current federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone. However, any such amendment, unless expressly stated, shall not extend or reduce the long-term obligation term.

K. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES.

1. This Agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, applicable RCO manuals as identified below, Exhibits, and any applicable federal program and accounting rules effective as of the date of this Agreement or as of the effective date of an amendment, unless otherwise provided in the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone unless otherwise expressly stated in the amendment.
2. For the purpose of this Agreement, {WAC...} shall apply as terms of this Agreement.
3. For the purpose of this Agreement, the following RCO manuals are deemed applicable and shall apply as terms of this Agreement:

{CustomApplicableManuals}

Provided, where a manual refers to a funding board's responsibility and/or authority but the funding board is not involved with the grant or successor to an entity that was involved, the RCO director shall have that responsibility and/or authority if such responsibilities and/or authority falls within the RCO's statutory responsibilities and/or authority or within a lawful delegation by the board to the RCO.

L. SPECIAL CONDITIONS.

{CustomSpecialConditionsAsMayApply}

M. AGREEMENT CONTACTS.

The parties will provide all written communications and notices under this Agreement to either or both the mail address and/or the email address listed below:

{CustomProjectContacts}

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Unless otherwise provided for in this Agreement, decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

N. ENTIRE AGREEMENT.

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

O. EFFECTIVE DATE.

1. Unless otherwise provided for in this Agreement, this Agreement, for project {ProjectNumber}, shall not be effective and binding until the date signed by both the sponsor and the RCO's authorized representative, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE Section are allowed only when this Agreement is fully executed and an original is received by RCO.
2. The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

Signatures:

Sponsor/Date

Recreation and Conservation Office/Date

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Example

STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT

Last Updated: February 12, 2020

1. CITATIONS, HEADINGS AND DEFINITIONS.

- A)** Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B)** Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C)** Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

acquisition project – A project that purchases or receives a donation of a right to or in real property including, but not limited to, fee simple land acquisition, conservation easement, access/trail/recreational easements, covenants, leases, water rights, and mineral rights.

Agreement, terms of the Agreement, or project agreement – The document entitled “RCO GRANT AGREEMENT” accepted by all parties to the present project and transaction, including without limitation the Standard Terms and Conditions of the RCO Grant Agreement, all exhibits, attachments, addendums, amendments, and applicable manuals, and any intergovernmental agreements, and/or other documents that are incorporated into the Agreement subject to any limitations on their effect under this Agreement.

applicable manual(s), manual -- A manual designated in this Agreement to apply as terms of this Agreement, subject (if applicable) to substitution of the “RCO director” for the term “board” in those manuals where the project is not approved by or funded by the referenced board, or a predecessor to the board.

applicable WAC(s) -- Designated chapters or provisions of the Washington Administrative Code that apply by their terms to the type of grant in question or are deemed under this Agreement to apply as terms of the Agreement, subject to substitution of the “RCO director” for the term “board” or “agency” in those cases where the RCO has contracted to or been delegated to administer the grant program in question.

applicant – Any party, prior to becoming a Sponsor, who meets the qualifying standards/eligibility requirements for the grant application or request for funds in question.

application – The documents and other materials that an applicant submits to the RCO to support the applicant’s request for grant funds; this includes materials required for the “Application” in the RCO’s automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

archeological, cultural, and historic resources - Archeological sites and artifacts, and traditional areas or items of religious, ceremonial and/or social (significance to) (uses of) tribes affected by or interested in the project. This also refers to built environments and places with historical significance for the nation, state, or local area.

authorized representative/agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor’s signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

C.F.R. – Code of Federal Regulations

completed project or project completion - The status of a project when all of the following have occurred:

1. The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily,
2. A final project report is submitted to and accepted by RCO,
3. Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO
4. A final reimbursement request has been paid by RCO.
5. Property rights (including RCO’s as may apply) have been recorded (as may apply)

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

compliance period, or long-term compliance period – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

conversion – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

development project – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources. A development project may also involve activities that redevelop or renovate an existing facility, and these may occur exclusively in the project or in combination with new construction. For projects in the Boating Facilities Program, the term “development project” includes all of the above and may also include those activities that are defined as maintenance in 50 C.F.R 86.

director or Director – The chief executive officer of the Recreation and Conservation Office or that person’s designee.

education project – A project that provides information, education, and outreach programs and/or services for the benefit of outdoor recreationists. This project may involve limited amounts of capital construction or installation of tangible property.

education and enforcement project – A project that provides information, education, and outreach programs or services; encourages responsible recreational behavior, and may provide law enforcement for the benefit of outdoor recreationists. This project may involve limited amounts of capital construction or installation of tangible property, and equipment purchases.

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

enhancement project – A project that (i) supports hatchery reform to improve hatchery effectiveness to minimize impacts to wild fish populations, (ii) ensures compatibility between hatchery production and salmon recovery programs, or (iii) supports sustainable fisheries (WAC 420.04.010).

equipment – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. § 200.33 (2013)).

funding board or board – The Washington State Recreation and Conservation Funding Board, or the Washington State Salmon Recovery Funding Board. Or both as may apply.

Funding Entity – the entity that approves the project that is the subject to this Agreement.

grant program – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).

compliance period, or long-term compliance period – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

long-term obligations – Sponsor's obligations after the project end date, as specified in the Agreement and manuals and other exhibits as may apply.

landowner agreement – An agreement that is required between a Sponsor and landowner for projects located on land not owned or otherwise controlled by the Sponsor.

maintenance project – A project that maintains existing areas and facilities through repairs and upkeep for the benefit of outdoor recreation.

maintenance and operation project – A project that maintains and operates existing areas and facilities through repairs, upkeep, and routine services for the benefit of outdoor recreationists.

match or matching share – The portion of the total project cost provided by the Sponsor.

milestone – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

monitoring project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

monitoring and research project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

Office – Means the Recreation and Conservation Office or RCO.

notice of grant – As required by RCO or another authority, a document that has been legally recorded on the property title of the project area(s) in the county or counties where the project property is located, or with the United States Government, that describes the project area on the property, the funding sources, and agencies responsible for awarding the grant.

pass-through entity – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance – The period beginning on the project start date and ending on the project end date.

planning project - A project that results in one or more of the following: 1) a study, a plan, assessment, project design, inventory, construction plans and specifications, and permits; or 2) a project that provides money to facilitate the work of an organization engaged in planning and coordination, or resource stewardship.

pre-agreement cost – A project cost incurred before the period of performance.

primary Sponsor – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. Administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project – The undertaking that is funded by this Agreement either in whole or in part with funds administered by RCO.

project area - A geographic area that delineates a grant assisted site which is subject to project agreement requirements.

project area (for projects where WAC 420 is applied) - The area consistent with the geographic limits of the scope of work of the project and subject to project agreement requirements. For restoration projects, the project area must include the physical limits of the project's final site plans or final design plans. For acquisition projects, the project area must include the area described by the legal description of the properties acquired for or committed to the project (WAC 420.04.010).

completed project or project completion - The status of a project when all of the following have occurred:

1. The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily,
2. A final project report is submitted to and accepted by RCO,
3. Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO
4. A final reimbursement request has been paid by RCO.
5. Property rights (including RCO's as may apply) have been recorded (as may apply)

project cost – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (see also 2 C.F.R. § 200.83 (2013) for federally funded projects).

project end date – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

project start date – The specific date identified in the Agreement on which the period of performance starts.

RCFB – Recreation and Conservation Funding Board

RCO – Recreation and Conservation Office – The state agency that administers the grant that is the subject of this Agreement. RCO includes the director and staff.

RCW – Revised Code of Washington

Recreational Trails Program (RTP) – A Federal Highways Administration grant program.

reimbursement – RCO's payment of funds to the Sponsor for eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

renovation project – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

research project – Means a project that studies salmon and the effectiveness of recovery restoration efforts on the population or habitat condition.

restoration project – A project intended to bring a site back to its historic function as part of a natural ecosystem, or one intended to improve the ecological or habitat functionality or capacity of (or part of) a site, landscape, marine environment, or watershed.

restoration and enhancement project – A project intended to bring a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site or a larger ecosystem which improvement may include benefiting (or exclusively benefit) fish stocks.

secondary Sponsor – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor – A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

SRFB – Salmon Recovery Funding Board

State. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of Washington state government.

subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in the PROJECT FUNDING Section.

subrecipient – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

tribal consultation – Outreach, and consultation with one or more federally recognized tribes (or a partnership or coalition or consortium of such tribes, or a private tribal enterprise) whose rights will or may be significantly affected by the proposed project. This includes sharing with potentially-affected tribes the scope of work in the grant and potential impacts to natural areas, natural resources, and the built environment by the project. It also includes responding to any tribal request from such tribes and considering tribal recommendations for project implementation which may include not proceeding with parts of the project, altering the project concept and design, or relocating the project or not implementing the project, all of which RCO shall have the final approval of.

useful service life – Period during which a built asset, equipment, or fixture is expected to be useable for the purpose it was acquired, installed, developed, and/or renovated, or restored per this Agreement.

WAC – Washington Administrative Code.

2. PERFORMANCE BY THE SPONSOR.

- a. The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO (to include any RCO approved changes or amendments thereto). All submitted documents are incorporated by this reference as if fully set forth herein.
- b. Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

3. ASSIGNMENT.

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written approval of the RCO.

4. RESPONSIBILITY FOR PROJECT.

- a. While RCO administers the grant that is the subject of this Agreement, the project itself remains the sole responsibility of the Sponsor. The RCO and Funding Entity (if different from the RCO) undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement.
- b. The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project has more than one Sponsor, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.
- c. The RCO, its employees, assigns, consultants and contractors, and members of any funding board or advisory committee or other RCO grant review individual or body, have no responsibility for reviewing, approving, overseeing or supervising design, construction, or safety of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO, its employees, assigns, consultants and contractors, and any funding board or advisory committee or other RCO grant review individual or body will act only to confirm at a general, lay person, and nontechnical level, solely for the purpose of project eligibility and payment and not for safety or suitability, that the project apparently is proceeding or has been completed as per the Agreement.

5. INDEMNIFICATION.

- a. The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees,

contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

- b. Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.
- c. Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents or employees, and (b) the State, or its employees or agents the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or its agents, or employees.
- d. As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51. Sponsor's waiver of immunity under this provision extends only to claims against Sponsor by Indemnitee RCO, and does not include, or extend to, any claims by Sponsor's employees directly against Sponsor.
- e. Sponsor shall ensure that any agreement relating to this project involving any contractors, subcontractors and/or vendors of any tier shall require that the contracting entity indemnify, defend, waive RCW 51 immunity, and otherwise protect the State as provided herein as if it were the Sponsor. This shall not apply to a contractor or subcontractor is solely donating its services to the project without compensation or other substantial consideration.
- f. The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

- g. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

6. INDEPENDENT CAPACITY OF THE SPONSOR.

- a. The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO or Funding Entity. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or the Funding Entity, or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06.
- b. The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

7. CONFLICT OF INTEREST.

- a. Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the Sponsor in the procurement of, or performance under, this Agreement.
- b. In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

8. COMPLIANCE WITH APPLICABLE LAW.

- a. In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:
 - i. Nondiscrimination Laws. The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Employment Act (if applicable). In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the RCO or Funding Entity. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law. Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for

construction of this project: "During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."

- ii. **Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
 - iii. **Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.40. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.
 - Pursuant to RCW 39.12.040(1)(a), all contractors and subcontractors shall submit to Sponsor a statement of intent to pay prevailing wages if the need to pay prevailing wages is required by law. If a contractor or subcontractor intends to pay other than prevailing wages, it must provide the Sponsor with an affirmative statement of the contractor's or subcontractor's intent. Unless required by law, the Sponsor is not required to investigate a statement regarding prevailing wage provided by a contractor or subcontractor.
 - iv. **Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130).** If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided:
 - (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03;
 - (2) The nonprofit organization's management and administrative headquarters must be located in Washington;
 - (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and
 - (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.
- b. **Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or

propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

- c. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.
- d. Debarment and Certification. By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."
- e. Requirements for RTP Subawards.
 - i. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.
 - ii. Sponsor may be required to pay prevailing wage rates as required by the Davis Bacon Act as amended.

9. ARCHAEOLOGICAL AND CULTURAL RESOURCES RESPONSIBILITIES

RCO shall administratively review, and Sponsor shall assist RCO in such review, For all funded projects, including land acquisitions for the purpose of capital construction or renovation, not undergoing Section 106 review under the National Historic Preservation Act of 1966, RCO shall review and, if it deems appropriate, confer with the Washington State Department of Archeology and Historic Preservation, tribes, and with any other party/parties that have an interest in, or responsibility for, Project review and protection of archeological, cultural, and historical resources, to determine potential impacts to archeological, cultural and historic resources and plans for protection of such resources. The Sponsor shall cooperate in all such reviews.

1. Plans. Sponsor shall comply with all plans RCO or another state or federal agency may develop for the protection of archeological, cultural, and historical resources in the project area, and adjacent areas that may be impacted by the project. This subsection also applies to those projects where a categorical exclusion (subsection 5) may apply.

2. Authorities. At a minimum, review, management, and protection of archeological, cultural, and historic resources, and tribal consultation, shall be performed in the project area and adjacent areas impacted by the project for compliance with the following authorities (as may apply and as in effect at the time of the review):
 - i. Washington State Department of Archeology and Historic Preservation policies and procedures and rule,
 - ii. Sponsor, RCO, and landowners' plans, policies and procedures, directives, laws and rules,
 - iii. State Environmental Policy Act,
 - iv. National Environmental Policy Act,
 - v. National Historic Preservation Act of 1966,
 - vi. Governor's Executive Order 05-05,
3. Scope of Archeological, Cultural, and Historic Resources Review. RCO recognizes that the project area may include multiple parcels with multiple landowners, and additional parties with property rights in the project area. The Sponsor shall apply this section independently to each separately owned property, provided that reviews undertaken must include impacts to individual parcels and cumulative impacts.
4. Compliance. At all times, the Sponsor shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological, cultural, and historic resources in the project area, and adjacent areas that may be impacted by the project, and comply with any RCO direction for such avoidance, minimization, and mitigation, and reporting and notification thereof.
5. Categorical Exemption. If the Sponsor has reviewed the activities in this grant for impacts to archeological, cultural, and historical resources, and the same for any planned projects in any land acquired with this grant, and determined the project is categorically exempt from further archaeological, historical and cultural resources review, as well as tribal consultation, Sponsor shall notify the RCO in writing prior to beginning the project describing 1) the specific statutory or regulatory exemptions that apply, and 2) their applicability to the specific project. Alternatively, the RCO may determine the project is covered by a categorical exemption, in whole or in part, and notify the Sponsor of such determination.

However, any categorical exemption must meet the standards of and be consistent and allowable by ALL of the following:

1. the project area landowner(s) legal documents and governing documents (if applicable),
2. Sponsor's own policies and procedures and rules,
3. All applicable laws,
4. RCO applicable policies, manuals and/or other guidance, and
5. Washington Department of Archaeology and Historic Preservation's rules and policies.

Alternatively, the RCO may assign a categorical exemption to the project based on its own review.

Regardless of the applicability of any categorical exemption, the RCO reserves the right at any time to require Sponsor to comply with any and all of the provisions of this section.

6. Project Areas Reviewed by a Permitting Authority. For those project areas where a permitting authority for the project conducts an archeological, cultural, and historical resources review and tribal consultation under section 106 of the Historic Preservation Act, NEPA, SEPA, or Governor's Executive Order 05-05, such review and consultation shall substitute for the land owner's, provided that such substitution is allowed only if (a)the permitting authority and landowner are not the same, and (b)the RCO determines that the review and consultation performed by the permitting authority meets RCO standards. When a permitting authority conducts such reviews and tribal consultation, all other subsections herein shall still apply to the Sponsor(s).
7. Project Areas on Sponsor-Owned Property. Unless a categorical exemption applies as stated above, the Sponsor shall perform and be bound by the following:
 - a. Project Review. For project areas not reviewed by a permitting authority (see above), prior to implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas where project mitigation shall occur, or any other areas that may be affected by project implementation, the Sponsor shall review the project for its potential and actual impacts, including any planned projects on lands acquired as part of the project, to any and all archaeological, cultural and historical resources in and adjacent to the project area, in areas where project mitigation shall occur, or other areas that may be affected by project implementation. In this review, Sponsor shall follow its policies and procedures, plans, guidance, rules, and directives, as well as act in compliance with Governor's Executive Order 05-05, the National Historic Preservation Act, the State Environmental Policy Act, the National Environmental Policy Act, and any local laws as may apply. If another governmental agency is responsible in whole or in part for this review the Sponsor shall assist with such review.
 - b. Tribal Consultation. For project areas not reviewed by a permitting authority (see above), prior to implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas where project mitigation shall occur, or any other areas that may be affected by project implementation, Sponsor shall conduct tribal consultation with any interested or affected tribes as defined above. .
 - c. Reporting to RCO and Approval of Project Activities. Sponsor shall provide RCO evidence (which RCO shall prescribe) that it has conducted project review and tribal consultation as described and receive written approval of such review and consultation from RCO prior to Sponsor implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas

- where project mitigation shall occur, or any other areas that may be affected by project implementation.
- d. Changes to Project. RCO reserves the right to request Sponsor change its scope of work and project outcomes to avoid, mitigate, or minimize impacts to archeological, cultural, and historic resources.
 - e. Termination. RCO retains the right at any time to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
 - f. Monitoring. RCO may require on-site monitoring for impacts to archeology, cultural, and historic resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology, cultural, and historical resource impacts or concerns.
 - g. Inadvertent Discovery Plan. The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan (IDP), and keep the IDP at the project site, make the IDP readily available to anyone working at the project site, discuss the IDP with staff and contractors working at the project site, and Implement the IDP when cultural resources or human remains are found at the project site.
 - h. Discovery. If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources until such time as the reviewing authority with jurisdiction over the found object(s) and areas notifies Sponsor and RCO that work can resume.
 - i. Human Remains. If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the RCO provides a new notice to proceed on the project. Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP). The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with

the affected parties as to the future preservation, excavation, and disposition of the remains and the resumption of work.

8. Project Areas on State or Federal Property Not Owned By Sponsor.

Categorical Exemption. For project area(s) owned by a state or federal agency, and not under review via a permitting nexus (see above), the state or federal agency landowner performing archeological, cultural, and historic resources review and tribal consultation shall make the determination that the project, in whole or in part, is covered by a categorical exemption, and may notify and report such to the Sponsor, or to RCO on behalf of Sponsor.

Project Review and Tribal Consolation. If the project is not categorical exception to archeological, cultural, and historical resources review and tribal consultation, and the project area is located on property owned by the State of Washington or a federal agency, Sponsor shall:

- a. Follow its own policies and procedures, rules, and any applicable laws, for the review, protection, and management of archaeological, cultural, and historic resources, and tribal consultation and other consultations as may apply.
- b. Assist the land owner and other applicable agencies, and the RCO, with its/their review of archaeological, cultural and historic resources, and tribal consultation for the project area.
 - i. RCO may consult directly with the landowner to complete land owner project review and tribal consultation.
- c. Provide RCO evidence that the landowner has 1) conducted archeological, cultural and historic resources review and tribal consultation according to its policies and procedures and applicable laws, and 2) provided Sponsor with permission to begin project implementation in the project area owned by the state or federal agency.
- d. Changes to Project. RCO reserves the right to request Sponsor change its scope of work and project outcomes to avoid, mitigate, or minimize impacts to archeological, cultural, and historic resources.
- e. Termination. RCO retains the right at any time to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
- f. Monitoring. RCO or the federal or state landowner may require on-site monitoring for impacts to archeology and cultural resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology and cultural resource impacts or concerns.
- g. Inadvertent Discovery Plan. The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan (IDP), and keep the IDP at the project site, make the IDP readily available to anyone working at the project site, discuss the IDP with staff and contractors

working at the project site, and Implement the IDP when cultural resources or human remains are found at the project site.

- h. Discovery. If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.
 - i. Human Remains. If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the RCO provides a new notice to proceed on the project. Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP). The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.
- 9. Costs. Costs associated with Sponsor's responsibilities under this section of the Agreement are eligible for reimbursement under this Agreement. Costs that exceed the budget grant amount shall be the responsibility of the Sponsor.

10. RECORDS.

- a. Digital Records. If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- b. Maintenance and Retention. The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of nine years from the date RCO deems the project complete, as defined in the PROJECT REIMBURSEMENTS Section. If any litigation, claim or audit is started before the expiration of the nine (9) year period, the records

shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

- c. In order to satisfy 15 CFR 24.42(b) & (c) and 2 CFR 200.333, for projects that contain Pacific Coast Salmon Recovery Funds or are used as match to Pacific Coast Salmon Recovery Funds the sponsor shall retain records for a period of nine years from the date RCO deems the project complete as defined in the PROJECT REIMBURSEMENTS Section.
- d. Access to Records and Data. At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- e. Public Records. Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04 (which ever applies). Additionally, the Sponsor agrees to disclose any information in regards to the expenditure of that funding as if the project sponsor were subject to the requirements of chapter 42.56 RCW. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

11. PROJECT FUNDING.

- a. Authority. This Agreement and funding is made available to Sponsor through the RCO.
- b. Additional Amounts. The RCO or Funding Entity shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the RCO director and incorporated by written amendment into this Agreement .
- c. Before the Agreement. No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by the RCO director, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.

- d. Requirements for Federal Subawards. Pre-Agreement costs before the federal award date in the FEDERAL FUND INFORMATION Section are ineligible unless approved by the federal award agency (2 C.F.R § 200.458 (2013)).
- e. After the Period of Performance. No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO or Funding Entity may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

12. PROJECT REIMBURSEMENTS.

- a. Reimbursement Basis. This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12, whichever has been designated to apply. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in the PROJECT FUNDING Section. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- b. Reimbursement Request Frequency. The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recent applicable RCO manuals and this Agreement regarding reimbursement requirements.
- c. Compliance and Payment. The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- d. Conditions for Payment of Retainage. RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the following has occurred:
 - i. RCO has accepted the project as a completed project, which acceptance shall not be unreasonably withheld.
 - ii. On-site signs are in place (if applicable); Any other required documents and media are complete and submitted to RCO; Grant related fiscal transactions are complete, and
 - iii. RCO has accepted a final boundary map of the project area for which the Agreement terms will apply in the future.

- iv. A Notice of Grant for any property rights acquired or donated (if applicable) have been filed with the county lands records office (or United State Government) and a stamped copy received by RCO, and any property rights owned to RCO have been likewise recorded.
- e. Requirements for Federal Subawards: Match. The Sponsor's matching share must comply with 2 C.F.R. § 200.306 (2013). Any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions, can be accepted as part of the Sponsor's matching share when such contributions meet all of the following criteria:
 - i. Are verifiable from the non-Federal entity's (Sponsor's) records;
 - ii. Are not included as contributions for any other Federal award;
 - iii. Are necessary and reasonable for accomplishment of project or program objectives;
 - iv. Are allowable under 2 C.F.R. Part 200, Subpart E—Cost Principles (2013);
 - v. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
 - vi. Are provided for in the approved budget when required by the Federal awarding agency identified in the FEDERAL FUND INFORMATION Section of this Agreement; and
 - vii. Conform to other provisions of 2 C.F.R. Part 200, Subpart D—Post Federal Award Requirements (2013), as applicable.
- f. Requirements for Federal Subawards: Close out. Per 2 C.F.R § 200.343 (2013), the non-Federal entity (Sponsor) must:
 - i. Submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity (RCO) may approve extensions when requested by the Sponsor.
 - ii. Liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
 - iii. Refund any balances of unobligated cash that the Federal awarding agency or pass-through entity (RCO) paid in advance or paid and that are not authorized to be retained by the non-Federal entity (Sponsor) for use in other projects. See OMB Circular A-129 and see 2 C.F.R § 200.345 Collection of amounts due (2013), for requirements regarding unreturned amounts that become delinquent debts.
 - iv. Account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with 2 C.F.R §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property (2013).

13. ADVANCE PAYMENTS.

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements.

14. RECOVERY OF PAYMENTS.

- a. Recovery for Noncompliance. In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- b. Return of Overpayments. The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time the Sponsor received such overpayment. Unless the overpayment is due to an error of RCO, the payment shall be due and owing on the date that the Sponsor receives the overpayment from the RCO. If the payment is due to an error of RCO, it shall be due and owing 30 days after demand by RCO for refund.
- c. Requirements for Federal Subawards. RCO, acting as a pass-through entity, may impose any of the remedies as authorized in 2 C.F.R §§ 200.207 Specific conditions and/or 200.338 Remedies for noncompliance (2013).

15. COVENANT AGAINST CONTINGENT FEES.

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

16. INCOME (AND FEES) AND USE OF INCOME.

See WAC 286-13-110 for additional requirements for projects funded from the RCFB.

Income.

- a. Farm and Forest Account (Farmland and Forestland Preservation Grants). Excepted from this section is income generated and fees paid on/for properties which received funds from the Farm and Forest Account (RCW 79A.15.130).
- b. Firearms and Archery Range Recreation Projects. Excepted from this section are safety classes (firearm and/or hunter) for which a facility/range fee must not be charged (RCW 79A.25.210).

- c. Compatible source. The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any applicable manuals, RCWs, and WACs.
- d. Use of Income. Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, rent, franchise fees, ecosystem services, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
 - i. The Sponsor's matching resources;
 - ii. The project's total cost;
 - iii. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the grant funding;
 - iv. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
 - v. Capital expenses for similar acquisition and/or development and renovation; and/or
 - vi. Other purposes explicitly approved by RCO.
- e. Fees. User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored and shall be consistent with the:
 - i. Grant program laws, rules, and applicable manuals;
 - ii. Value of any service(s) furnished;
 - iii. Value of any opportunities furnished; and
 - iv. Prevailing range of public fees in the state for the activity involved.
- f. Requirements for Federal Subawards. Sponsors must also comply with 2 C.F.R. § 200.307 Program income (2013).

17. PROCUREMENT REQUIREMENTS.

- a. Procurement Requirements. If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists the Sponsor must follow these minimum procedures:
 - i. Publish a notice to the public requesting bids/proposals for the project;
 - ii. Specify in the notice the date for submittal of bids/proposals;
 - iii. Specify in the notice the general procedure and criteria for selection; and
 - iv. Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
 - v. Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer. Alternatively, Sponsor may choose a bid from a bidding

cooperative if authorized to do so. This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

b. Requirements for Federal Subawards.

- i. For all Federal subawards, non-Federal entities (Sponsors) must follow 2 C.F.R §§ 200.318 General procurement standards through 200.326 Contract Provisions (2013).
- ii. For RTP subawards, Sponsors shall follow such policies and procedures allowed by the State when procuring property and services under a Federal award (2 C.F.R § 1201.317 (2013)).

18. TREATMENT OF EQUIPMENT AND ASSETS.

- a. Equipment shall be used and managed only for the purpose of this Agreement , unless otherwise provided herein or in the applicable manuals, or approved by RCO in writing.
- b. Discontinued Use. Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.
- c. Loss or Damage. The Sponsor shall be responsible for any loss or damage to equipment.
- d. Requirements for Federal Subawards. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award or match for the award, until disposition takes place will, at a minimum, meet the following requirements (2 C.F.R § 200.313 (2013)):
 - i. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the Federal Award Identification Number), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
 - ii. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
 - iii. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
 - iv. Adequate maintenance procedures must be developed to keep the property in good condition.

- v. If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- e. Requirements for RTP Subawards.
 - i. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.

19. RIGHT OF INSPECTION.

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement. If a landowner agreement or other form of control and tenure limits access to the project area, it must include (or be amended to include) the RCO's right to inspect and access lands acquired or developed with this funding assistance.

20. STEWARDSHIP AND MONITORING.

Sponsor agrees to perform monitoring and stewardship functions as stated in the applicable WACs and manuals, this Agreement, or as otherwise directed by RCO consistent with the existing laws and applicable manuals. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the RCO; provided that RCO does not represent that any monitoring it may recommend will be adequate to reasonably assure project performance or safety. It is the sole responsibility of the Sponsor to perform such additional monitoring as may be adequate for such purposes.

21. PREFERENCES FOR RESIDENTS.

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents, but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

22. ACKNOWLEDGMENT AND SIGNS.

- a. Publications. The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.
- b. Signs.
 - i. During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless waived by the director; and

- ii. During the period of long-term obligations, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.
- c. Ceremonies. The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies and in all advertisements and mailings thereof, and any and all of its related digital media publications.
- d. Federally Funded Projects. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, Sponsors shall clearly state:
 - i. The fund source;
 - ii. The percentage of the total costs of the project that is financed with federal money;
 - iii. The dollar amount of federal funds for the project; and
 - iv. The percentage and dollar amount of the total costs of the project that is financed by nongovernmental sources.

23. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS.

- a. The following provisions shall be in force:
 - i. Operations and Maintenance. Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted per this Agreement and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration. It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
 - ii. Document Review and Approval. Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.
- b. Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the RCO must receive prior written approval of the RCO.

- c. Control and Tenure. The Sponsor must provide documentation that shows appropriate tenure and term (such as long-term lease, perpetual or long-term easement, or perpetual or long-term fee simple ownership, or landowner agreement or interagency agreement for the land proposed for construction, renovation, or restoration. The documentation must meet current RCO requirements identified in this Agreement as of the effective date of this Agreement unless otherwise provided in any applicable manual, RCW, WAC, or as approved by the RCO.
- d. Use of Best Management Practices. Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include “Integrated Streambank Protection Guidelines”, 2002; “Land Use Planning for Salmon, Steelhead and Trout: A land use planner’s guide to salmonid habitat protection and recovery”, 2009”, “Protecting Nearshore Habitat and Functions in Puget Sound”, 2010; “Stream Habitat Restoration Guidelines”, 2012; “Water Crossing Design Guidelines”, 2013; and “Marine Shoreline Design Guidelines”, 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in “Reducing Accidental Introductions of Invasive Species” which is available on the WISC Web site.
- e. At no time shall the Sponsor design, construct, or operate this grant funded project in a way that unreasonably puts the public, itself, or others at risk of injury or property damage. The Sponsor agrees and acknowledges that the Sponsor is solely responsible for safety and risk associated with the project, that RCO does not have expertise, capacity, or a mission to review, monitor, or inspect for safety and risk, that no expectation exists that RCO will do so, and that RCO is in no way responsible for any risks associated with the project.

24. PROVISIONS APPLYING TO ACQUISITION PROJECTS.

- a. The following provisions shall be in force:
 - i. Evidence of Land Value. Before disbursement of funds by RCO as provided under this Agreement, the Sponsor agrees to supply documentation acceptable to RCO that the cost of the property rights acquired has been established according to all applicable manuals and RCWs or WACs.
 - ii. Evidence of Title. The Sponsor agrees to provide documentation that shows the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
 - iii. Legal Description of Real Property Rights Acquired. The legal description of any 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 delivered to RCO before final payment.
 - iv. Conveyance of Rights to the State of Washington. When real property rights (both fee simple and lesser interests) are acquired, the Sponsor agrees to execute an appropriate document (provided or approved by RCO) conveying certain rights and responsibilities to RCO or the Funding Entity on behalf of the State of Washington or another agency of the

- state, or federal agency, or other organization. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
- v. Deed of Right. The Deed of Right as described in RCO Manual #3 conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. Sponsors 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 Sponsor has acquired a perpetual easement for public purposes.
 - vi. Assignment of Rights. The Assignment of Rights as described in RCO Manual #3 document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 - vii. Easements and Leases. The Sponsor 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; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
 - viii. Real Property Acquisition and Relocation Assistance. In the event that housing and relocation costs and procedures are required by local, state, tribal, or federal law, or rule; the Sponsor agrees to provide such housing and relocation assistance as a condition of the Agreement and receiving grant funds.
- b. Buildings and Structures. In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with COMPLIANCE WITH APPLICABLE LAW SECTION, Archeological and Cultural Resources paragraph.
- c. Hazardous Substances.
- i. Certification. The Sponsor 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(13), and certify:
 - ii. No hazardous substances were found on the site, or
 - iii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
 - iv. Responsibility. Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
 - v. Hold Harmless. The Sponsor will defend, protect and hold harmless the State 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 Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The Funding Entity and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

- d. Requirements for Federal Subawards. The non-federal entity (Sponsor) must submit reports the federal funding agency, through RCO, at least annually on the status of real property in which the federal government retains an interest, unless the federal interest in the real property extends 15 years or longer. In those instances where the federal interest attached is for a period of 15 years or more, the federal awarding agency or the pass-through entity (RCO), at its option, may require the Sponsor to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a federal awarding agency or RCO may require annual reporting for the first three years of a federal award and thereafter require reporting every five years) (2 C.F.R § 200.329 (2013)).
- e. Developing and Restoring Purchased Property. If the Sponsor intends to develop or restore the property acquired it shall do so within the timeline and deadline provided by the funding program or board policies that apply to the grant funded project, or as provided for in this Agreement.

25. LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS.

- a. Long-Term Obligations. This section applies to completed projects only.
- b. Perpetuity. For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by applicable manual, policy, program rules, or this Agreement, or approved in writing by RCO. The RCO requires that the project area continue to function for the purposes for which these grant funds were approved, in perpetuity.
- c. Conversion. The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/ or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property (or a portion of it) to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policies or unless a transfer or change in use is approved by the RCO through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon all terms of the Agreement, and all applicable state of federal laws or regulation.

- i. For acquisition projects that are expressly term-limited in the Agreement, the restriction on conversion shall apply only for the length of the term, unless otherwise provided by this Agreement and incorporated documents, WACs, or any applicable state or federal law or regulation.
- ii. When a conversion has been determined to have occurred, the Sponsor shall remedy the conversion as set forth in this Agreement (with incorporated documents) and as required by all applicable policies, manuals, WACs and laws that exist at the time the remedy is implemented or the right to the remedy is established by a court or other decision-making body, and the RCO may pursue all remedies as allowed by the Agreement or law.

26. CONSTRUCTION, OPERATION, USE, AND MAINTENANCE OF ASSISTED PROJECTS.

- a. The following provisions shall be in force for this agreement:
 - i. Property and facility operation and maintenance. Sponsor must ensure that properties or facilities assisted with the grant funds, including undeveloped sites, are built, operated, used, and maintained:
 - a. According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
 - b. In a reasonably safe condition for the project's intended use;
 - c. Throughout its estimated useful service life so as to prevent undue deterioration;
 - d. In compliance with all federal and state nondiscrimination laws, regulations and policies.
 - ii. Open to the public. Unless otherwise specifically provided for in the Agreement, and in compliance with applicable statutes, rules, and applicable WACs and manuals, facilities must be open and accessible to the general public, and must:
 - a. Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
 - b. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
 - c. Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals or, by a decision of the RCO director in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

27. RECORDED NOTICE OF GRANT.

At the request of RCO, another state agency, or a federal agency, Sponsor shall record a notice of grant on property subject to this Agreement and shall submit to the RCO a recorded and registry stamped copy of such notice. The purpose of the notice of grant is to provide constructive notice of the grant and project and to ensure that the present and future use of the project area is and shall remain subject to the terms and conditions described in this Agreement. The notice of grant shall be in a format specified by RCO.

28. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS.

- a. A corporate Sponsor, including any nonprofit Sponsor, shall:
 - i. Maintain corporate status with the state, including registering with the Washington Secretary of State's office, throughout the Sponsor's obligation to the project as identified in the Agreement.
 - ii. Notify RCO before corporate dissolution at any time during the period of performance or long-term obligations. Within 30 days of dissolution the Sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities, and transfer all property and assets to the successor. A qualified successor is any party eligible to apply for funds in the subject grant program and capable of complying with the terms and conditions of this Agreement. RCO will process an amendment transferring the Sponsor's obligation to the qualified successor if requirements are met.
 - iii. Maintain sites or facilities open to the public and may not limit access to members.

29. PROVISIONS FOR FEDERAL SUBAWARDS.

The following provisions shall be in force for this agreement:

- a. Sub-Recipient (Sponsor) must comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement to include match and any in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.
- b. Binding Official. Per 2 CFR 200.415, Sponsor certifies through its actions or those of authorized staff, at the time of a request for reimbursement, the following: "To the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."
- c. Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319,

12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, paragraph C.

- d. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- e. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.
- f. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities (Sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity (Sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (Sponsor) must report all suspected or reported violations to the federal awarding agency identified in the Federal Fund Information Section. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U. S. C. 3145), as supplemented by Department of Labor regulations (29 C.F.R Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient (Sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (Sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION.

- g. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-federal entity (Sponsor) in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- h. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 C.F.R § 401.2(a) and the recipient or subrecipient (Sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient (Sponsor) must comply with the requirements of 37 C.F.R Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- i. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION and the Regional Office of the Environmental Protection Agency (EPA).
- j. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). By signing this Agreement, the Sponsor certifies (per the certification requirements of 31 U.S.C.) that none of the funds that the Sponsor has (directly or indirectly) received or will receive for this project from the United States or any agency thereof, have been used or shall be used to engage in the lobbying of the Federal Government or in litigation against the United States. Such lobbying includes any influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this project. Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying

with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier-to-tier up to the non-federal award.

- k. Procurement of Recovered Materials. A non-federal entity (Sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- l. Required Insurance. The non-federal entity (Sponsor) must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R § 200.310 (2013)).
- m. Debarment and Suspension (Executive Orders 12549 and 12689). The Sponsor must not award a contract to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R § 180 that implement Executive Orders 12549 (3 C.F.R part 1986 Comp., p. 189) and 12689 (3 C.F.R part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- n. Conflict of Interest. Sponsor agrees to abide by the conflict of interest policy and requirements of the federal funding agency established pursuant to 2 C.F.R 200.

30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS.

Use of Sport Fish Restoration Logo. Per 50 CFR 86 Sec 75 and 76, the user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from; any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo. No one may use any part of the logo in any other manner unless the United States Fish and Wildlife Service's Assistant Director for Wildlife and Sport Fish Restoration or Regional Director approves in writing.

31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS.

The following provisions shall be in force for this agreement:

- a. **Liability Insurance.** The Sponsor of a firearms or archery range recreation project shall procure an endorsement, or other addition, to liability insurance it carries, or shall procure a new policy of liability insurance, in a total coverage amount the Sponsor deems adequate to ensure it will have resources to pay successful claims of people who may be killed or injured, or suffer damage to property, while present at the range facility to which this grant is related, or by reason of being in the vicinity of that facility; provided that the coverage shall be at least one million dollars (\$1,000,000) for the death of, or injury to, each person.
- b. **Insurance Endorsement.** The liability insurance policy, including any endorsement or addition, shall name Washington State, the funding board, and RCO as additional insured and shall be in a form approved by the funding board or director.
- c. **Length of Insurance.** The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the Sponsor's obligation to the project as identified in this Agreement.
- d. **Notice of Cancellation.** The policy, as modified by any endorsement or other addition, shall provide that the issuing company shall give written notice to RCO not less than thirty (30) calendar days in advance of any cancellation of the policy by the insurer, and within ten (10) calendar days following any termination of the policy by the Sponsor.
- e. **Government Agencies.** The requirement of Subsection a through d above shall not apply if the Sponsor is a federal, state, or municipal government which has established an adequate program of self-insurance or a policy of self-insurance with respect to claims arising from its facilities or activities generally, including such facilities as firearms or archery ranges, when the applicant declares and describes that program or policy to the RCO.
- f. **Sole Duty of the Sponsor.** By this requirement, the funding board and RCO does undertake to review, approve, or monitor the safety of the design, construction, or operation of the project and does not assume any duty to any individual person with respect to death, injury, or damage to property which that person may suffer as a result of the project which this grant relates. Any such person, or any other person making claims based on such death, injury, or damage, must look to the Sponsor, or others, for any and all remedies that may be available by law.

32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS.

This project has been approved by the National Park Service, US Department of the Interior, for funding assistance from the federal Land and Water Conservation Fund (LWCF), therefore the "Land and Water Conservation Fund General Provisions" are made part of this Agreement and incorporated herein. The Sponsor shall abide by these LWCF General Provisions, in addition to this Agreement, as they now exist or are hereafter amended. Further, the Sponsor agrees to provide RCO with reports or documents needed to meet the requirements of the LWCF General Provisions.

33. PROVISIONS FOR FARMLAND AND FORESTLAND PRESERVATION PROJECTS.

The following sections of this Agreement shall not apply if they are included and covered separately in a recorded RCO-approved Agricultural Conservation Easement, or Forest Conservation Easement (or other method):

- a. Income and Income Use; Stewardship and Monitoring; Acknowledgement and Signs; Provisions Applying To Acquisition Projects: Conveyance of Rights to the State of Washington, Building and Structures, and Hazardous Substances; Long-Term Obligations of the Projects and Sponsors: Perpetuity; and Construction, Operation, Use and Maintenance of Assisted Projects.

34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS.

For habitat restoration projects funded in part or whole with federal funds administered by the SRFB the Sponsor shall not commence with clearing of riparian trees or in-water work unless either the Sponsor has complied with 50 C.F.R. § 223.203 (b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this Agreement. This section shall not be the basis for any enforcement responsibility by RCO.

35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS.

The following provisions shall be in force for this Agreement if the project is funded in part or wholly from the Puget Sound Acquisition and Restoration program. The Sponsor agrees to the following terms and conditions:

- a. Cost Principles/Indirect Costs For State Agencies. GRANT RECIPIENT agrees to comply with the cost principles of 2 CFR 200 Subpart E as appropriate to the award. In addition to the US Environmental Protection Agency's General Terms and Conditions "Indirect Cost Rate Agreements," if the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.
- b. Credit and Acknowledgement. In addition to the ACKNOWLEDGEMENT AND SIGNS section, materials produced must display both the Environmental Protection Agency (EPA) and Puget Sound Partnership (PSP) logos and the following credit line: "This project has been funded wholly or in part by the United States Environmental Protection Agency. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use." This requirement is for the life of the product, whether during or after the Agreement period of performance.
- c. Hotel Motel Fire Safety Act. Sponsor agrees to ensure that all conference, meeting, convention, or training space funded in whole or part with federal funds, complies with the federal Hotel and Motel Fire Safety Act (PL 101-391, as amended). Sponsors may search the Hotel-Motel National Master List @ <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance or to find other information about the Act.

- d. Drug Free Workplace Certification. Sub-recipient (Sponsor) shall make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 2 C.F.R. Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization shall identify all known workplaces under its federal awards, and keep this information on file during the performance of the award. Sponsors who are individuals must comply with the drug-free provisions set forth in 2 C.F.R. Part 1536 Subpart C. The consequences for violating this condition are detailed under 2 C.F.R. Part 1536 Subpart E.
- e. Management Fees. Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term “management fees or similar charges” refers to the expenses added to direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities or for other similar costs that are not allowable. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except for the extent authorized as a direct cost of carrying out the scope of work.
- f. Trafficking in Persons and Trafficking Victim Protection Act of 2000 (TVPA). This provision applies only to a sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor), if any. Sub-recipient (Sponsor) shall include the following statement in all sub-awards made to any private entity under this Agreement: “You as the sub-recipient, your employees, sub-awardees under this award, and sub-awardees’ employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under this Award.” The sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor) must inform RCO immediately of any information you receive from any source alleging a violation of this prohibition during the award term. The federal agency funding this Agreement may unilaterally terminate, without penalty, the funding award if this prohibition is violated, Section 106 of the Trafficking Victims Protection Act of 2000, as amended.
- g. Lobbying. The chief executive officer of this recipient agency (Sponsor) shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States, unless authorized under existing law. The recipient (Sponsor) shall abide by its respective Cost Principles (OMB Circulars A-21, A-87, and A-122), which generally prohibits the use of federal grant funds for litigation against the United States, or for lobbying or other political activities. The Sponsor agrees to comply with 40 C.F.R. Part 34, New Restrictions on Lobbying. Sponsor shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly. In accordance with the Byrd Anti-Lobbying Amendment, any Sponsor who makes a prohibited expenditure under 40 C.F.R. Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure. All contracts awarded by Sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at 40 C.F.R. Part 30. Pursuant to Section 18 of the Lobbying Disclosure Act, Sponsor

affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c)(4) of the code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

- h. Reimbursement Limitation. If the Sponsor expends more than the amount of RCO funding in this Agreement in anticipation of receiving additional funds from the RCO, it does so at its own risk. RCO is not legally obligated to reimburse the Sponsor for costs incurred in excess of the RCO approved budget.
- i. Disadvantaged Business Enterprise Requirements. The Sponsor agrees to comply with the requirements of EPA's Utilization of Small, Minority and Women's Business Enterprises in procurements made under this award.
- j. Minority and Women's Business Participation. Sponsor agrees to solicit and recruit, to the maximum extent possible, certified minority owned (MBE) and women owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement. These goals are expressed as a percentage of the total dollars available for purchase or agreement and are as follows: Purchased Goods 8% MBE 4% WBE; Purchased Services 10% MBE 4% WBE; Professional Services 10% MBE 4% WBE. Meeting these goals is voluntary and no agreement award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and Sponsor and ALL prospective bidders or people submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement:
 - i. Include qualified minority and women's businesses on solicitation lists.
 - ii. Assure that qualified minority and women's business are solicited whenever they are potential sources of services or supplies.
 - iii. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
 - iv. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
 - v. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.
- k. MBE/WBE Reporting. In accordance with the deviation from 40 C.F.R. §33.502, signed November 8, 2013, DBE reporting is limited to annual reports and only required for assistance agreements where one or more the following conditions are met:
 - l. There are any funds budgeted in the contractual/services, equipment or construction lines of the award; and/or \$3,000 or more is included for supplies; or there are funds budgeted for subawards or loans in which the expected budget(s) meet the conditions as described in items

(a) and (b). When completing the form, recipients (Sponsors) should disregard the quarterly and semi-annual boxes in the reporting period Section 1B of the form. For annual submissions, the reports are due by October 30th of each year or 90 days after the end of the project period, whichever comes first. The reporting requirement is based on planned procurements. Recipients (Sponsors) with funds budgeted for non-supply procurement and/or \$3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in Section 5B when completing the form. MBE/WBE reports should be sent to the DBE Coordinator in the Sponsor's region. Contact information can be found at <http://www.epa.gov/osbp/contactpage.htm>. The coordinators also can answer any questions. Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. To be in compliance with regulations, the Sponsor must submit a final MBE/WBE report. Non-compliance may impact future competitive grant proposals. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

- m. Procurement involving an EPA Financial Assistance Agreement. Pursuant to 40 C.F.R. § 33.301, the Sponsor agrees to make the following six good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients (Sponsors), and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained.
- n. Ensure Disadvantaged Business Enterprise (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For State and Local and Government Sponsors, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- o. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- p. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For State and local Government Sponsors, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- q. Encourage contracting with a consortium of DBEs when an agreement is too large for one of these firms to handle individually.
- r. Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development of the Department of Commerce.

- s. If the Sponsor awards subcontracts, require the Sponsor to take the steps in paragraphs (a) through (e) of this section.
- t. Lobbying & Litigation. By signing this Agreement, the Sponsor certifies that none of the funds received from this Agreement shall be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The chief executive officer of this Sponsor agency shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The Sponsor shall abide by its respective Attachment in 2 C.F.R. Part 200, which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities. For subawards exceeding \$100,000, EPA requires the following certification and disclosure forms:
 - I. Certification Regarding Lobbying, EPA Form 6600-06:
http://www.epa.gov/ogd/AppKit/form/Lobbying_sec.pdf
 - II. Disclosure of Lobbying Activities, SF LLL:
http://www.epa.gov/ogd/AppKit/form/sflllin_sec.pdf
- u. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.
- v. Payment to Consultants. EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients (Sponsors) or by a recipients' (Sponsor's) contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with his/her normal travel reimbursement practices). Subagreements with firms for services that are awarded using the procurement requirements in 40 C.F.R. Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient (Sponsor) with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 C.F.R. § 30.27(b) or 40 C.F.R. § 31.369(j), as applicable, for additional information. As of January 1, 2020, the limit is \$654.71 per day \$81.83 per hour.
- w. Peer Review. Where appropriate, prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review, and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.
- x. International Travel (Including Canada). All International Travel must be approved by the US Environmental Protection Agency's Office of International and Tribal Affairs (OITA) BEFORE

travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your Partnership Project manager as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can submit a request to the EPA Project Officer if they approve of such travel.

- y. Unliquidated Obligations (ULO). Sub-recipients, and all sub-awardees of Sub-Recipients, if any, should manage their agreement and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are unspent (not yet drawn down through disbursements to sub-recipients and sub-awardees).

- z. Light Refreshments And/Or Meals.

Unless the event(s) and all of its components are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops, and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- 1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- 2) A description of the purpose, agenda, location, length and timing for the event; and,
- 3) An estimated number of participants in the event and a description of their roles.

Cost for light refreshments and meals for recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements.

- aa. State grant cybersecurity.

- (a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.
- (b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.
(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the AGecy using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange.

36. ORDER OF PRECEDENCE.

- a. This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:
 - i. Federal law and binding executive orders;

- ii. Code of federal regulations;
- iii. Terms and conditions of a grant award to the state from the federal government;
- iv. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
- v. State Constitution, RCW, and WAC;
- vi. Agreement Terms and Conditions and Applicable Manuals
- vii. Applicable deed restrictions, and/or governing documents.

37. LIMITATION OF AUTHORITY.

Only RCO's Director or RCO's delegate authorized in writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

38. WAIVER OF DEFAULT.

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH.

The Funding Entity (if different from RCO) and RCO rely on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

40. SPECIFIC PERFORMANCE.

RCO may enforce this Agreement by the remedy of specific performance, which means Sponsors' completion of the project and/or its completion of long-term obligations as described in this Agreement. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

41. TERMINATION AND SUSPENSION.

- a. The RCO requires strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.
- b. For Cause.

- i. The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a. If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b. If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
 - c. If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;
 - d. Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
 - ii. RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.
- c. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:
- i. The Sponsor was not in default; or
 - ii. Failure to perform was outside Sponsor's control, fault or negligence.
- d. Rights of Remedies of the RCO.
- i. The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
 - ii. In the event this Agreement is terminated by the director, after any portion of the grant amount has been paid to the Sponsor under this Agreement, the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.
 - iii. Non-Availability of Funds. The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation

- is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.
- iv. **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.
 - v. **No Waiver.** The failure or neglect of RCO to require strict compliance with any term of this Agreement or to pursue a remedy provided by this Agreement or by law shall not act as or be construed as a waiver of any right to fully enforce all rights and obligations set forth in this Agreement and in applicable state or federal law and regulations.

42. DISPUTE HEARING.

- a. Except as may otherwise be provided in this Agreement, when a dispute arises between the Sponsor and the RCO, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:
 - i. The disputed issues;
 - ii. The relative positions of the parties;
 - iii. The Sponsor's name, address, project title, and the assigned project number.
- b. In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the persons chosen by the Sponsor and director shall be dismissed and an alternate person chosen by the Sponsor, and one by the director shall be appointed and they shall agree on a third person. This process shall be repeated until a three person panel is established.
- c. Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.
- d. The parties shall be bound by the majority decision of the dispute panelists, unless the remedy directed by that panel is beyond the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

- e. Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.
- f. All costs associated with the implementation of this process shall be shared equally by the parties.

43. ATTORNEYS' FEES.

In the event of litigation or other action brought to enforce the terms of this Agreement each party agrees to bear its own attorney fees and costs.

44. GOVERNING LAW/VENUE.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in the Superior Court of a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

45. SEVERABILITY.

The provisions of this Agreement 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 Agreement.

46. END OF AGREEMENT.

This is the end of the agreement.



City Council

Approval of a Resolution Authorizing a Youth Athletic Facilities Grant Application to the Recreation and Conservation Office (RCO) for Yelm Highway Community Park Phase I

Agenda Date: 4/25/2022
Agenda Item Number: 4.G
File Number:22-0405

Type: resolution **Version:** 1 **Status:** Consent Calendar

Title

Approval of a Resolution Authorizing a Youth Athletic Facilities Grant Application to the Recreation and Conservation Office for Yelm Highway Community Park Phase I

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the resolution authorizing City Staff to apply for a Recreation and Conservation Office (RCO) grant for Yelm Highway Community Park Phase I and authorizing the City Manager to receive the grant funds should the grant be successful.

Report

Issue:

Whether to authorize a RCO grant application for Yelm Highway Community Park Phase I

Staff Contact:

Tammy LeDoux, Finance & Policy Coordinator, Parks Arts and Recreation, 360.753.8053

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

The Parks, Arts and Recreation Department is preparing a Recreation and Conservation Office (RCO) grant application for the current funding cycle. The application is due May 3, 2022, and is required to include formal City Council authorization.

The Youth Athletic Facilities program provides grants to buy land and develop or renovate outdoor athletic facilities such as ball fields, courts, swimming pools, mountain bike tracks, and skate parks that serve youth through the age of 18. If successful, the grant would reimburse the City

approximately \$350,000 towards Phase 1 development of the Yelm Highway Community Park.

In 2021, the City was awarded a \$1,000,000 reimbursement grant for the acquisition of the Yelm Highway Community Park parcel.

Neighborhood/Community Interests (if known):

The development of Yelm Highway Community Park was included in the 2022 Parks, Arts and Recreation Plan, which was developed with significant public involvement and strong community interest.

Options:

1. Approve the resolution authorizing a grant application to the Recreation and Conservation Office (RCO) for Yelm Highway Community Park.
2. Do not approve the resolution. Staff would be unable to pursue the grant opportunity.

Financial Impact:

The grant totals \$350,000.

Attachments:

Resolution

RCO Resolution

Sample Grant Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING THE APPLICATION FOR A GRANT BETWEEN THE CITY OF OLYMPIA AND WASHINGTON STATE RECREATION AND CONSERVATION OFFICE (RCO) FOR A YOUTH ATHLETIC FACILITIES GRANT FOR THE YELM HIGHWAY COMMUNITY PARK PHASE I DEVELOPMENT PROJECT

WHEREAS, on August 3, 2018, the City of Olympia purchased 83 acres on Yelm Highway for use as a public park for recreation and open space purposes; and

WHEREAS, currently the City is working with the community on a Park Master Plan and Conceptual Design to develop the property into a community park; and

WHEREAS, the 2022 Parks, Arts and Recreation Plan highlights development of this park as a long-standing community priority; and

WHEREAS, the Youth Athletic Facilities program provides funding to buy land and develop or renovate outdoor athletic facilities that serve youth through the age of 18; and

WHEREAS, the Youth Athletic Facilities grant would require a grant match of up to \$350,000; and

WHEREAS, the City has committed to Phase 1 development for the Yelm Highway property which will exceed the \$350,000 that serves as the required match for this grant; and

WHEREAS, the Recreation and Conservation Office requires an authorizing resolution as part of the grant application;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The Olympia City Council hereby approves the application for a grant between the City of Olympia and the Washington State Recreation and Conservation Office for the Yelm Highway Community Park Phase I Development Project and the terms and conditions contained therein.
2. The City Manager is directed and authorized to execute on behalf of the City of Olympia the RCO Applicant Resolution/Authorization, the Grant Agreement, and any other documents necessary to obligate funds for Project 22-1443D, Yelm Highway Community Park Phase I, and to make any amendments or minor modifications or to correct any scrivener's errors as may be required and are consistent with the intent of the Grant Application.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber
CITY ATTORNEY



Applicant Resolution/Authorization

Organization Name (sponsor) _____

Resolution No. or Document Name _____

Project(s) Number(s), and Name(s) _____

This resolution/authorization authorizes the person(s) identified below (in Section 2) to act as the authorized representative/agent on behalf of our organization and to legally bind our organization with respect to the above Project(s) for which we seek grant funding assistance managed through the Recreation and Conservation Office (Office).

WHEREAS, grant assistance is requested by our organization to aid in financing the cost of the Project(s) referenced above;

NOW, THEREFORE, BE IT RESOLVED that:

1. Our organization has applied for or intends to apply for funding assistance managed by the Office for the above "Project(s)."
2. Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	
Project contact (day-to-day administering of the grant and communicating with the RCO)	
RCO Grant Agreement (Agreement)	
Agreement amendments	
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typical recorded on the property with the county.	

The above persons are considered an "authorized representative(s)/agent(s)" for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

3. Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.
4. Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.
5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.
6. Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.
7. Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.
8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
9. [for Recreation and Conservation Funding Board Grant Programs Only] If match is required for the grant, we understand our organization must certify the availability of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.
10. Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.
11. [for Acquisition Projects Only] Our organization acknowledges that any property acquired with grant assistance must be dedicated for the purposes of the grant in perpetuity unless otherwise agreed to in writing by our organization and the Office. We agree to dedicate the property in a signed "Deed of Right" for fee acquisitions, or an "Assignment of Rights" for other than fee acquisitions (which documents will be based upon the Office's standard versions of those documents), to be recorded on the title of the property with the county auditor. Our organization acknowledges that any property

acquired in fee title must be immediately made available to the public unless otherwise provided for in policy, the Agreement, or authorized in writing by the Office Director.

12. [for Development, Renovation, Enhancement, and Restoration Projects Only–If our organization owns the project property] Our organization acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.
13. [for Development, Renovation, Enhancement, and Restoration Projects Only–If your organization DOES NOT own the property] Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.
14. [Only for Projects located in Water Resources Inventory Areas 1-19 that are applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, Riparian Protection, or Urban Wildlife Habitat grant categories; Aquatic Lands Enhancement Account; or the Puget Sound Acquisition and Restoration program, or a Salmon Recovery Funding Board approved grant] Our organization certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.
15. This resolution/authorization is deemed to be part of the formal grant application to the Office.
16. Our organization warrants and certifies that this resolution/authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

This resolution/authorization is signed and approved on behalf of the resolving body of our organization by the following authorized member(s):

Signed _____

Title _____ Date _____

On File at: _____

This Applicant Resolution/Authorization was adopted by our organization during the meeting held:
(Local Governments and Nonprofit Organizations Only):

Location: _____ Date: _____

Washington State Attorney General's Office

Approved as to form Brian Tallen 2/13/2020
Assistant Attorney General Date

You may reproduce the above language in your own format; however, text may not change.

This agreement template is used by the Recreation and Conservation Office (RCO) for the management of the grant and other programs it administers. This example is provided for review by applicants' and their counsel as they seek grant funding managed by RCO.

This grant agreement will contain changes at issuance based on the specifics of each funded project. For instance, changes will occur based on the applicant, funding program, fund source, project type, rule or law changes, and other factors. Applicants that receive funding from RCO are encouraged to thoroughly review their customized grant agreement prior to final signature.

RCO reserves the right to make updates to this template.

RCO GRANT AGREEMENT

Project Name: _____

Project Number: _____

Issuance Date: _____

A. PARTIES OF THE GRANT AGREEMENT.

1. This Recreation and Conservation Office Grant Agreement (Agreement) is entered into between the State of Washington {FundingAgency} Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and {PrimarySponsorNameAddress} {SecondarySponsorNameAddress}, and shall be binding on the agents and all persons acting by or through the parties.
2. The Sponsor's Data Universal Numbering System (DUNS) Number is {DUNNSNumber}.
3. All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.
4. Prior to and During the Period of Performance, Per the Applicant Resolution/Authorizations submitted by all sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project, including but not limited to, full authority to: (1) sign a grant application for grant assistance, (2) enter into this project agreement on behalf of the Sponsor(s) including indemnification, as provided therein, (3) enter any amendments thereto on behalf of Sponsor(s), and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all Sponsors, unless otherwise allowed in the AMENDMENTS TO AGREEMENT Section.
 - a. During the Period of Performance, in order for a Sponsor to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization the Sponsor must provide the RCO a new Applicant

Resolution/Authorization signed by its governing body. Unless a new Applicant Resolution/Authorization has been provided, the RCO shall proceed on the basis that the person who is listed as the Authorized Representative in the last Resolution/Authorization that RCO has received is the person with authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.

- b. Amendments After the Period of Performance. RCO reserves the right to request and Sponsor has the obligation to provide, authorizations and documents that demonstrate any signatory to an amendment has the authority to legally bind the Sponsor as described in the above Sections A and J.
5. For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS Section).

B. PURPOSE OF AGREEMENT.

This Agreement sets out the terms and conditions by which a grant is made from the {AccountName} of the State of Washington. The grant is administered by the RCO.

C. DESCRIPTION OF PROJECT.

{ProjectDescription}

D. PERIOD OF PERFORMANCE.

1. The period of performance begins on {StartDate} (project start date) and ends on {EndDate} (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.
2. The RCO reserves the right to summarily dismiss any request to amend this Agreement if not made at least 60 days before the project end date.

E. STANDARD TERMS AND CONDITIONS INCORPORATED.

The RCO Standard Terms and Conditions of the Agreement are hereby incorporated by reference as part of this Agreement.

F. LONG-TERM OBLIGATIONS.

(This is a custom section based on project, program, and sponsor type. See [attached spreadsheet of those that may apply.](#))

G. PROJECT FUNDING.

The total grant award provided for this project shall not exceed {RCOAmount}. The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

{FundingTable}

H. FEDERAL FUND INFORMATION.

(This section only appears if there is federal funding nexus)

{FederalFundingInfo}

This funding is not research and development (R&D).

If the Sponsor's total federal expenditures are \$750,000 or more during the Sponsor's fiscal-year, the Sponsor is required to have a federal single audit conducted for that year in compliance with 2 C.F.R. Part 200, Sub Part F—Audit Requirements, Section 500 (2013). The Sponsor must provide a copy of the final audit report to RCO within nine months of the end of the Sponsor's fiscal year, unless a longer period is agreed to in advance by the federal agency identified in this section.

Sponsor shall comply with the federal "Omni-circular" (2 C.F.R. Part 200).

RCO may suspend all reimbursements if the Sponsor fails to timely provide a single federal audit; further the RCO reserves the right to suspend any and all RCO Agreement(s) with the Sponsor if such noncompliance is not promptly cured.

I. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS.

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved and/or amended as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless the terms in the Agreement are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

The following Exhibits are attached as part of this Agreement:

(This is a custom section listing things like "Expanded Scope of Work," "Milestones," and "Eligible Scope Items," which become part of this agreement.)

If an exhibit is referenced in this Agreement as an exhibit or attached to this Agreement, regardless whether it is on this list, it shall still be considered part of this Agreement.

J. AMENDMENTS TO AGREEMENT.

1. Except as provided herein, no amendment (including without limitation, deletions) of this Agreement will be effective unless set forth in writing signed by all parties. Exception: extensions of the Period of Performance and minor scope adjustments need only be signed by

RCO's director or designee and consented to in writing (including email) by the Sponsor's Authorized Representative/Agent or Sponsor's designated point of contact for the implementation of the Agreement (who may be a person other than the Authorized Agent/Representative), unless otherwise provided for in an amendment. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

2. It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so.
3. Unless otherwise expressly stated in an amendment, any amendment to this Agreement shall be deemed to include all current federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone. However, any such amendment, unless expressly stated, shall not extend or reduce the long-term obligation term.

K. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES.

1. This Agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, applicable RCO manuals as identified below, Exhibits, and any applicable federal program and accounting rules effective as of the date of this Agreement or as of the effective date of an amendment, unless otherwise provided in the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone unless otherwise expressly stated in the amendment.
2. For the purpose of this Agreement, {WAC...} shall apply as terms of this Agreement.
3. For the purpose of this Agreement, the following RCO manuals are deemed applicable and shall apply as terms of this Agreement:

{CustomApplicableManuals}

Provided, where a manual refers to a funding board's responsibility and/or authority but the funding board is not involved with the grant or successor to an entity that was involved, the RCO director shall have that responsibility and/or authority if such responsibilities and/or authority falls within the RCO's statutory responsibilities and/or authority or within a lawful delegation by the board to the RCO.

L. SPECIAL CONDITIONS.

{CustomSpecialConditionsAsMayApply}

M. AGREEMENT CONTACTS.

The parties will provide all written communications and notices under this Agreement to either or both the mail address and/or the email address listed below:

{CustomProjectContacts}

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Unless otherwise provided for in this Agreement, decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

N. ENTIRE AGREEMENT.

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

O. EFFECTIVE DATE.

1. Unless otherwise provided for in this Agreement, this Agreement, for project {ProjectNumber}, shall not be effective and binding until the date signed by both the sponsor and the RCO's authorized representative, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE Section are allowed only when this Agreement is fully executed and an original is received by RCO.
2. The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

Signatures:

Sponsor/Date

Recreation and Conservation Office/Date

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Example

STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT

Last Updated: February 12, 2020

1. CITATIONS, HEADINGS AND DEFINITIONS.

- A)** Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B)** Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C)** Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

acquisition project – A project that purchases or receives a donation of a right to or in real property including, but not limited to, fee simple land acquisition, conservation easement, access/trail/recreational easements, covenants, leases, water rights, and mineral rights.

Agreement, terms of the Agreement, or project agreement – The document entitled “RCO GRANT AGREEMENT” accepted by all parties to the present project and transaction, including without limitation the Standard Terms and Conditions of the RCO Grant Agreement, all exhibits, attachments, addendums, amendments, and applicable manuals, and any intergovernmental agreements, and/or other documents that are incorporated into the Agreement subject to any limitations on their effect under this Agreement.

applicable manual(s), manual -- A manual designated in this Agreement to apply as terms of this Agreement, subject (if applicable) to substitution of the “RCO director” for the term “board” in those manuals where the project is not approved by or funded by the referenced board, or a predecessor to the board.

applicable WAC(s) -- Designated chapters or provisions of the Washington Administrative Code that apply by their terms to the type of grant in question or are deemed under this Agreement to apply as terms of the Agreement, subject to substitution of the “RCO director” for the term “board” or “agency” in those cases where the RCO has contracted to or been delegated to administer the grant program in question.

applicant – Any party, prior to becoming a Sponsor, who meets the qualifying standards/eligibility requirements for the grant application or request for funds in question.

application – The documents and other materials that an applicant submits to the RCO to support the applicant’s request for grant funds; this includes materials required for the “Application” in the RCO’s automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

archeological, cultural, and historic resources - Archeological sites and artifacts, and traditional areas or items of religious, ceremonial and/or social (significance to) (uses of) tribes affected by or interested in the project. This also refers to built environments and places with historical significance for the nation, state, or local area.

authorized representative/agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor’s signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

C.F.R. – Code of Federal Regulations

completed project or project completion - The status of a project when all of the following have occurred:

1. The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily,
2. A final project report is submitted to and accepted by RCO,
3. Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO
4. A final reimbursement request has been paid by RCO.
5. Property rights (including RCO’s as may apply) have been recorded (as may apply)

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

compliance period, or long-term compliance period – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

conversion – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

development project – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources. A development project may also involve activities that redevelop or renovate an existing facility, and these may occur exclusively in the project or in combination with new construction. For projects in the Boating Facilities Program, the term “development project” includes all of the above and may also include those activities that are defined as maintenance in 50 C.F.R 86.

director or Director – The chief executive officer of the Recreation and Conservation Office or that person’s designee.

education project – A project that provides information, education, and outreach programs and/or services for the benefit of outdoor recreationists. This project may involve limited amounts of capital construction or installation of tangible property.

education and enforcement project – A project that provides information, education, and outreach programs or services; encourages responsible recreational behavior, and may provide law enforcement for the benefit of outdoor recreationists. This project may involve limited amounts of capital construction or installation of tangible property, and equipment purchases.

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

enhancement project – A project that (i) supports hatchery reform to improve hatchery effectiveness to minimize impacts to wild fish populations, (ii) ensures compatibility between hatchery production and salmon recovery programs, or (iii) supports sustainable fisheries (WAC 420.04.010).

equipment – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. § 200.33 (2013)).

funding board or board – The Washington State Recreation and Conservation Funding Board, or the Washington State Salmon Recovery Funding Board. Or both as may apply.

Funding Entity – the entity that approves the project that is the subject to this Agreement.

grant program – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).

compliance period, or long-term compliance period – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

long-term obligations – Sponsor's obligations after the project end date, as specified in the Agreement and manuals and other exhibits as may apply.

landowner agreement – An agreement that is required between a Sponsor and landowner for projects located on land not owned or otherwise controlled by the Sponsor.

maintenance project – A project that maintains existing areas and facilities through repairs and upkeep for the benefit of outdoor recreation.

maintenance and operation project – A project that maintains and operates existing areas and facilities through repairs, upkeep, and routine services for the benefit of outdoor recreationists.

match or matching share – The portion of the total project cost provided by the Sponsor.

milestone – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

monitoring project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

monitoring and research project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

Office – Means the Recreation and Conservation Office or RCO.

notice of grant – As required by RCO or another authority, a document that has been legally recorded on the property title of the project area(s) in the county or counties where the project property is located, or with the United States Government, that describes the project area on the property, the funding sources, and agencies responsible for awarding the grant.

pass-through entity – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance – The period beginning on the project start date and ending on the project end date.

planning project - A project that results in one or more of the following: 1) a study, a plan, assessment, project design, inventory, construction plans and specifications, and permits; or 2) a project that provides money to facilitate the work of an organization engaged in planning and coordination, or resource stewardship.

pre-agreement cost – A project cost incurred before the period of performance.

primary Sponsor – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. Administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project – The undertaking that is funded by this Agreement either in whole or in part with funds administered by RCO.

project area - A geographic area that delineates a grant assisted site which is subject to project agreement requirements.

project area (for projects where WAC 420 is applied) - The area consistent with the geographic limits of the scope of work of the project and subject to project agreement requirements. For restoration projects, the project area must include the physical limits of the project's final site plans or final design plans. For acquisition projects, the project area must include the area described by the legal description of the properties acquired for or committed to the project (WAC 420.04.010).

completed project or project completion - The status of a project when all of the following have occurred:

1. The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily,
2. A final project report is submitted to and accepted by RCO,
3. Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO
4. A final reimbursement request has been paid by RCO.
5. Property rights (including RCO's as may apply) have been recorded (as may apply)

project cost – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (see also 2 C.F.R. § 200.83 (2013) for federally funded projects).

project end date – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

project start date – The specific date identified in the Agreement on which the period of performance starts.

RCFB – Recreation and Conservation Funding Board

RCO – Recreation and Conservation Office – The state agency that administers the grant that is the subject of this Agreement. RCO includes the director and staff.

RCW – Revised Code of Washington

Recreational Trails Program (RTP) – A Federal Highways Administration grant program.

reimbursement – RCO's payment of funds to the Sponsor for eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

renovation project – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

research project – Means a project that studies salmon and the effectiveness of recovery restoration efforts on the population or habitat condition.

restoration project – A project intended to bring a site back to its historic function as part of a natural ecosystem, or one intended to improve the ecological or habitat functionality or capacity of (or part of) a site, landscape, marine environment, or watershed.

restoration and enhancement project – A project intended to bring a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site or a larger ecosystem which improvement may include benefiting (or exclusively benefit) fish stocks.

secondary Sponsor – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor – A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

SRFB – Salmon Recovery Funding Board

State. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of Washington state government.

subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in the PROJECT FUNDING Section.

subrecipient – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

tribal consultation – Outreach, and consultation with one or more federally recognized tribes (or a partnership or coalition or consortium of such tribes, or a private tribal enterprise) whose rights will or may be significantly affected by the proposed project. This includes sharing with potentially-affected tribes the scope of work in the grant and potential impacts to natural areas, natural resources, and the built environment by the project. It also includes responding to any tribal request from such tribes and considering tribal recommendations for project implementation which may include not proceeding with parts of the project, altering the project concept and design, or relocating the project or not implementing the project, all of which RCO shall have the final approval of.

useful service life – Period during which a built asset, equipment, or fixture is expected to be useable for the purpose it was acquired, installed, developed, and/or renovated, or restored per this Agreement.

WAC – Washington Administrative Code.

2. PERFORMANCE BY THE SPONSOR.

- a. The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO (to include any RCO approved changes or amendments thereto). All submitted documents are incorporated by this reference as if fully set forth herein.
- b. Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

3. ASSIGNMENT.

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written approval of the RCO.

4. RESPONSIBILITY FOR PROJECT.

- a. While RCO administers the grant that is the subject of this Agreement, the project itself remains the sole responsibility of the Sponsor. The RCO and Funding Entity (if different from the RCO) undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement.
- b. The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project has more than one Sponsor, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.
- c. The RCO, its employees, assigns, consultants and contractors, and members of any funding board or advisory committee or other RCO grant review individual or body, have no responsibility for reviewing, approving, overseeing or supervising design, construction, or safety of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO, its employees, assigns, consultants and contractors, and any funding board or advisory committee or other RCO grant review individual or body will act only to confirm at a general, lay person, and nontechnical level, solely for the purpose of project eligibility and payment and not for safety or suitability, that the project apparently is proceeding or has been completed as per the Agreement.

5. INDEMNIFICATION.

- a. The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees,

contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

- b. Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.
- c. Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents or employees, and (b) the State, or its employees or agents the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or its agents, or employees.
- d. As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51. Sponsor's waiver of immunity under this provision extends only to claims against Sponsor by Indemnitee RCO, and does not include, or extend to, any claims by Sponsor's employees directly against Sponsor.
- e. Sponsor shall ensure that any agreement relating to this project involving any contractors, subcontractors and/or vendors of any tier shall require that the contracting entity indemnify, defend, waive RCW 51 immunity, and otherwise protect the State as provided herein as if it were the Sponsor. This shall not apply to a contractor or subcontractor is solely donating its services to the project without compensation or other substantial consideration.
- f. The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

- g. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

6. INDEPENDENT CAPACITY OF THE SPONSOR.

- a. The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO or Funding Entity. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or the Funding Entity, or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06.
- b. The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

7. CONFLICT OF INTEREST.

- a. Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the Sponsor in the procurement of, or performance under, this Agreement.
- b. In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

8. COMPLIANCE WITH APPLICABLE LAW.

- a. In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:
 - i. Nondiscrimination Laws. The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Employment Act (if applicable). In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the RCO or Funding Entity. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law. Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for

construction of this project: "During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."

- ii. Secular Use of Funds. No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
 - iii. Wages and Job Safety. The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.40. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.
 - Pursuant to RCW 39.12.040(1)(a), all contractors and subcontractors shall submit to Sponsor a statement of intent to pay prevailing wages if the need to pay prevailing wages is required by law. If a contractor or subcontractor intends to pay other than prevailing wages, it must provide the Sponsor with an affirmative statement of the contractor's or subcontractor's intent. Unless required by law, the Sponsor is not required to investigate a statement regarding prevailing wage provided by a contractor or subcontractor.
 - iv. Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130). If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided: (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization's management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.
- b. Restrictions on Grant Use. No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or

propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

- c. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.
- d. Debarment and Certification. By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."
- e. Requirements for RTP Subawards.
 - i. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.
 - ii. Sponsor may be required to pay prevailing wage rates as required by the Davis Bacon Act as amended.

9. ARCHAEOLOGICAL AND CULTURAL RESOURCES RESPONSIBILITIES

RCO shall administratively review, and Sponsor shall assist RCO in such review, For all funded projects, including land acquisitions for the purpose of capital construction or renovation, not undergoing Section 106 review under the National Historic Preservation Act of 1966, RCO shall review and, if it deems appropriate, confer with the Washington State Department of Archeology and Historic Preservation, tribes, and with any other party/parties that have an interest in, or responsibility for, Project review and protection of archeological, cultural, and historical resources, to determine potential impacts to archeological, cultural and historic resources and plans for protection of such resources. The Sponsor shall cooperate in all such reviews.

1. Plans. Sponsor shall comply with all plans RCO or another state or federal agency may develop for the protection of archeological, cultural, and historical resources in the project area, and adjacent areas that may be impacted by the project. This subsection also applies to those projects where a categorical exclusion (subsection 5) may apply.

2. Authorities. At a minimum, review, management, and protection of archeological, cultural, and historic resources, and tribal consultation, shall be performed in the project area and adjacent areas impacted by the project for compliance with the following authorities (as may apply and as in effect at the time of the review):
 - i. Washington State Department of Archeology and Historic Preservation policies and procedures and rule,
 - ii. Sponsor, RCO, and landowners' plans, policies and procedures, directives, laws and rules,
 - iii. State Environmental Policy Act,
 - iv. National Environmental Policy Act,
 - v. National Historic Preservation Act of 1966,
 - vi. Governor's Executive Order 05-05,
3. Scope of Archeological, Cultural, and Historic Resources Review. RCO recognizes that the project area may include multiple parcels with multiple landowners, and additional parties with property rights in the project area. The Sponsor shall apply this section independently to each separately owned property, provided that reviews undertaken must include impacts to individual parcels and cumulative impacts.
4. Compliance. At all times, the Sponsor shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological, cultural, and historic resources in the project area, and adjacent areas that may be impacted by the project, and comply with any RCO direction for such avoidance, minimization, and mitigation, and reporting and notification thereof.
5. Categorical Exemption. If the Sponsor has reviewed the activities in this grant for impacts to archeological, cultural, and historical resources, and the same for any planned projects in any land acquired with this grant, and determined the project is categorically exempt from further archaeological, historical and cultural resources review, as well as tribal consultation, Sponsor shall notify the RCO in writing prior to beginning the project describing 1) the specific statutory or regulatory exemptions that apply, and 2) their applicability to the specific project. Alternatively, the RCO may determine the project is covered by a categorical exemption, in whole or in part, and notify the Sponsor of such determination.

However, any categorical exemption must meet the standards of and be consistent and allowable by ALL of the following:

1. the project area landowner(s) legal documents and governing documents (if applicable),
2. Sponsor's own policies and procedures and rules,
3. All applicable laws,
4. RCO applicable policies, manuals and/or other guidance, and
5. Washington Department of Archaeology and Historic Preservation's rules and policies.

Alternatively, the RCO may assign a categorical exemption to the project based on its own review.

Regardless of the applicability of any categorical exemption, the RCO reserves the right at any time to require Sponsor to comply with any and all of the provisions of this section.

6. Project Areas Reviewed by a Permitting Authority. For those project areas where a permitting authority for the project conducts an archeological, cultural, and historical resources review and tribal consultation under section 106 of the Historic Preservation Act, NEPA, SEPA, or Governor's Executive Order 05-05, such review and consultation shall substitute for the land owner's, provided that such substitution is allowed only if (a)the permitting authority and landowner are not the same, and (b)the RCO determines that the review and consultation performed by the permitting authority meets RCO standards. When a permitting authority conducts such reviews and tribal consultation, all other subsections herein shall still apply to the Sponsor(s).
7. Project Areas on Sponsor-Owned Property. Unless a categorical exemption applies as stated above, the Sponsor shall perform and be bound by the following:
 - a. Project Review. For project areas not reviewed by a permitting authority (see above), prior to implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas where project mitigation shall occur, or any other areas that may be affected by project implementation, the Sponsor shall review the project for its potential and actual impacts, including any planned projects on lands acquired as part of the project, to any and all archaeological, cultural and historical resources in and adjacent to the project area, in areas where project mitigation shall occur, or other areas that may be affected by project implementation. In this review, Sponsor shall follow its policies and procedures, plans, guidance, rules, and directives, as well as act in compliance with Governor's Executive Order 05-05, the National Historic Preservation Act, the State Environmental Policy Act, the National Environmental Policy Act, and any local laws as may apply. If another governmental agency is responsible in whole or in part for this review the Sponsor shall assist with such review.
 - b. Tribal Consultation. For project areas not reviewed by a permitting authority (see above), prior to implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas where project mitigation shall occur, or any other areas that may be affected by project implementation, Sponsor shall conduct tribal consultation with any interested or affected tribes as defined above. .
 - c. Reporting to RCO and Approval of Project Activities. Sponsor shall provide RCO evidence (which RCO shall prescribe) that it has conducted project review and tribal consultation as described and receive written approval of such review and consultation from RCO prior to Sponsor implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas

- where project mitigation shall occur, or any other areas that may be affected by project implementation.
- d. Changes to Project. RCO reserves the right to request Sponsor change its scope of work and project outcomes to avoid, mitigate, or minimize impacts to archeological, cultural, and historic resources.
 - e. Termination. RCO retains the right at any time to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
 - f. Monitoring. RCO may require on-site monitoring for impacts to archeology, cultural, and historic resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology, cultural, and historical resource impacts or concerns.
 - g. Inadvertent Discovery Plan. The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan (IDP), and keep the IDP at the project site, make the IDP readily available to anyone working at the project site, discuss the IDP with staff and contractors working at the project site, and Implement the IDP when cultural resources or human remains are found at the project site.
 - h. Discovery. If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources until such time as the reviewing authority with jurisdiction over the found object(s) and areas notifies Sponsor and RCO that work can resume.
 - i. Human Remains. If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the RCO provides a new notice to proceed on the project. Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP). The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with

the affected parties as to the future preservation, excavation, and disposition of the remains and the resumption of work.

8. Project Areas on State or Federal Property Not Owned By Sponsor.

Categorical Exemption. For project area(s) owned by a state or federal agency, and not under review via a permitting nexus (see above), the state or federal agency landowner performing archeological, cultural, and historic resources review and tribal consultation shall make the determination that the project, in whole or in part, is covered by a categorical exemption, and may notify and report such to the Sponsor, or to RCO on behalf of Sponsor.

Project Review and Tribal Consolation. If the project is not categorical exception to archeological, cultural, and historical resources review and tribal consultation, and the project area is located on property owned by the State of Washington or a federal agency, Sponsor shall:

- a. Follow its own policies and procedures, rules, and any applicable laws, for the review, protection, and management of archaeological, cultural, and historic resources, and tribal consultation and other consultations as may apply.
- b. Assist the land owner and other applicable agencies, and the RCO, with its/their review of archaeological, cultural and historic resources, and tribal consultation for the project area.
 - i. RCO may consult directly with the landowner to complete land owner project review and tribal consultation.
- c. Provide RCO evidence that the landowner has 1) conducted archeological, cultural and historic resources review and tribal consultation according to its policies and procedures and applicable laws, and 2) provided Sponsor with permission to begin project implementation in the project area owned by the state or federal agency.
- d. Changes to Project. RCO reserves the right to request Sponsor change its scope of work and project outcomes to avoid, mitigate, or minimize impacts to archeological, cultural, and historic resources.
- e. Termination. RCO retains the right at any time to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
- f. Monitoring. RCO or the federal or state landowner may require on-site monitoring for impacts to archeology and cultural resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology and cultural resource impacts or concerns.
- g. Inadvertent Discovery Plan. The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan (IDP), and keep the IDP at the project site, make the IDP readily available to anyone working at the project site, discuss the IDP with staff and contractors

working at the project site, and Implement the IDP when cultural resources or human remains are found at the project site.

- h. Discovery. If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.
 - i. Human Remains. If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the RCO provides a new notice to proceed on the project. Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP). The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.
- 9. Costs. Costs associated with Sponsor's responsibilities under this section of the Agreement are eligible for reimbursement under this Agreement. Costs that exceed the budget grant amount shall be the responsibility of the Sponsor.

10. RECORDS.

- a. Digital Records. If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- b. Maintenance and Retention. The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of nine years from the date RCO deems the project complete, as defined in the PROJECT REIMBURSEMENTS Section. If any litigation, claim or audit is started before the expiration of the nine (9) year period, the records

shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

- c. In order to satisfy 15 CFR 24.42(b) & (c) and 2 CFR 200.333, for projects that contain Pacific Coast Salmon Recovery Funds or are used as match to Pacific Coast Salmon Recovery Funds the sponsor shall retain records for a period of nine years from the date RCO deems the project complete as defined in the PROJECT REIMBURSEMENTS Section.
- d. Access to Records and Data. At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- e. Public Records. Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04 (which ever applies). Additionally, the Sponsor agrees to disclose any information in regards to the expenditure of that funding as if the project sponsor were subject to the requirements of chapter 42.56 RCW. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

11. PROJECT FUNDING.

- a. Authority. This Agreement and funding is made available to Sponsor through the RCO.
- b. Additional Amounts. The RCO or Funding Entity shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the RCO director and incorporated by written amendment into this Agreement .
- c. Before the Agreement. No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by the RCO director, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.

- d. Requirements for Federal Subawards. Pre-Agreement costs before the federal award date in the FEDERAL FUND INFORMATION Section are ineligible unless approved by the federal award agency (2 C.F.R § 200.458 (2013)).
- e. After the Period of Performance. No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO or Funding Entity may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

12. PROJECT REIMBURSEMENTS.

- a. Reimbursement Basis. This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12, whichever has been designated to apply. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in the PROJECT FUNDING Section. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- b. Reimbursement Request Frequency. The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recent applicable RCO manuals and this Agreement regarding reimbursement requirements.
- c. Compliance and Payment. The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- d. Conditions for Payment of Retainage. RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the following has occurred:
 - i. RCO has accepted the project as a completed project, which acceptance shall not be unreasonably withheld.
 - ii. On-site signs are in place (if applicable); Any other required documents and media are complete and submitted to RCO; Grant related fiscal transactions are complete, and
 - iii. RCO has accepted a final boundary map of the project area for which the Agreement terms will apply in the future.

- iv. A Notice of Grant for any property rights acquired or donated (if applicable) have been filed with the county lands records office (or United State Government) and a stamped copy received by RCO, and any property rights owned to RCO have been likewise recorded.
- e. Requirements for Federal Subawards: Match. The Sponsor's matching share must comply with 2 C.F.R. § 200.306 (2013). Any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions, can be accepted as part of the Sponsor's matching share when such contributions meet all of the following criteria:
 - i. Are verifiable from the non-Federal entity's (Sponsor's) records;
 - ii. Are not included as contributions for any other Federal award;
 - iii. Are necessary and reasonable for accomplishment of project or program objectives;
 - iv. Are allowable under 2 C.F.R. Part 200, Subpart E—Cost Principles (2013);
 - v. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
 - vi. Are provided for in the approved budget when required by the Federal awarding agency identified in the FEDERAL FUND INFORMATION Section of this Agreement; and
 - vii. Conform to other provisions of 2 C.F.R. Part 200, Subpart D—Post Federal Award Requirements (2013), as applicable.
- f. Requirements for Federal Subawards: Close out. Per 2 C.F.R § 200.343 (2013), the non-Federal entity (Sponsor) must:
 - i. Submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity (RCO) may approve extensions when requested by the Sponsor.
 - ii. Liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
 - iii. Refund any balances of unobligated cash that the Federal awarding agency or pass-through entity (RCO) paid in advance or paid and that are not authorized to be retained by the non-Federal entity (Sponsor) for use in other projects. See OMB Circular A-129 and see 2 C.F.R § 200.345 Collection of amounts due (2013), for requirements regarding unreturned amounts that become delinquent debts.
 - iv. Account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with 2 C.F.R §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property (2013).

13. ADVANCE PAYMENTS.

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements.

14. RECOVERY OF PAYMENTS.

- a. Recovery for Noncompliance. In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- b. Return of Overpayments. The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time the Sponsor received such overpayment. Unless the overpayment is due to an error of RCO, the payment shall be due and owing on the date that the Sponsor receives the overpayment from the RCO. If the payment is due to an error of RCO, it shall be due and owing 30 days after demand by RCO for refund.
- c. Requirements for Federal Subawards. RCO, acting as a pass-through entity, may impose any of the remedies as authorized in 2 C.F.R §§ 200.207 Specific conditions and/or 200.338 Remedies for noncompliance (2013).

15. COVENANT AGAINST CONTINGENT FEES.

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

16. INCOME (AND FEES) AND USE OF INCOME.

See WAC 286-13-110 for additional requirements for projects funded from the RCFB.

Income.

- a. Farm and Forest Account (Farmland and Forestland Preservation Grants). Excepted from this section is income generated and fees paid on/for properties which received funds from the Farm and Forest Account (RCW 79A.15.130).
- b. Firearms and Archery Range Recreation Projects. Excepted from this section are safety classes (firearm and/or hunter) for which a facility/range fee must not be charged (RCW 79A.25.210).

- c. Compatible source. The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any applicable manuals, RCWs, and WACs.
- d. Use of Income. Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, rent, franchise fees, ecosystem services, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
 - i. The Sponsor's matching resources;
 - ii. The project's total cost;
 - iii. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the grant funding;
 - iv. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
 - v. Capital expenses for similar acquisition and/or development and renovation; and/or
 - vi. Other purposes explicitly approved by RCO.
- e. Fees. User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored and shall be consistent with the:
 - i. Grant program laws, rules, and applicable manuals;
 - ii. Value of any service(s) furnished;
 - iii. Value of any opportunities furnished; and
 - iv. Prevailing range of public fees in the state for the activity involved.
- f. Requirements for Federal Subawards. Sponsors must also comply with 2 C.F.R. § 200.307 Program income (2013).

17. PROCUREMENT REQUIREMENTS.

- a. Procurement Requirements. If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists the Sponsor must follow these minimum procedures:
 - i. Publish a notice to the public requesting bids/proposals for the project;
 - ii. Specify in the notice the date for submittal of bids/proposals;
 - iii. Specify in the notice the general procedure and criteria for selection; and
 - iv. Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
 - v. Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer. Alternatively, Sponsor may choose a bid from a bidding

cooperative if authorized to do so. This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

b. Requirements for Federal Subawards.

- i. For all Federal subawards, non-Federal entities (Sponsors) must follow 2 C.F.R §§ 200.318 General procurement standards through 200.326 Contract Provisions (2013).
- ii. For RTP subawards, Sponsors shall follow such policies and procedures allowed by the State when procuring property and services under a Federal award (2 C.F.R § 1201.317 (2013)).

18. TREATMENT OF EQUIPMENT AND ASSETS.

- a. Equipment shall be used and managed only for the purpose of this Agreement , unless otherwise provided herein or in the applicable manuals, or approved by RCO in writing.
- b. Discontinued Use. Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.
- c. Loss or Damage. The Sponsor shall be responsible for any loss or damage to equipment.
- d. Requirements for Federal Subawards. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award or match for the award, until disposition takes place will, at a minimum, meet the following requirements (2 C.F.R § 200.313 (2013)):
 - i. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the Federal Award Identification Number), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
 - ii. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
 - iii. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
 - iv. Adequate maintenance procedures must be developed to keep the property in good condition.

- v. If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- e. Requirements for RTP Subawards.
 - i. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.

19. RIGHT OF INSPECTION.

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement. If a landowner agreement or other form of control and tenure limits access to the project area, it must include (or be amended to include) the RCO's right to inspect and access lands acquired or developed with this funding assistance.

20. STEWARDSHIP AND MONITORING.

Sponsor agrees to perform monitoring and stewardship functions as stated in the applicable WACs and manuals, this Agreement, or as otherwise directed by RCO consistent with the existing laws and applicable manuals. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the RCO; provided that RCO does not represent that any monitoring it may recommend will be adequate to reasonably assure project performance or safety. It is the sole responsibility of the Sponsor to perform such additional monitoring as may be adequate for such purposes.

21. PREFERENCES FOR RESIDENTS.

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents, but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

22. ACKNOWLEDGMENT AND SIGNS.

- a. Publications. The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.
- b. Signs.
 - i. During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless waived by the director; and

- ii. During the period of long-term obligations, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.
- c. Ceremonies. The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies and in all advertisements and mailings thereof, and any and all of its related digital media publications.
- d. Federally Funded Projects. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, Sponsors shall clearly state:
 - i. The fund source;
 - ii. The percentage of the total costs of the project that is financed with federal money;
 - iii. The dollar amount of federal funds for the project; and
 - iv. The percentage and dollar amount of the total costs of the project that is financed by nongovernmental sources.

23. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS.

- a. The following provisions shall be in force:
 - i. Operations and Maintenance. Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted per this Agreement and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration. It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
 - ii. Document Review and Approval. Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.
- b. Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the RCO must receive prior written approval of the RCO.

- c. Control and Tenure. The Sponsor must provide documentation that shows appropriate tenure and term (such as long-term lease, perpetual or long-term easement, or perpetual or long-term fee simple ownership, or landowner agreement or interagency agreement for the land proposed for construction, renovation, or restoration. The documentation must meet current RCO requirements identified in this Agreement as of the effective date of this Agreement unless otherwise provided in any applicable manual, RCW, WAC, or as approved by the RCO.
- d. Use of Best Management Practices. Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include “Integrated Streambank Protection Guidelines”, 2002; “Land Use Planning for Salmon, Steelhead and Trout: A land use planner’s guide to salmonid habitat protection and recovery”, 2009”, “Protecting Nearshore Habitat and Functions in Puget Sound”, 2010; “Stream Habitat Restoration Guidelines”, 2012; “Water Crossing Design Guidelines”, 2013; and “Marine Shoreline Design Guidelines”, 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in “Reducing Accidental Introductions of Invasive Species” which is available on the WISC Web site.
- e. At no time shall the Sponsor design, construct, or operate this grant funded project in a way that unreasonably puts the public, itself, or others at risk of injury or property damage. The Sponsor agrees and acknowledges that the Sponsor is solely responsible for safety and risk associated with the project, that RCO does not have expertise, capacity, or a mission to review, monitor, or inspect for safety and risk, that no expectation exists that RCO will do so, and that RCO is in no way responsible for any risks associated with the project.

24. PROVISIONS APPLYING TO ACQUISITION PROJECTS.

- a. The following provisions shall be in force:
 - i. Evidence of Land Value. Before disbursement of funds by RCO as provided under this Agreement, the Sponsor agrees to supply documentation acceptable to RCO that the cost of the property rights acquired has been established according to all applicable manuals and RCWs or WACs.
 - ii. Evidence of Title. The Sponsor agrees to provide documentation that shows the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
 - iii. Legal Description of Real Property Rights Acquired. The legal description of any 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 delivered to RCO before final payment.
 - iv. Conveyance of Rights to the State of Washington. When real property rights (both fee simple and lesser interests) are acquired, the Sponsor agrees to execute an appropriate document (provided or approved by RCO) conveying certain rights and responsibilities to RCO or the Funding Entity on behalf of the State of Washington or another agency of the

- state, or federal agency, or other organization. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
- v. Deed of Right. The Deed of Right as described in RCO Manual #3 conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. Sponsors 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 Sponsor has acquired a perpetual easement for public purposes.
 - vi. Assignment of Rights. The Assignment of Rights as described in RCO Manual #3 document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 - vii. Easements and Leases. The Sponsor 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; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
 - viii. Real Property Acquisition and Relocation Assistance. In the event that housing and relocation costs and procedures are required by local, state, tribal, or federal law, or rule; the Sponsor agrees to provide such housing and relocation assistance as a condition of the Agreement and receiving grant funds.
- b. Buildings and Structures. In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with COMPLIANCE WITH APPLICABLE LAW SECTION, Archeological and Cultural Resources paragraph.
- c. Hazardous Substances.
- i. Certification. The Sponsor 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(13), and certify:
 - ii. No hazardous substances were found on the site, or
 - iii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
 - iv. Responsibility. Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
 - v. Hold Harmless. The Sponsor will defend, protect and hold harmless the State 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 Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The Funding Entity and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

- d. Requirements for Federal Subawards. The non-federal entity (Sponsor) must submit reports the federal funding agency, through RCO, at least annually on the status of real property in which the federal government retains an interest, unless the federal interest in the real property extends 15 years or longer. In those instances where the federal interest attached is for a period of 15 years or more, the federal awarding agency or the pass-through entity (RCO), at its option, may require the Sponsor to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a federal awarding agency or RCO may require annual reporting for the first three years of a federal award and thereafter require reporting every five years) (2 C.F.R § 200.329 (2013)).
- e. Developing and Restoring Purchased Property. If the Sponsor intends to develop or restore the property acquired it shall do so within the timeline and deadline provided by the funding program or board policies that apply to the grant funded project, or as provided for in this Agreement.

25. LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS.

- a. Long-Term Obligations. This section applies to completed projects only.
- b. Perpetuity. For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by applicable manual, policy, program rules, or this Agreement, or approved in writing by RCO. The RCO requires that the project area continue to function for the purposes for which these grant funds were approved, in perpetuity.
- c. Conversion. The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/ or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property (or a portion of it) to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policies or unless a transfer or change in use is approved by the RCO through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon all terms of the Agreement, and all applicable state of federal laws or regulation.

- i. For acquisition projects that are expressly term-limited in the Agreement, the restriction on conversion shall apply only for the length of the term, unless otherwise provided by this Agreement and incorporated documents, WACs, or any applicable state or federal law or regulation.
- ii. When a conversion has been determined to have occurred, the Sponsor shall remedy the conversion as set forth in this Agreement (with incorporated documents) and as required by all applicable policies, manuals, WACs and laws that exist at the time the remedy is implemented or the right to the remedy is established by a court or other decision-making body, and the RCO may pursue all remedies as allowed by the Agreement or law.

26. CONSTRUCTION, OPERATION, USE, AND MAINTENANCE OF ASSISTED PROJECTS.

- a. The following provisions shall be in force for this agreement:
 - i. Property and facility operation and maintenance. Sponsor must ensure that properties or facilities assisted with the grant funds, including undeveloped sites, are built, operated, used, and maintained:
 - a. According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
 - b. In a reasonably safe condition for the project's intended use;
 - c. Throughout its estimated useful service life so as to prevent undue deterioration;
 - d. In compliance with all federal and state nondiscrimination laws, regulations and policies.
 - ii. Open to the public. Unless otherwise specifically provided for in the Agreement, and in compliance with applicable statutes, rules, and applicable WACs and manuals, facilities must be open and accessible to the general public, and must:
 - a. Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
 - b. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
 - c. Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals or, by a decision of the RCO director in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

27. RECORDED NOTICE OF GRANT.

At the request of RCO, another state agency, or a federal agency, Sponsor shall record a notice of grant on property subject to this Agreement and shall submit to the RCO a recorded and registry stamped copy of such notice. The purpose of the notice of grant is to provide constructive notice of the grant and project and to ensure that the present and future use of the project area is and shall remain subject to the terms and conditions described in this Agreement. The notice of grant shall be in a format specified by RCO.

28. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS.

- a. A corporate Sponsor, including any nonprofit Sponsor, shall:
 - i. Maintain corporate status with the state, including registering with the Washington Secretary of State's office, throughout the Sponsor's obligation to the project as identified in the Agreement.
 - ii. Notify RCO before corporate dissolution at any time during the period of performance or long-term obligations. Within 30 days of dissolution the Sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities, and transfer all property and assets to the successor. A qualified successor is any party eligible to apply for funds in the subject grant program and capable of complying with the terms and conditions of this Agreement. RCO will process an amendment transferring the Sponsor's obligation to the qualified successor if requirements are met.
 - iii. Maintain sites or facilities open to the public and may not limit access to members.

29. PROVISIONS FOR FEDERAL SUBAWARDS.

The following provisions shall be in force for this agreement:

- a. Sub-Recipient (Sponsor) must comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement to include match and any in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.
- b. Binding Official. Per 2 CFR 200.415, Sponsor certifies through its actions or those of authorized staff, at the time of a request for reimbursement, the following: "To the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."
- c. Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319,

12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, paragraph C.

- d. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- e. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.
- f. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities (Sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity (Sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (Sponsor) must report all suspected or reported violations to the federal awarding agency identified in the Federal Fund Information Section. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U. S. C. 3145), as supplemented by Department of Labor regulations (29 C.F.R Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient (Sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (Sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION.

- g. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-federal entity (Sponsor) in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- h. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 C.F.R § 401.2(a) and the recipient or subrecipient (Sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient (Sponsor) must comply with the requirements of 37 C.F.R Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- i. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION and the Regional Office of the Environmental Protection Agency (EPA).
- j. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). By signing this Agreement, the Sponsor certifies (per the certification requirements of 31 U.S.C.) that none of the funds that the Sponsor has (directly or indirectly) received or will receive for this project from the United States or any agency thereof, have been used or shall be used to engage in the lobbying of the Federal Government or in litigation against the United States. Such lobbying includes any influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this project. Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying

with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier-to-tier up to the non-federal award.

- k. Procurement of Recovered Materials. A non-federal entity (Sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- l. Required Insurance. The non-federal entity (Sponsor) must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R § 200.310 (2013)).
- m. Debarment and Suspension (Executive Orders 12549 and 12689). The Sponsor must not award a contract to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R § 180 that implement Executive Orders 12549 (3 C.F.R part 1986 Comp., p. 189) and 12689 (3 C.F.R part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- n. Conflict of Interest. Sponsor agrees to abide by the conflict of interest policy and requirements of the federal funding agency established pursuant to 2 C.F.R 200.

30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS.

Use of Sport Fish Restoration Logo. Per 50 CFR 86 Sec 75 and 76, the user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from; any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo. No one may use any part of the logo in any other manner unless the United States Fish and Wildlife Service's Assistant Director for Wildlife and Sport Fish Restoration or Regional Director approves in writing.

31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS.

The following provisions shall be in force for this agreement:

- a. **Liability Insurance.** The Sponsor of a firearms or archery range recreation project shall procure an endorsement, or other addition, to liability insurance it carries, or shall procure a new policy of liability insurance, in a total coverage amount the Sponsor deems adequate to ensure it will have resources to pay successful claims of people who may be killed or injured, or suffer damage to property, while present at the range facility to which this grant is related, or by reason of being in the vicinity of that facility; provided that the coverage shall be at least one million dollars (\$1,000,000) for the death of, or injury to, each person.
- b. **Insurance Endorsement.** The liability insurance policy, including any endorsement or addition, shall name Washington State, the funding board, and RCO as additional insured and shall be in a form approved by the funding board or director.
- c. **Length of Insurance.** The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the Sponsor's obligation to the project as identified in this Agreement.
- d. **Notice of Cancellation.** The policy, as modified by any endorsement or other addition, shall provide that the issuing company shall give written notice to RCO not less than thirty (30) calendar days in advance of any cancellation of the policy by the insurer, and within ten (10) calendar days following any termination of the policy by the Sponsor.
- e. **Government Agencies.** The requirement of Subsection a through d above shall not apply if the Sponsor is a federal, state, or municipal government which has established an adequate program of self-insurance or a policy of self-insurance with respect to claims arising from its facilities or activities generally, including such facilities as firearms or archery ranges, when the applicant declares and describes that program or policy to the RCO.
- f. **Sole Duty of the Sponsor.** By this requirement, the funding board and RCO does undertake to review, approve, or monitor the safety of the design, construction, or operation of the project and does not assume any duty to any individual person with respect to death, injury, or damage to property which that person may suffer as a result of the project which this grant relates. Any such person, or any other person making claims based on such death, injury, or damage, must look to the Sponsor, or others, for any and all remedies that may be available by law.

32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS.

This project has been approved by the National Park Service, US Department of the Interior, for funding assistance from the federal Land and Water Conservation Fund (LWCF), therefore the "Land and Water Conservation Fund General Provisions" are made part of this Agreement and incorporated herein. The Sponsor shall abide by these LWCF General Provisions, in addition to this Agreement, as they now exist or are hereafter amended. Further, the Sponsor agrees to provide RCO with reports or documents needed to meet the requirements of the LWCF General Provisions.

33. PROVISIONS FOR FARMLAND AND FORESTLAND PRESERVATION PROJECTS.

The following sections of this Agreement shall not apply if they are included and covered separately in a recorded RCO-approved Agricultural Conservation Easement, or Forest Conservation Easement (or other method):

- a. Income and Income Use; Stewardship and Monitoring; Acknowledgement and Signs; Provisions Applying To Acquisition Projects: Conveyance of Rights to the State of Washington, Building and Structures, and Hazardous Substances; Long-Term Obligations of the Projects and Sponsors: Perpetuity; and Construction, Operation, Use and Maintenance of Assisted Projects.

34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS.

For habitat restoration projects funded in part or whole with federal funds administered by the SRFB the Sponsor shall not commence with clearing of riparian trees or in-water work unless either the Sponsor has complied with 50 C.F.R. § 223.203 (b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this Agreement. This section shall not be the basis for any enforcement responsibility by RCO.

35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS.

The following provisions shall be in force for this Agreement if the project is funded in part or wholly from the Puget Sound Acquisition and Restoration program. The Sponsor agrees to the following terms and conditions:

- a. Cost Principles/Indirect Costs For State Agencies. GRANT RECIPIENT agrees to comply with the cost principles of 2 CFR 200 Subpart E as appropriate to the award. In addition to the US Environmental Protection Agency's General Terms and Conditions "Indirect Cost Rate Agreements," if the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.
- b. Credit and Acknowledgement. In addition to the ACKNOWLEDGEMENT AND SIGNS section, materials produced must display both the Environmental Protection Agency (EPA) and Puget Sound Partnership (PSP) logos and the following credit line: "This project has been funded wholly or in part by the United States Environmental Protection Agency. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use." This requirement is for the life of the product, whether during or after the Agreement period of performance.
- c. Hotel Motel Fire Safety Act. Sponsor agrees to ensure that all conference, meeting, convention, or training space funded in whole or part with federal funds, complies with the federal Hotel and Motel Fire Safety Act (PL 101-391, as amended). Sponsors may search the Hotel-Motel National Master List @ <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance or to find other information about the Act.

- d. Drug Free Workplace Certification. Sub-recipient (Sponsor) shall make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 2 C.F.R. Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization shall identify all known workplaces under its federal awards, and keep this information on file during the performance of the award. Sponsors who are individuals must comply with the drug-free provisions set forth in 2 C.F.R. Part 1536 Subpart C. The consequences for violating this condition are detailed under 2 C.F.R. Part 1536 Subpart E.
- e. Management Fees. Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term “management fees or similar charges” refers to the expenses added to direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities or for other similar costs that are not allowable. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except for the extent authorized as a direct cost of carrying out the scope of work.
- f. Trafficking in Persons and Trafficking Victim Protection Act of 2000 (TVPA). This provision applies only to a sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor), if any. Sub-recipient (Sponsor) shall include the following statement in all sub-awards made to any private entity under this Agreement: “You as the sub-recipient, your employees, sub-awardees under this award, and sub-awardees’ employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under this Award.” The sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor) must inform RCO immediately of any information you receive from any source alleging a violation of this prohibition during the award term. The federal agency funding this Agreement may unilaterally terminate, without penalty, the funding award if this prohibition is violated, Section 106 of the Trafficking Victims Protection Act of 2000, as amended.
- g. Lobbying. The chief executive officer of this recipient agency (Sponsor) shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States, unless authorized under existing law. The recipient (Sponsor) shall abide by its respective Cost Principles (OMB Circulars A-21, A-87, and A-122), which generally prohibits the use of federal grant funds for litigation against the United States, or for lobbying or other political activities. The Sponsor agrees to comply with 40 C.F.R. Part 34, New Restrictions on Lobbying. Sponsor shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly. In accordance with the Byrd Anti-Lobbying Amendment, any Sponsor who makes a prohibited expenditure under 40 C.F.R. Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure. All contracts awarded by Sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at 40 C.F.R. Part 30. Pursuant to Section 18 of the Lobbying Disclosure Act, Sponsor

affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c)(4) of the code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

- h. Reimbursement Limitation. If the Sponsor expends more than the amount of RCO funding in this Agreement in anticipation of receiving additional funds from the RCO, it does so at its own risk. RCO is not legally obligated to reimburse the Sponsor for costs incurred in excess of the RCO approved budget.
- i. Disadvantaged Business Enterprise Requirements. The Sponsor agrees to comply with the requirements of EPA's Utilization of Small, Minority and Women's Business Enterprises in procurements made under this award.
- j. Minority and Women's Business Participation. Sponsor agrees to solicit and recruit, to the maximum extent possible, certified minority owned (MBE) and women owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement. These goals are expressed as a percentage of the total dollars available for purchase or agreement and are as follows: Purchased Goods 8% MBE 4% WBE; Purchased Services 10% MBE 4% WBE; Professional Services 10% MBE 4% WBE. Meeting these goals is voluntary and no agreement award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and Sponsor and ALL prospective bidders or people submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement:
 - i. Include qualified minority and women's businesses on solicitation lists.
 - ii. Assure that qualified minority and women's business are solicited whenever they are potential sources of services or supplies.
 - iii. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
 - iv. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
 - v. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.
- k. MBE/WBE Reporting. In accordance with the deviation from 40 C.F.R. §33.502, signed November 8, 2013, DBE reporting is limited to annual reports and only required for assistance agreements where one or more the following conditions are met:
 - l. There are any funds budgeted in the contractual/services, equipment or construction lines of the award; and/or \$3,000 or more is included for supplies; or there are funds budgeted for subawards or loans in which the expected budget(s) meet the conditions as described in items

(a) and (b). When completing the form, recipients (Sponsors) should disregard the quarterly and semi-annual boxes in the reporting period Section 1B of the form. For annual submissions, the reports are due by October 30th of each year or 90 days after the end of the project period, whichever comes first. The reporting requirement is based on planned procurements. Recipients (Sponsors) with funds budgeted for non-supply procurement and/or \$3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in Section 5B when completing the form. MBE/WBE reports should be sent to the DBE Coordinator in the Sponsor's region. Contact information can be found at <http://www.epa.gov/osbp/contactpage.htm>. The coordinators also can answer any questions. Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. To be in compliance with regulations, the Sponsor must submit a final MBE/WBE report. Non-compliance may impact future competitive grant proposals. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

- m. Procurement involving an EPA Financial Assistance Agreement. Pursuant to 40 C.F.R. § 33.301, the Sponsor agrees to make the following six good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients (Sponsors), and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained.
- n. Ensure Disadvantaged Business Enterprise (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For State and Local and Government Sponsors, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- o. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- p. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For State and local Government Sponsors, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- q. Encourage contracting with a consortium of DBEs when an agreement is too large for one of these firms to handle individually.
- r. Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development of the Department of Commerce.

- s. If the Sponsor awards subcontracts, require the Sponsor to take the steps in paragraphs (a) through (e) of this section.
- t. Lobbying & Litigation. By signing this Agreement, the Sponsor certifies that none of the funds received from this Agreement shall be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The chief executive officer of this Sponsor agency shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The Sponsor shall abide by its respective Attachment in 2 C.F.R. Part 200, which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities. For subawards exceeding \$100,000, EPA requires the following certification and disclosure forms:
 - I. Certification Regarding Lobbying, EPA Form 6600-06:
http://www.epa.gov/ogd/AppKit/form/Lobbying_sec.pdf
 - II. Disclosure of Lobbying Activities, SF LLL:
http://www.epa.gov/ogd/AppKit/form/sflllin_sec.pdf
- u. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.
- v. Payment to Consultants. EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients (Sponsors) or by a recipients' (Sponsor's) contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with his/her normal travel reimbursement practices). Subagreements with firms for services that are awarded using the procurement requirements in 40 C.F.R. Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient (Sponsor) with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 C.F.R. § 30.27(b) or 40 C.F.R. § 31.369(j), as applicable, for additional information. As of January 1, 2020, the limit is \$654.71 per day \$81.83 per hour.
- w. Peer Review. Where appropriate, prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review, and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.
- x. International Travel (Including Canada). All International Travel must be approved by the US Environmental Protection Agency's Office of International and Tribal Affairs (OITA) BEFORE

travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your Partnership Project manager as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can submit a request to the EPA Project Officer if they approve of such travel.

- y. Unliquidated Obligations (ULO). Sub-recipients, and all sub-awardees of Sub-Recipients, if any, should manage their agreement and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are unspent (not yet drawn down through disbursements to sub-recipients and sub-awardees).

- z. Light Refreshments And/Or Meals.

Unless the event(s) and all of its components are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops, and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- 1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- 2) A description of the purpose, agenda, location, length and timing for the event; and,
- 3) An estimated number of participants in the event and a description of their roles.

Cost for light refreshments and meals for recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements.

- aa. State grant cybersecurity.

- (a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.
- (b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.
(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the AGecy using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange.

36. ORDER OF PRECEDENCE.

- a. This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:
 - i. Federal law and binding executive orders;

- ii. Code of federal regulations;
- iii. Terms and conditions of a grant award to the state from the federal government;
- iv. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
- v. State Constitution, RCW, and WAC;
- vi. Agreement Terms and Conditions and Applicable Manuals
- vii. Applicable deed restrictions, and/or governing documents.

37. LIMITATION OF AUTHORITY.

Only RCO's Director or RCO's delegate authorized in writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

38. WAIVER OF DEFAULT.

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH.

The Funding Entity (if different from RCO) and RCO rely on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

40. SPECIFIC PERFORMANCE.

RCO may enforce this Agreement by the remedy of specific performance, which means Sponsors' completion of the project and/or its completion of long-term obligations as described in this Agreement. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

41. TERMINATION AND SUSPENSION.

- a. The RCO requires strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.
- b. For Cause.

- i. The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a. If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b. If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
 - c. If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;
 - d. Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
 - ii. RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.
- c. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:
- i. The Sponsor was not in default; or
 - ii. Failure to perform was outside Sponsor's control, fault or negligence.
- d. Rights of Remedies of the RCO.
- i. The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
 - ii. In the event this Agreement is terminated by the director, after any portion of the grant amount has been paid to the Sponsor under this Agreement, the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.
 - iii. Non-Availability of Funds. The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation

- is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.
- iv. **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.
 - v. **No Waiver.** The failure or neglect of RCO to require strict compliance with any term of this Agreement or to pursue a remedy provided by this Agreement or by law shall not act as or be construed as a waiver of any right to fully enforce all rights and obligations set forth in this Agreement and in applicable state or federal law and regulations.

42. DISPUTE HEARING.

- a. Except as may otherwise be provided in this Agreement , when a dispute arises between the Sponsor and the RCO, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:
 - i. The disputed issues;
 - ii. The relative positions of the parties;
 - iii. The Sponsor's name, address, project title, and the assigned project number.
- b. In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the persons chosen by the Sponsor and director shall be dismissed and an alternate person chosen by the Sponsor, and one by the director shall be appointed and they shall agree on a third person. This process shall be repeated until a three person panel is established.
- c. Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.
- d. The parties shall be bound by the majority decision of the dispute panelists, unless the remedy directed by that panel is beyond the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

- e. Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.
- f. All costs associated with the implementation of this process shall be shared equally by the parties.

43. ATTORNEYS' FEES.

In the event of litigation or other action brought to enforce the terms of this Agreement each party agrees to bear its own attorney fees and costs.

44. GOVERNING LAW/VENUE.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in the Superior Court of a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

45. SEVERABILITY.

The provisions of this Agreement 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 Agreement.

46. END OF AGREEMENT.

This is the end of the agreement.



City Council

Approval of a Resolution Authorizing a Land and Water Conservation Fund Grant Application to the Recreation and Conservation Office (RCO) for Yelm Highway Community Park Phase I

Agenda Date: 4/25/2022
Agenda Item Number: 4.H
File Number:22-0406

Type: resolution **Version:** 1 **Status:** Consent Calendar

Title

Approval of a Resolution Authorizing a Land and Water Conservation Fund Grant Application to the Recreation and Conservation Office (RCO) for Yelm Highway Community Park Phase I

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the Resolution authorizing City Staff to apply for a Recreation and Conservation Office (RCO) grant for Yelm Highway Community Park Phase I and authorizing the City Manager to receive the grant funds should the grant be successful.

Report

Issue:

Whether to approve the Resolution authorizing City Staff to apply for a RCO grant for Yelm Highway Community Park Phase I and authorizing the City Manager to receive the grant funds should the grant be successful.

Staff Contact:

Tammy LeDoux, Finance & Policy Coordinator, Parks Arts and Recreation, 360.753.8053

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

The Parks, Arts and Recreation Department is preparing a RCO grant application for the current funding cycle. The application is due May 3, 2022, and is required to include formal City Council authorization.

The Land and Water Conservation Fund provides funding to preserve and develop outdoor recreation resources, including parks, trails, and wildlife lands. The funds are provided by the Secretary of the Interior and managed by RCO. If successful, the grant would reimburse the City up to \$2,000,000 towards Phase 1 development of the Yelm Highway Community Park.

In 2021, the City was awarded a \$1,000,000 reimbursement grant for the acquisition of the Yelm Highway Community Park parcel.

Neighborhood/Community Interests (if known):

The development of Yelm Highway Community Park was included in the 2022 Parks, Arts and Recreation Plan, which was developed with significant public involvement and strong community interest.

Options:

1. Approve the Resolution authorizing a grant application to the Recreation and Conservation Office (RCO) for Yelm Highway Community Park.
2. Do not approve the Resolution. Staff would be unable to pursue the grant opportunity.

Financial Impact:

The grant totals \$2,000,000.

Attachments:

Resolution
RCO Resolution
Sample Grant Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING THE APPLICATION FOR A GRANT BETWEEN THE CITY OF OLYMPIA AND WASHINGTON STATE RECREATION AND CONSERVATION OFFICE (RCO) FOR A LAND AND WATER CONSERVATION FUND STATE PROGRAM GRANT FOR THE YELM HIGHWAY COMMUNITY PARK PHASE I DEVELOPMENT PROJECT

WHEREAS, on August 3, 2018, the City of Olympia (City) purchased 83 acres on Yelm Highway for use as a public park for recreation and open space purposes; and

WHEREAS, currently the City is working with the community on a Park Master Plan and Conceptual Design to develop the property into a community park; and

WHEREAS, the 2022 Parks, Arts and Recreation Plan highlights development of this park as a long-standing community priority; and

WHEREAS, the Land and Water Conservation Fund authorizes funding from the Secretary of the Interior to provide financial assistance to states for the acquisition and development of public outdoor recreation areas; and

WHEREAS, the Land and Water Conservation Fund grant would require a grant match of up to \$2,000,000; and

WHEREAS, the City has committed to Phase 1 development for the Yelm Highway property which will exceed the \$2,000,000 that serves as the required match for this grant; and

WHEREAS, the Recreation and Conservation Office requires an authorizing resolution as part of the grant application;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The Olympia City Council hereby approves the application for a grant between the City of Olympia and the Washington State Recreation and Conservation Office for the Yelm Highway Community Park Phase I Development Project and the terms and conditions contained therein.
2. The City Manager is directed and authorized to execute on behalf of the City of Olympia the RCO Applicant Resolution/Authorization, the Grant Agreement, and any other documents necessary to obligate funds for Project 22-1299D, Yelm Highway Community Park Phase I, and to make any amendments or minor modifications or to correct any scrivener's errors as may be required and are consistent with the intent of the Grant Application.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber

CITY ATTORNEY



Applicant Resolution/Authorization

Organization Name (sponsor) _____

Resolution No. or Document Name _____

Project(s) Number(s), and Name(s) _____

This resolution/authorization authorizes the person(s) identified below (in Section 2) to act as the authorized representative/agent on behalf of our organization and to legally bind our organization with respect to the above Project(s) for which we seek grant funding assistance managed through the Recreation and Conservation Office (Office).

WHEREAS, grant assistance is requested by our organization to aid in financing the cost of the Project(s) referenced above;

NOW, THEREFORE, BE IT RESOLVED that:

1. Our organization has applied for or intends to apply for funding assistance managed by the Office for the above "Project(s)."
2. Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	
Project contact (day-to-day administering of the grant and communicating with the RCO)	
RCO Grant Agreement (Agreement)	
Agreement amendments	
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typical recorded on the property with the county.	

The above persons are considered an "authorized representative(s)/agent(s)" for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

3. Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.
4. Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.
5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.
6. Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.
7. Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.
8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
9. [for Recreation and Conservation Funding Board Grant Programs Only] If match is required for the grant, we understand our organization must certify the availability of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.
10. Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.
11. [for Acquisition Projects Only] Our organization acknowledges that any property acquired with grant assistance must be dedicated for the purposes of the grant in perpetuity unless otherwise agreed to in writing by our organization and the Office. We agree to dedicate the property in a signed "Deed of Right" for fee acquisitions, or an "Assignment of Rights" for other than fee acquisitions (which documents will be based upon the Office's standard versions of those documents), to be recorded on the title of the property with the county auditor. Our organization acknowledges that any property

acquired in fee title must be immediately made available to the public unless otherwise provided for in policy, the Agreement, or authorized in writing by the Office Director.

12. [for Development, Renovation, Enhancement, and Restoration Projects Only–If our organization owns the project property] Our organization acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.
13. [for Development, Renovation, Enhancement, and Restoration Projects Only–If your organization DOES NOT own the property] Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.
14. [Only for Projects located in Water Resources Inventory Areas 1-19 that are applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, Riparian Protection, or Urban Wildlife Habitat grant categories; Aquatic Lands Enhancement Account; or the Puget Sound Acquisition and Restoration program, or a Salmon Recovery Funding Board approved grant] Our organization certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.
15. This resolution/authorization is deemed to be part of the formal grant application to the Office.
16. Our organization warrants and certifies that this resolution/authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

This resolution/authorization is signed and approved on behalf of the resolving body of our organization by the following authorized member(s):

Signed _____

Title _____ Date _____

On File at: _____

This Applicant Resolution/Authorization was adopted by our organization during the meeting held:
(Local Governments and Nonprofit Organizations Only):

Location: _____ Date: _____

Washington State Attorney General's Office

Approved as to form Brian Tallen 2/13/2020
Assistant Attorney General Date

You may reproduce the above language in your own format; however, text may not change.

This agreement template is used by the Recreation and Conservation Office (RCO) for the management of the grant and other programs it administers. This example is provided for review by applicants' and their counsel as they seek grant funding managed by RCO.

This grant agreement will contain changes at issuance based on the specifics of each funded project. For instance, changes will occur based on the applicant, funding program, fund source, project type, rule or law changes, and other factors. Applicants that receive funding from RCO are encouraged to thoroughly review their customized grant agreement prior to final signature.

RCO reserves the right to make updates to this template.

RCO GRANT AGREEMENT

Project Name: _____

Project Number: _____

Issuance Date: _____

A. PARTIES OF THE GRANT AGREEMENT.

1. This Recreation and Conservation Office Grant Agreement (Agreement) is entered into between the State of Washington {FundingAgency} Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and {PrimarySponsorNameAddress} {SecondarySponsorNameAddress}, and shall be binding on the agents and all persons acting by or through the parties.
2. The Sponsor's Data Universal Numbering System (DUNS) Number is {DUNNSNumber}.
3. All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.
4. Prior to and During the Period of Performance, Per the Applicant Resolution/Authorizations submitted by all sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project, including but not limited to, full authority to: (1) sign a grant application for grant assistance, (2) enter into this project agreement on behalf of the Sponsor(s) including indemnification, as provided therein, (3) enter any amendments thereto on behalf of Sponsor(s), and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all Sponsors, unless otherwise allowed in the AMENDMENTS TO AGREEMENT Section.
 - a. During the Period of Performance, in order for a Sponsor to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization the Sponsor must provide the RCO a new Applicant

Resolution/Authorization signed by its governing body. Unless a new Applicant Resolution/Authorization has been provided, the RCO shall proceed on the basis that the person who is listed as the Authorized Representative in the last Resolution/Authorization that RCO has received is the person with authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.

- b. Amendments After the Period of Performance. RCO reserves the right to request and Sponsor has the obligation to provide, authorizations and documents that demonstrate any signatory to an amendment has the authority to legally bind the Sponsor as described in the above Sections A and J.
5. For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS Section).

B. PURPOSE OF AGREEMENT.

This Agreement sets out the terms and conditions by which a grant is made from the {AccountName} of the State of Washington. The grant is administered by the RCO.

C. DESCRIPTION OF PROJECT.

{ProjectDescription}

D. PERIOD OF PERFORMANCE.

1. The period of performance begins on {StartDate} (project start date) and ends on {EndDate} (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.
2. The RCO reserves the right to summarily dismiss any request to amend this Agreement if not made at least 60 days before the project end date.

E. STANDARD TERMS AND CONDITIONS INCORPORATED.

The RCO Standard Terms and Conditions of the Agreement are hereby incorporated by reference as part of this Agreement.

F. LONG-TERM OBLIGATIONS.

(This is a custom section based on project, program, and sponsor type. See [attached spreadsheet of those that may apply.](#))

G. PROJECT FUNDING.

The total grant award provided for this project shall not exceed {RCOAmount}. The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

{FundingTable}

H. FEDERAL FUND INFORMATION.

(This section only appears if there is federal funding nexus)

{FederalFundingInfo}

This funding is not research and development (R&D).

If the Sponsor's total federal expenditures are \$750,000 or more during the Sponsor's fiscal-year, the Sponsor is required to have a federal single audit conducted for that year in compliance with 2 C.F.R. Part 200, Sub Part F—Audit Requirements, Section 500 (2013). The Sponsor must provide a copy of the final audit report to RCO within nine months of the end of the Sponsor's fiscal year, unless a longer period is agreed to in advance by the federal agency identified in this section.

Sponsor shall comply with the federal "Omni-circular" (2 C.F.R. Part 200).

RCO may suspend all reimbursements if the Sponsor fails to timely provide a single federal audit; further the RCO reserves the right to suspend any and all RCO Agreement(s) with the Sponsor if such noncompliance is not promptly cured.

I. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS.

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved and/or amended as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless the terms in the Agreement are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

The following Exhibits are attached as part of this Agreement:

(This is a custom section listing things like "Expanded Scope of Work," "Milestones," and "Eligible Scope Items," which become part of this agreement.)

If an exhibit is referenced in this Agreement as an exhibit or attached to this Agreement, regardless whether it is on this list, it shall still be considered part of this Agreement.

J. AMENDMENTS TO AGREEMENT.

1. Except as provided herein, no amendment (including without limitation, deletions) of this Agreement will be effective unless set forth in writing signed by all parties. Exception: extensions of the Period of Performance and minor scope adjustments need only be signed by

RCO's director or designee and consented to in writing (including email) by the Sponsor's Authorized Representative/Agent or Sponsor's designated point of contact for the implementation of the Agreement (who may be a person other than the Authorized Agent/Representative), unless otherwise provided for in an amendment. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

2. It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so.
3. Unless otherwise expressly stated in an amendment, any amendment to this Agreement shall be deemed to include all current federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone. However, any such amendment, unless expressly stated, shall not extend or reduce the long-term obligation term.

K. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES.

1. This Agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, applicable RCO manuals as identified below, Exhibits, and any applicable federal program and accounting rules effective as of the date of this Agreement or as of the effective date of an amendment, unless otherwise provided in the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone unless otherwise expressly stated in the amendment.
2. For the purpose of this Agreement, {WAC...} shall apply as terms of this Agreement.
3. For the purpose of this Agreement, the following RCO manuals are deemed applicable and shall apply as terms of this Agreement:

{CustomApplicableManuals}

Provided, where a manual refers to a funding board's responsibility and/or authority but the funding board is not involved with the grant or successor to an entity that was involved, the RCO director shall have that responsibility and/or authority if such responsibilities and/or authority falls within the RCO's statutory responsibilities and/or authority or within a lawful delegation by the board to the RCO.

L. SPECIAL CONDITIONS.

{CustomSpecialConditionsAsMayApply}

M. AGREEMENT CONTACTS.

The parties will provide all written communications and notices under this Agreement to either or both the mail address and/or the email address listed below:

{CustomProjectContacts}

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Unless otherwise provided for in this Agreement, decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

N. ENTIRE AGREEMENT.

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

O. EFFECTIVE DATE.

1. Unless otherwise provided for in this Agreement, this Agreement, for project {ProjectNumber}, shall not be effective and binding until the date signed by both the sponsor and the RCO's authorized representative, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE Section are allowed only when this Agreement is fully executed and an original is received by RCO.
2. The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

Signatures:

Sponsor/Date

Recreation and Conservation Office/Date

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Example

STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT

Last Updated: February 12, 2020

1. CITATIONS, HEADINGS AND DEFINITIONS.

- A)** Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B)** Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C)** Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

acquisition project – A project that purchases or receives a donation of a right to or in real property including, but not limited to, fee simple land acquisition, conservation easement, access/trail/recreational easements, covenants, leases, water rights, and mineral rights.

Agreement, terms of the Agreement, or project agreement – The document entitled “RCO GRANT AGREEMENT” accepted by all parties to the present project and transaction, including without limitation the Standard Terms and Conditions of the RCO Grant Agreement, all exhibits, attachments, addendums, amendments, and applicable manuals, and any intergovernmental agreements, and/or other documents that are incorporated into the Agreement subject to any limitations on their effect under this Agreement.

applicable manual(s), manual -- A manual designated in this Agreement to apply as terms of this Agreement, subject (if applicable) to substitution of the “RCO director” for the term “board” in those manuals where the project is not approved by or funded by the referenced board, or a predecessor to the board.

applicable WAC(s) -- Designated chapters or provisions of the Washington Administrative Code that apply by their terms to the type of grant in question or are deemed under this Agreement to apply as terms of the Agreement, subject to substitution of the “RCO director” for the term “board” or “agency” in those cases where the RCO has contracted to or been delegated to administer the grant program in question.

applicant – Any party, prior to becoming a Sponsor, who meets the qualifying standards/eligibility requirements for the grant application or request for funds in question.

application – The documents and other materials that an applicant submits to the RCO to support the applicant’s request for grant funds; this includes materials required for the “Application” in the RCO’s automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

archeological, cultural, and historic resources - Archeological sites and artifacts, and traditional areas or items of religious, ceremonial and/or social (significance to) (uses of) tribes affected by or interested in the project. This also refers to built environments and places with historical significance for the nation, state, or local area.

authorized representative/agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor’s signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

C.F.R. – Code of Federal Regulations

completed project or project completion - The status of a project when all of the following have occurred:

1. The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily,
2. A final project report is submitted to and accepted by RCO,
3. Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO
4. A final reimbursement request has been paid by RCO.
5. Property rights (including RCO’s as may apply) have been recorded (as may apply)

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

compliance period, or long-term compliance period – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

conversion – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

development project – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources. A development project may also involve activities that redevelop or renovate an existing facility, and these may occur exclusively in the project or in combination with new construction. For projects in the Boating Facilities Program, the term “development project” includes all of the above and may also include those activities that are defined as maintenance in 50 C.F.R 86.

director or Director – The chief executive officer of the Recreation and Conservation Office or that person’s designee.

education project – A project that provides information, education, and outreach programs and/or services for the benefit of outdoor recreationists. This project may involve limited amounts of capital construction or installation of tangible property.

education and enforcement project – A project that provides information, education, and outreach programs or services; encourages responsible recreational behavior, and may provide law enforcement for the benefit of outdoor recreationists. This project may involve limited amounts of capital construction or installation of tangible property, and equipment purchases.

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

enhancement project – A project that (i) supports hatchery reform to improve hatchery effectiveness to minimize impacts to wild fish populations, (ii) ensures compatibility between hatchery production and salmon recovery programs, or (iii) supports sustainable fisheries (WAC 420.04.010).

equipment – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. § 200.33 (2013)).

funding board or board – The Washington State Recreation and Conservation Funding Board, or the Washington State Salmon Recovery Funding Board. Or both as may apply.

Funding Entity – the entity that approves the project that is the subject to this Agreement.

grant program – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).

compliance period, or long-term compliance period – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

long-term obligations – Sponsor's obligations after the project end date, as specified in the Agreement and manuals and other exhibits as may apply.

landowner agreement – An agreement that is required between a Sponsor and landowner for projects located on land not owned or otherwise controlled by the Sponsor.

maintenance project – A project that maintains existing areas and facilities through repairs and upkeep for the benefit of outdoor recreation.

maintenance and operation project – A project that maintains and operates existing areas and facilities through repairs, upkeep, and routine services for the benefit of outdoor recreationists.

match or matching share – The portion of the total project cost provided by the Sponsor.

milestone – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

monitoring project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

monitoring and research project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

Office – Means the Recreation and Conservation Office or RCO.

notice of grant – As required by RCO or another authority, a document that has been legally recorded on the property title of the project area(s) in the county or counties where the project property is located, or with the United States Government, that describes the project area on the property, the funding sources, and agencies responsible for awarding the grant.

pass-through entity – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance – The period beginning on the project start date and ending on the project end date.

planning project - A project that results in one or more of the following: 1) a study, a plan, assessment, project design, inventory, construction plans and specifications, and permits; or 2) a project that provides money to facilitate the work of an organization engaged in planning and coordination, or resource stewardship.

pre-agreement cost – A project cost incurred before the period of performance.

primary Sponsor – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. Administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project – The undertaking that is funded by this Agreement either in whole or in part with funds administered by RCO.

project area - A geographic area that delineates a grant assisted site which is subject to project agreement requirements.

project area (for projects where WAC 420 is applied) - The area consistent with the geographic limits of the scope of work of the project and subject to project agreement requirements. For restoration projects, the project area must include the physical limits of the project's final site plans or final design plans. For acquisition projects, the project area must include the area described by the legal description of the properties acquired for or committed to the project (WAC 420.04.010).

completed project or project completion - The status of a project when all of the following have occurred:

1. The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily,
2. A final project report is submitted to and accepted by RCO,
3. Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO
4. A final reimbursement request has been paid by RCO.
5. Property rights (including RCO's as may apply) have been recorded (as may apply)

project cost – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (see also 2 C.F.R. § 200.83 (2013) for federally funded projects).

project end date – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

project start date – The specific date identified in the Agreement on which the period of performance starts.

RCFB – Recreation and Conservation Funding Board

RCO – Recreation and Conservation Office – The state agency that administers the grant that is the subject of this Agreement. RCO includes the director and staff.

RCW – Revised Code of Washington

Recreational Trails Program (RTP) – A Federal Highways Administration grant program.

reimbursement – RCO's payment of funds to the Sponsor for eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

renovation project – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

research project – Means a project that studies salmon and the effectiveness of recovery restoration efforts on the population or habitat condition.

restoration project – A project intended to bring a site back to its historic function as part of a natural ecosystem, or one intended to improve the ecological or habitat functionality or capacity of (or part of) a site, landscape, marine environment, or watershed.

restoration and enhancement project – A project intended to bring a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site or a larger ecosystem which improvement may include benefiting (or exclusively benefit) fish stocks.

secondary Sponsor – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor – A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

SRFB – Salmon Recovery Funding Board

State. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of Washington state government.

subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in the PROJECT FUNDING Section.

subrecipient – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

tribal consultation – Outreach, and consultation with one or more federally recognized tribes (or a partnership or coalition or consortium of such tribes, or a private tribal enterprise) whose rights will or may be significantly affected by the proposed project. This includes sharing with potentially-affected tribes the scope of work in the grant and potential impacts to natural areas, natural resources, and the built environment by the project. It also includes responding to any tribal request from such tribes and considering tribal recommendations for project implementation which may include not proceeding with parts of the project, altering the project concept and design, or relocating the project or not implementing the project, all of which RCO shall have the final approval of.

useful service life – Period during which a built asset, equipment, or fixture is expected to be useable for the purpose it was acquired, installed, developed, and/or renovated, or restored per this Agreement.

WAC – Washington Administrative Code.

2. PERFORMANCE BY THE SPONSOR.

- a. The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO (to include any RCO approved changes or amendments thereto). All submitted documents are incorporated by this reference as if fully set forth herein.
- b. Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

3. ASSIGNMENT.

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written approval of the RCO.

4. RESPONSIBILITY FOR PROJECT.

- a. While RCO administers the grant that is the subject of this Agreement, the project itself remains the sole responsibility of the Sponsor. The RCO and Funding Entity (if different from the RCO) undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement.
- b. The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project has more than one Sponsor, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.
- c. The RCO, its employees, assigns, consultants and contractors, and members of any funding board or advisory committee or other RCO grant review individual or body, have no responsibility for reviewing, approving, overseeing or supervising design, construction, or safety of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO, its employees, assigns, consultants and contractors, and any funding board or advisory committee or other RCO grant review individual or body will act only to confirm at a general, lay person, and nontechnical level, solely for the purpose of project eligibility and payment and not for safety or suitability, that the project apparently is proceeding or has been completed as per the Agreement.

5. INDEMNIFICATION.

- a. The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees,

contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

- b. Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.
- c. Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents or employees, and (b) the State, or its employees or agents the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or its agents, or employees.
- d. As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51. Sponsor's waiver of immunity under this provision extends only to claims against Sponsor by Indemnitee RCO, and does not include, or extend to, any claims by Sponsor's employees directly against Sponsor.
- e. Sponsor shall ensure that any agreement relating to this project involving any contractors, subcontractors and/or vendors of any tier shall require that the contracting entity indemnify, defend, waive RCW 51 immunity, and otherwise protect the State as provided herein as if it were the Sponsor. This shall not apply to a contractor or subcontractor is solely donating its services to the project without compensation or other substantial consideration.
- f. The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

- g. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

6. INDEPENDENT CAPACITY OF THE SPONSOR.

- a. The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO or Funding Entity. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or the Funding Entity, or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06.
- b. The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

7. CONFLICT OF INTEREST.

- a. Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the Sponsor in the procurement of, or performance under, this Agreement.
- b. In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

8. COMPLIANCE WITH APPLICABLE LAW.

- a. In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:
 - i. Nondiscrimination Laws. The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Employment Act (if applicable). In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the RCO or Funding Entity. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law. Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for

construction of this project: "During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."

- ii. Secular Use of Funds. No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
 - iii. Wages and Job Safety. The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.40. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.
 - Pursuant to RCW 39.12.040(1)(a), all contractors and subcontractors shall submit to Sponsor a statement of intent to pay prevailing wages if the need to pay prevailing wages is required by law. If a contractor or subcontractor intends to pay other than prevailing wages, it must provide the Sponsor with an affirmative statement of the contractor's or subcontractor's intent. Unless required by law, the Sponsor is not required to investigate a statement regarding prevailing wage provided by a contractor or subcontractor.
 - iv. Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130). If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided: (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization's management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.
- b. Restrictions on Grant Use. No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or

propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

- c. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.
- d. Debarment and Certification. By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."
- e. Requirements for RTP Subawards.
 - i. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.
 - ii. Sponsor may be required to pay prevailing wage rates as required by the Davis Bacon Act as amended.

9. ARCHAEOLOGICAL AND CULTURAL RESOURCES RESPONSIBILITIES

RCO shall administratively review, and Sponsor shall assist RCO in such review, For all funded projects, including land acquisitions for the purpose of capital construction or renovation, not undergoing Section 106 review under the National Historic Preservation Act of 1966, RCO shall review and, if it deems appropriate, confer with the Washington State Department of Archeology and Historic Preservation, tribes, and with any other party/parties that have an interest in, or responsibility for, Project review and protection of archeological, cultural, and historical resources, to determine potential impacts to archeological, cultural and historic resources and plans for protection of such resources. The Sponsor shall cooperate in all such reviews.

1. Plans. Sponsor shall comply with all plans RCO or another state or federal agency may develop for the protection of archeological, cultural, and historical resources in the project area, and adjacent areas that may be impacted by the project. This subsection also applies to those projects where a categorical exclusion (subsection 5) may apply.

2. Authorities. At a minimum, review, management, and protection of archeological, cultural, and historic resources, and tribal consultation, shall be performed in the project area and adjacent areas impacted by the project for compliance with the following authorities (as may apply and as in effect at the time of the review):
 - i. Washington State Department of Archeology and Historic Preservation policies and procedures and rule,
 - ii. Sponsor, RCO, and landowners' plans, policies and procedures, directives, laws and rules,
 - iii. State Environmental Policy Act,
 - iv. National Environmental Policy Act,
 - v. National Historic Preservation Act of 1966,
 - vi. Governor's Executive Order 05-05,
3. Scope of Archeological, Cultural, and Historic Resources Review. RCO recognizes that the project area may include multiple parcels with multiple landowners, and additional parties with property rights in the project area. The Sponsor shall apply this section independently to each separately owned property, provided that reviews undertaken must include impacts to individual parcels and cumulative impacts.
4. Compliance. At all times, the Sponsor shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological, cultural, and historic resources in the project area, and adjacent areas that may be impacted by the project, and comply with any RCO direction for such avoidance, minimization, and mitigation, and reporting and notification thereof.
5. Categorical Exemption. If the Sponsor has reviewed the activities in this grant for impacts to archeological, cultural, and historical resources, and the same for any planned projects in any land acquired with this grant, and determined the project is categorically exempt from further archaeological, historical and cultural resources review, as well as tribal consultation, Sponsor shall notify the RCO in writing prior to beginning the project describing 1) the specific statutory or regulatory exemptions that apply, and 2) their applicability to the specific project. Alternatively, the RCO may determine the project is covered by a categorical exemption, in whole or in part, and notify the Sponsor of such determination.

However, any categorical exemption must meet the standards of and be consistent and allowable by ALL of the following:

1. the project area landowner(s) legal documents and governing documents (if applicable),
2. Sponsor's own policies and procedures and rules,
3. All applicable laws,
4. RCO applicable policies, manuals and/or other guidance, and
5. Washington Department of Archaeology and Historic Preservation's rules and policies.

Alternatively, the RCO may assign a categorical exemption to the project based on its own review.

Regardless of the applicability of any categorical exemption, the RCO reserves the right at any time to require Sponsor to comply with any and all of the provisions of this section.

6. Project Areas Reviewed by a Permitting Authority. For those project areas where a permitting authority for the project conducts an archeological, cultural, and historical resources review and tribal consultation under section 106 of the Historic Preservation Act, NEPA, SEPA, or Governor's Executive Order 05-05, such review and consultation shall substitute for the land owner's, provided that such substitution is allowed only if (a)the permitting authority and landowner are not the same, and (b)the RCO determines that the review and consultation performed by the permitting authority meets RCO standards. When a permitting authority conducts such reviews and tribal consultation, all other subsections herein shall still apply to the Sponsor(s).
7. Project Areas on Sponsor-Owned Property. Unless a categorical exemption applies as stated above, the Sponsor shall perform and be bound by the following:
 - a. Project Review. For project areas not reviewed by a permitting authority (see above), prior to implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas where project mitigation shall occur, or any other areas that may be affected by project implementation, the Sponsor shall review the project for its potential and actual impacts, including any planned projects on lands acquired as part of the project, to any and all archaeological, cultural and historical resources in and adjacent to the project area, in areas where project mitigation shall occur, or other areas that may be affected by project implementation. In this review, Sponsor shall follow its policies and procedures, plans, guidance, rules, and directives, as well as act in compliance with Governor's Executive Order 05-05, the National Historic Preservation Act, the State Environmental Policy Act, the National Environmental Policy Act, and any local laws as may apply. If another governmental agency is responsible in whole or in part for this review the Sponsor shall assist with such review.
 - b. Tribal Consultation. For project areas not reviewed by a permitting authority (see above), prior to implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas where project mitigation shall occur, or any other areas that may be affected by project implementation, Sponsor shall conduct tribal consultation with any interested or affected tribes as defined above. .
 - c. Reporting to RCO and Approval of Project Activities. Sponsor shall provide RCO evidence (which RCO shall prescribe) that it has conducted project review and tribal consultation as described and receive written approval of such review and consultation from RCO prior to Sponsor implementing in the project area any ground disturbance, altering or demolishing structures or other property appurtenances, removing or altering vegetation, geologic elements, or waterways, or impacting wildlife, in and adjacent to the project area, areas

- where project mitigation shall occur, or any other areas that may be affected by project implementation.
- d. Changes to Project. RCO reserves the right to request Sponsor change its scope of work and project outcomes to avoid, mitigate, or minimize impacts to archeological, cultural, and historic resources.
 - e. Termination. RCO retains the right at any time to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
 - f. Monitoring. RCO may require on-site monitoring for impacts to archeology, cultural, and historic resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology, cultural, and historical resource impacts or concerns.
 - g. Inadvertent Discovery Plan. The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan (IDP), and keep the IDP at the project site, make the IDP readily available to anyone working at the project site, discuss the IDP with staff and contractors working at the project site, and Implement the IDP when cultural resources or human remains are found at the project site.
 - h. Discovery. If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources until such time as the reviewing authority with jurisdiction over the found object(s) and areas notifies Sponsor and RCO that work can resume.
 - i. Human Remains. If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the RCO provides a new notice to proceed on the project. Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP). The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with

the affected parties as to the future preservation, excavation, and disposition of the remains and the resumption of work.

8. Project Areas on State or Federal Property Not Owned By Sponsor.

Categorical Exemption. For project area(s) owned by a state or federal agency, and not under review via a permitting nexus (see above), the state or federal agency landowner performing archeological, cultural, and historic resources review and tribal consultation shall make the determination that the project, in whole or in part, is covered by a categorical exemption, and may notify and report such to the Sponsor, or to RCO on behalf of Sponsor.

Project Review and Tribal Consolation. If the project is not categorical exception to archeological, cultural, and historical resources review and tribal consultation, and the project area is located on property owned by the State of Washington or a federal agency, Sponsor shall:

- a. Follow its own policies and procedures, rules, and any applicable laws, for the review, protection, and management of archaeological, cultural, and historic resources, and tribal consultation and other consultations as may apply.
- b. Assist the land owner and other applicable agencies, and the RCO, with its/their review of archaeological, cultural and historic resources, and tribal consultation for the project area.
 - i. RCO may consult directly with the landowner to complete land owner project review and tribal consultation.
- c. Provide RCO evidence that the landowner has 1) conducted archeological, cultural and historic resources review and tribal consultation according to its policies and procedures and applicable laws, and 2) provided Sponsor with permission to begin project implementation in the project area owned by the state or federal agency.
- d. Changes to Project. RCO reserves the right to request Sponsor change its scope of work and project outcomes to avoid, mitigate, or minimize impacts to archeological, cultural, and historic resources.
- e. Termination. RCO retains the right at any time to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
- f. Monitoring. RCO or the federal or state landowner may require on-site monitoring for impacts to archeology and cultural resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology and cultural resource impacts or concerns.
- g. Inadvertent Discovery Plan. The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan (IDP), and keep the IDP at the project site, make the IDP readily available to anyone working at the project site, discuss the IDP with staff and contractors

working at the project site, and Implement the IDP when cultural resources or human remains are found at the project site.

- h. Discovery. If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.
 - i. Human Remains. If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the RCO provides a new notice to proceed on the project. Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP). The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.
- 9. Costs. Costs associated with Sponsor's responsibilities under this section of the Agreement are eligible for reimbursement under this Agreement. Costs that exceed the budget grant amount shall be the responsibility of the Sponsor.

10. RECORDS.

- a. Digital Records. If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- b. Maintenance and Retention. The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of nine years from the date RCO deems the project complete, as defined in the PROJECT REIMBURSEMENTS Section. If any litigation, claim or audit is started before the expiration of the nine (9) year period, the records

shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

- c. In order to satisfy 15 CFR 24.42(b) & (c) and 2 CFR 200.333, for projects that contain Pacific Coast Salmon Recovery Funds or are used as match to Pacific Coast Salmon Recovery Funds the sponsor shall retain records for a period of nine years from the date RCO deems the project complete as defined in the PROJECT REIMBURSEMENTS Section.
- d. Access to Records and Data. At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- e. Public Records. Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04 (which ever applies). Additionally, the Sponsor agrees to disclose any information in regards to the expenditure of that funding as if the project sponsor were subject to the requirements of chapter 42.56 RCW. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

11. PROJECT FUNDING.

- a. Authority. This Agreement and funding is made available to Sponsor through the RCO.
- b. Additional Amounts. The RCO or Funding Entity shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the RCO director and incorporated by written amendment into this Agreement .
- c. Before the Agreement. No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by the RCO director, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.

- d. Requirements for Federal Subawards. Pre-Agreement costs before the federal award date in the FEDERAL FUND INFORMATION Section are ineligible unless approved by the federal award agency (2 C.F.R § 200.458 (2013)).
- e. After the Period of Performance. No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO or Funding Entity may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

12. PROJECT REIMBURSEMENTS.

- a. Reimbursement Basis. This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12, whichever has been designated to apply. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in the PROJECT FUNDING Section. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- b. Reimbursement Request Frequency. The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recent applicable RCO manuals and this Agreement regarding reimbursement requirements.
- c. Compliance and Payment. The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- d. Conditions for Payment of Retainage. RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the following has occurred:
 - i. RCO has accepted the project as a completed project, which acceptance shall not be unreasonably withheld.
 - ii. On-site signs are in place (if applicable); Any other required documents and media are complete and submitted to RCO; Grant related fiscal transactions are complete, and
 - iii. RCO has accepted a final boundary map of the project area for which the Agreement terms will apply in the future.

- iv. A Notice of Grant for any property rights acquired or donated (if applicable) have been filed with the county lands records office (or United State Government) and a stamped copy received by RCO, and any property rights owned to RCO have been likewise recorded.
- e. Requirements for Federal Subawards: Match. The Sponsor's matching share must comply with 2 C.F.R. § 200.306 (2013). Any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions, can be accepted as part of the Sponsor's matching share when such contributions meet all of the following criteria:
 - i. Are verifiable from the non-Federal entity's (Sponsor's) records;
 - ii. Are not included as contributions for any other Federal award;
 - iii. Are necessary and reasonable for accomplishment of project or program objectives;
 - iv. Are allowable under 2 C.F.R. Part 200, Subpart E—Cost Principles (2013);
 - v. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
 - vi. Are provided for in the approved budget when required by the Federal awarding agency identified in the FEDERAL FUND INFORMATION Section of this Agreement; and
 - vii. Conform to other provisions of 2 C.F.R. Part 200, Subpart D—Post Federal Award Requirements (2013), as applicable.
- f. Requirements for Federal Subawards: Close out. Per 2 C.F.R § 200.343 (2013), the non-Federal entity (Sponsor) must:
 - i. Submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity (RCO) may approve extensions when requested by the Sponsor.
 - ii. Liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
 - iii. Refund any balances of unobligated cash that the Federal awarding agency or pass-through entity (RCO) paid in advance or paid and that are not authorized to be retained by the non-Federal entity (Sponsor) for use in other projects. See OMB Circular A-129 and see 2 C.F.R § 200.345 Collection of amounts due (2013), for requirements regarding unreturned amounts that become delinquent debts.
 - iv. Account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with 2 C.F.R §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property (2013).

13. ADVANCE PAYMENTS.

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements.

14. RECOVERY OF PAYMENTS.

- a. Recovery for Noncompliance. In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- b. Return of Overpayments. The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time the Sponsor received such overpayment. Unless the overpayment is due to an error of RCO, the payment shall be due and owing on the date that the Sponsor receives the overpayment from the RCO. If the payment is due to an error of RCO, it shall be due and owing 30 days after demand by RCO for refund.
- c. Requirements for Federal Subawards. RCO, acting as a pass-through entity, may impose any of the remedies as authorized in 2 C.F.R §§ 200.207 Specific conditions and/or 200.338 Remedies for noncompliance (2013).

15. COVENANT AGAINST CONTINGENT FEES.

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

16. INCOME (AND FEES) AND USE OF INCOME.

See WAC 286-13-110 for additional requirements for projects funded from the RCFB.

Income.

- a. Farm and Forest Account (Farmland and Forestland Preservation Grants). Excepted from this section is income generated and fees paid on/for properties which received funds from the Farm and Forest Account (RCW 79A.15.130).
- b. Firearms and Archery Range Recreation Projects. Excepted from this section are safety classes (firearm and/or hunter) for which a facility/range fee must not be charged (RCW 79A.25.210).

- c. Compatible source. The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any applicable manuals, RCWs, and WACs.
- d. Use of Income. Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, rent, franchise fees, ecosystem services, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
 - i. The Sponsor's matching resources;
 - ii. The project's total cost;
 - iii. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the grant funding;
 - iv. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
 - v. Capital expenses for similar acquisition and/or development and renovation; and/or
 - vi. Other purposes explicitly approved by RCO.
- e. Fees. User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored and shall be consistent with the:
 - i. Grant program laws, rules, and applicable manuals;
 - ii. Value of any service(s) furnished;
 - iii. Value of any opportunities furnished; and
 - iv. Prevailing range of public fees in the state for the activity involved.
- f. Requirements for Federal Subawards. Sponsors must also comply with 2 C.F.R. § 200.307 Program income (2013).

17. PROCUREMENT REQUIREMENTS.

- a. Procurement Requirements. If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists the Sponsor must follow these minimum procedures:
 - i. Publish a notice to the public requesting bids/proposals for the project;
 - ii. Specify in the notice the date for submittal of bids/proposals;
 - iii. Specify in the notice the general procedure and criteria for selection; and
 - iv. Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
 - v. Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer. Alternatively, Sponsor may choose a bid from a bidding

cooperative if authorized to do so. This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

b. Requirements for Federal Subawards.

- i. For all Federal subawards, non-Federal entities (Sponsors) must follow 2 C.F.R §§ 200.318 General procurement standards through 200.326 Contract Provisions (2013).
- ii. For RTP subawards, Sponsors shall follow such policies and procedures allowed by the State when procuring property and services under a Federal award (2 C.F.R § 1201.317 (2013)).

18. TREATMENT OF EQUIPMENT AND ASSETS.

- a. Equipment shall be used and managed only for the purpose of this Agreement , unless otherwise provided herein or in the applicable manuals, or approved by RCO in writing.
- b. Discontinued Use. Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.
- c. Loss or Damage. The Sponsor shall be responsible for any loss or damage to equipment.
- d. Requirements for Federal Subawards. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award or match for the award, until disposition takes place will, at a minimum, meet the following requirements (2 C.F.R § 200.313 (2013)):
 - i. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the Federal Award Identification Number), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
 - ii. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
 - iii. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
 - iv. Adequate maintenance procedures must be developed to keep the property in good condition.

- v. If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- e. Requirements for RTP Subawards.
 - i. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.

19. RIGHT OF INSPECTION.

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement. If a landowner agreement or other form of control and tenure limits access to the project area, it must include (or be amended to include) the RCO's right to inspect and access lands acquired or developed with this funding assistance.

20. STEWARDSHIP AND MONITORING.

Sponsor agrees to perform monitoring and stewardship functions as stated in the applicable WACs and manuals, this Agreement, or as otherwise directed by RCO consistent with the existing laws and applicable manuals. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the RCO; provided that RCO does not represent that any monitoring it may recommend will be adequate to reasonably assure project performance or safety. It is the sole responsibility of the Sponsor to perform such additional monitoring as may be adequate for such purposes.

21. PREFERENCES FOR RESIDENTS.

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents, but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

22. ACKNOWLEDGMENT AND SIGNS.

- a. Publications. The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.
- b. Signs.
 - i. During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless waived by the director; and

- ii. During the period of long-term obligations, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.
- c. Ceremonies. The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies and in all advertisements and mailings thereof, and any and all of its related digital media publications.
- d. Federally Funded Projects. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, Sponsors shall clearly state:
 - i. The fund source;
 - ii. The percentage of the total costs of the project that is financed with federal money;
 - iii. The dollar amount of federal funds for the project; and
 - iv. The percentage and dollar amount of the total costs of the project that is financed by nongovernmental sources.

23. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS.

- a. The following provisions shall be in force:
 - i. Operations and Maintenance. Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted per this Agreement and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration. It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
 - ii. Document Review and Approval. Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.
- b. Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the RCO must receive prior written approval of the RCO.

- c. Control and Tenure. The Sponsor must provide documentation that shows appropriate tenure and term (such as long-term lease, perpetual or long-term easement, or perpetual or long-term fee simple ownership, or landowner agreement or interagency agreement for the land proposed for construction, renovation, or restoration. The documentation must meet current RCO requirements identified in this Agreement as of the effective date of this Agreement unless otherwise provided in any applicable manual, RCW, WAC, or as approved by the RCO.
- d. Use of Best Management Practices. Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include “Integrated Streambank Protection Guidelines”, 2002; “Land Use Planning for Salmon, Steelhead and Trout: A land use planner’s guide to salmonid habitat protection and recovery”, 2009”, “Protecting Nearshore Habitat and Functions in Puget Sound”, 2010; “Stream Habitat Restoration Guidelines”, 2012; “Water Crossing Design Guidelines”, 2013; and “Marine Shoreline Design Guidelines”, 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in “Reducing Accidental Introductions of Invasive Species” which is available on the WISC Web site.
- e. At no time shall the Sponsor design, construct, or operate this grant funded project in a way that unreasonably puts the public, itself, or others at risk of injury or property damage. The Sponsor agrees and acknowledges that the Sponsor is solely responsible for safety and risk associated with the project, that RCO does not have expertise, capacity, or a mission to review, monitor, or inspect for safety and risk, that no expectation exists that RCO will do so, and that RCO is in no way responsible for any risks associated with the project.

24. PROVISIONS APPLYING TO ACQUISITION PROJECTS.

- a. The following provisions shall be in force:
 - i. Evidence of Land Value. Before disbursement of funds by RCO as provided under this Agreement, the Sponsor agrees to supply documentation acceptable to RCO that the cost of the property rights acquired has been established according to all applicable manuals and RCWs or WACs.
 - ii. Evidence of Title. The Sponsor agrees to provide documentation that shows the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
 - iii. Legal Description of Real Property Rights Acquired. The legal description of any 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 delivered to RCO before final payment.
 - iv. Conveyance of Rights to the State of Washington. When real property rights (both fee simple and lesser interests) are acquired, the Sponsor agrees to execute an appropriate document (provided or approved by RCO) conveying certain rights and responsibilities to RCO or the Funding Entity on behalf of the State of Washington or another agency of the

- state, or federal agency, or other organization. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
- v. Deed of Right. The Deed of Right as described in RCO Manual #3 conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. Sponsors 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 Sponsor has acquired a perpetual easement for public purposes.
 - vi. Assignment of Rights. The Assignment of Rights as described in RCO Manual #3 document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 - vii. Easements and Leases. The Sponsor 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; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
 - viii. Real Property Acquisition and Relocation Assistance. In the event that housing and relocation costs and procedures are required by local, state, tribal, or federal law, or rule; the Sponsor agrees to provide such housing and relocation assistance as a condition of the Agreement and receiving grant funds.
- b. Buildings and Structures. In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with COMPLIANCE WITH APPLICABLE LAW SECTION, Archeological and Cultural Resources paragraph.
- c. Hazardous Substances.
- i. Certification. The Sponsor 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(13), and certify:
 - ii. No hazardous substances were found on the site, or
 - iii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
 - iv. Responsibility. Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
 - v. Hold Harmless. The Sponsor will defend, protect and hold harmless the State 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 Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The Funding Entity and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

- d. Requirements for Federal Subawards. The non-federal entity (Sponsor) must submit reports the federal funding agency, through RCO, at least annually on the status of real property in which the federal government retains an interest, unless the federal interest in the real property extends 15 years or longer. In those instances where the federal interest attached is for a period of 15 years or more, the federal awarding agency or the pass-through entity (RCO), at its option, may require the Sponsor to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a federal awarding agency or RCO may require annual reporting for the first three years of a federal award and thereafter require reporting every five years) (2 C.F.R § 200.329 (2013)).
- e. Developing and Restoring Purchased Property. If the Sponsor intends to develop or restore the property acquired it shall do so within the timeline and deadline provided by the funding program or board policies that apply to the grant funded project, or as provided for in this Agreement.

25. LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS.

- a. Long-Term Obligations. This section applies to completed projects only.
- b. Perpetuity. For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by applicable manual, policy, program rules, or this Agreement, or approved in writing by RCO. The RCO requires that the project area continue to function for the purposes for which these grant funds were approved, in perpetuity.
- c. Conversion. The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/ or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property (or a portion of it) to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policies or unless a transfer or change in use is approved by the RCO through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon all terms of the Agreement, and all applicable state of federal laws or regulation.

- i. For acquisition projects that are expressly term-limited in the Agreement, the restriction on conversion shall apply only for the length of the term, unless otherwise provided by this Agreement and incorporated documents, WACs, or any applicable state or federal law or regulation.
- ii. When a conversion has been determined to have occurred, the Sponsor shall remedy the conversion as set forth in this Agreement (with incorporated documents) and as required by all applicable policies, manuals, WACs and laws that exist at the time the remedy is implemented or the right to the remedy is established by a court or other decision-making body, and the RCO may pursue all remedies as allowed by the Agreement or law.

26. CONSTRUCTION, OPERATION, USE, AND MAINTENANCE OF ASSISTED PROJECTS.

- a. The following provisions shall be in force for this agreement:
 - i. Property and facility operation and maintenance. Sponsor must ensure that properties or facilities assisted with the grant funds, including undeveloped sites, are built, operated, used, and maintained:
 - a. According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
 - b. In a reasonably safe condition for the project's intended use;
 - c. Throughout its estimated useful service life so as to prevent undue deterioration;
 - d. In compliance with all federal and state nondiscrimination laws, regulations and policies.
 - ii. Open to the public. Unless otherwise specifically provided for in the Agreement, and in compliance with applicable statutes, rules, and applicable WACs and manuals, facilities must be open and accessible to the general public, and must:
 - a. Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
 - b. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
 - c. Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals or, by a decision of the RCO director in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

27. RECORDED NOTICE OF GRANT.

At the request of RCO, another state agency, or a federal agency, Sponsor shall record a notice of grant on property subject to this Agreement and shall submit to the RCO a recorded and registry stamped copy of such notice. The purpose of the notice of grant is to provide constructive notice of the grant and project and to ensure that the present and future use of the project area is and shall remain subject to the terms and conditions described in this Agreement. The notice of grant shall be in a format specified by RCO.

28. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS.

- a. A corporate Sponsor, including any nonprofit Sponsor, shall:
 - i. Maintain corporate status with the state, including registering with the Washington Secretary of State's office, throughout the Sponsor's obligation to the project as identified in the Agreement.
 - ii. Notify RCO before corporate dissolution at any time during the period of performance or long-term obligations. Within 30 days of dissolution the Sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities, and transfer all property and assets to the successor. A qualified successor is any party eligible to apply for funds in the subject grant program and capable of complying with the terms and conditions of this Agreement. RCO will process an amendment transferring the Sponsor's obligation to the qualified successor if requirements are met.
 - iii. Maintain sites or facilities open to the public and may not limit access to members.

29. PROVISIONS FOR FEDERAL SUBAWARDS.

The following provisions shall be in force for this agreement:

- a. Sub-Recipient (Sponsor) must comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement to include match and any in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.
- b. Binding Official. Per 2 CFR 200.415, Sponsor certifies through its actions or those of authorized staff, at the time of a request for reimbursement, the following: "To the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."
- c. Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319,

12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, paragraph C.

- d. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- e. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.
- f. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities (Sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity (Sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (Sponsor) must report all suspected or reported violations to the federal awarding agency identified in the Federal Fund Information Section. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U. S. C. 3145), as supplemented by Department of Labor regulations (29 C.F.R Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient (Sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (Sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION.

- g. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-federal entity (Sponsor) in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- h. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 C.F.R § 401.2(a) and the recipient or subrecipient (Sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient (Sponsor) must comply with the requirements of 37 C.F.R Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- i. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION and the Regional Office of the Environmental Protection Agency (EPA).
- j. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). By signing this Agreement, the Sponsor certifies (per the certification requirements of 31 U.S.C.) that none of the funds that the Sponsor has (directly or indirectly) received or will receive for this project from the United States or any agency thereof, have been used or shall be used to engage in the lobbying of the Federal Government or in litigation against the United States. Such lobbying includes any influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this project. Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying

with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier-to-tier up to the non-federal award.

- k. Procurement of Recovered Materials. A non-federal entity (Sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- l. Required Insurance. The non-federal entity (Sponsor) must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R § 200.310 (2013)).
- m. Debarment and Suspension (Executive Orders 12549 and 12689). The Sponsor must not award a contract to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R § 180 that implement Executive Orders 12549 (3 C.F.R part 1986 Comp., p. 189) and 12689 (3 C.F.R part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- n. Conflict of Interest. Sponsor agrees to abide by the conflict of interest policy and requirements of the federal funding agency established pursuant to 2 C.F.R 200.

30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS.

Use of Sport Fish Restoration Logo. Per 50 CFR 86 Sec 75 and 76, the user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from; any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo. No one may use any part of the logo in any other manner unless the United States Fish and Wildlife Service's Assistant Director for Wildlife and Sport Fish Restoration or Regional Director approves in writing.

31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS.

The following provisions shall be in force for this agreement:

- a. **Liability Insurance.** The Sponsor of a firearms or archery range recreation project shall procure an endorsement, or other addition, to liability insurance it carries, or shall procure a new policy of liability insurance, in a total coverage amount the Sponsor deems adequate to ensure it will have resources to pay successful claims of people who may be killed or injured, or suffer damage to property, while present at the range facility to which this grant is related, or by reason of being in the vicinity of that facility; provided that the coverage shall be at least one million dollars (\$1,000,000) for the death of, or injury to, each person.
- b. **Insurance Endorsement.** The liability insurance policy, including any endorsement or addition, shall name Washington State, the funding board, and RCO as additional insured and shall be in a form approved by the funding board or director.
- c. **Length of Insurance.** The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the Sponsor's obligation to the project as identified in this Agreement.
- d. **Notice of Cancellation.** The policy, as modified by any endorsement or other addition, shall provide that the issuing company shall give written notice to RCO not less than thirty (30) calendar days in advance of any cancellation of the policy by the insurer, and within ten (10) calendar days following any termination of the policy by the Sponsor.
- e. **Government Agencies.** The requirement of Subsection a through d above shall not apply if the Sponsor is a federal, state, or municipal government which has established an adequate program of self-insurance or a policy of self-insurance with respect to claims arising from its facilities or activities generally, including such facilities as firearms or archery ranges, when the applicant declares and describes that program or policy to the RCO.
- f. **Sole Duty of the Sponsor.** By this requirement, the funding board and RCO does undertake to review, approve, or monitor the safety of the design, construction, or operation of the project and does not assume any duty to any individual person with respect to death, injury, or damage to property which that person may suffer as a result of the project which this grant relates. Any such person, or any other person making claims based on such death, injury, or damage, must look to the Sponsor, or others, for any and all remedies that may be available by law.

32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS.

This project has been approved by the National Park Service, US Department of the Interior, for funding assistance from the federal Land and Water Conservation Fund (LWCF), therefore the "Land and Water Conservation Fund General Provisions" are made part of this Agreement and incorporated herein. The Sponsor shall abide by these LWCF General Provisions, in addition to this Agreement, as they now exist or are hereafter amended. Further, the Sponsor agrees to provide RCO with reports or documents needed to meet the requirements of the LWCF General Provisions.

33. PROVISIONS FOR FARMLAND AND FORESTLAND PRESERVATION PROJECTS.

The following sections of this Agreement shall not apply if they are included and covered separately in a recorded RCO-approved Agricultural Conservation Easement, or Forest Conservation Easement (or other method):

- a. Income and Income Use; Stewardship and Monitoring; Acknowledgement and Signs; Provisions Applying To Acquisition Projects: Conveyance of Rights to the State of Washington, Building and Structures, and Hazardous Substances; Long-Term Obligations of the Projects and Sponsors: Perpetuity; and Construction, Operation, Use and Maintenance of Assisted Projects.

34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS.

For habitat restoration projects funded in part or whole with federal funds administered by the SRFB the Sponsor shall not commence with clearing of riparian trees or in-water work unless either the Sponsor has complied with 50 C.F.R. § 223.203 (b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this Agreement. This section shall not be the basis for any enforcement responsibility by RCO.

35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS.

The following provisions shall be in force for this Agreement if the project is funded in part or wholly from the Puget Sound Acquisition and Restoration program. The Sponsor agrees to the following terms and conditions:

- a. Cost Principles/Indirect Costs For State Agencies. GRANT RECIPIENT agrees to comply with the cost principles of 2 CFR 200 Subpart E as appropriate to the award. In addition to the US Environmental Protection Agency's General Terms and Conditions "Indirect Cost Rate Agreements," if the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.
- b. Credit and Acknowledgement. In addition to the ACKNOWLEDGEMENT AND SIGNS section, materials produced must display both the Environmental Protection Agency (EPA) and Puget Sound Partnership (PSP) logos and the following credit line: "This project has been funded wholly or in part by the United States Environmental Protection Agency. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use." This requirement is for the life of the product, whether during or after the Agreement period of performance.
- c. Hotel Motel Fire Safety Act. Sponsor agrees to ensure that all conference, meeting, convention, or training space funded in whole or part with federal funds, complies with the federal Hotel and Motel Fire Safety Act (PL 101-391, as amended). Sponsors may search the Hotel-Motel National Master List @ <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance or to find other information about the Act.

- d. Drug Free Workplace Certification. Sub-recipient (Sponsor) shall make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 2 C.F.R. Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization shall identify all known workplaces under its federal awards, and keep this information on file during the performance of the award. Sponsors who are individuals must comply with the drug-free provisions set forth in 2 C.F.R. Part 1536 Subpart C. The consequences for violating this condition are detailed under 2 C.F.R. Part 1536 Subpart E.
- e. Management Fees. Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term “management fees or similar charges” refers to the expenses added to direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities or for other similar costs that are not allowable. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except for the extent authorized as a direct cost of carrying out the scope of work.
- f. Trafficking in Persons and Trafficking Victim Protection Act of 2000 (TVPA). This provision applies only to a sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor), if any. Sub-recipient (Sponsor) shall include the following statement in all sub-awards made to any private entity under this Agreement: “You as the sub-recipient, your employees, sub-awardees under this award, and sub-awardees’ employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under this Award.” The sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor) must inform RCO immediately of any information you receive from any source alleging a violation of this prohibition during the award term. The federal agency funding this Agreement may unilaterally terminate, without penalty, the funding award if this prohibition is violated, Section 106 of the Trafficking Victims Protection Act of 2000, as amended.
- g. Lobbying. The chief executive officer of this recipient agency (Sponsor) shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States, unless authorized under existing law. The recipient (Sponsor) shall abide by its respective Cost Principles (OMB Circulars A-21, A-87, and A-122), which generally prohibits the use of federal grant funds for litigation against the United States, or for lobbying or other political activities. The Sponsor agrees to comply with 40 C.F.R. Part 34, New Restrictions on Lobbying. Sponsor shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly. In accordance with the Byrd Anti-Lobbying Amendment, any Sponsor who makes a prohibited expenditure under 40 C.F.R. Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure. All contracts awarded by Sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at 40 C.F.R. Part 30. Pursuant to Section 18 of the Lobbying Disclosure Act, Sponsor

affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c)(4) of the code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

- h. Reimbursement Limitation. If the Sponsor expends more than the amount of RCO funding in this Agreement in anticipation of receiving additional funds from the RCO, it does so at its own risk. RCO is not legally obligated to reimburse the Sponsor for costs incurred in excess of the RCO approved budget.
- i. Disadvantaged Business Enterprise Requirements. The Sponsor agrees to comply with the requirements of EPA's Utilization of Small, Minority and Women's Business Enterprises in procurements made under this award.
- j. Minority and Women's Business Participation. Sponsor agrees to solicit and recruit, to the maximum extent possible, certified minority owned (MBE) and women owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement. These goals are expressed as a percentage of the total dollars available for purchase or agreement and are as follows: Purchased Goods 8% MBE 4% WBE; Purchased Services 10% MBE 4% WBE; Professional Services 10% MBE 4% WBE. Meeting these goals is voluntary and no agreement award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and Sponsor and ALL prospective bidders or people submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement:
 - i. Include qualified minority and women's businesses on solicitation lists.
 - ii. Assure that qualified minority and women's business are solicited whenever they are potential sources of services or supplies.
 - iii. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
 - iv. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
 - v. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.
- k. MBE/WBE Reporting. In accordance with the deviation from 40 C.F.R. §33.502, signed November 8, 2013, DBE reporting is limited to annual reports and only required for assistance agreements where one or more the following conditions are met:
 - l. There are any funds budgeted in the contractual/services, equipment or construction lines of the award; and/or \$3,000 or more is included for supplies; or there are funds budgeted for subawards or loans in which the expected budget(s) meet the conditions as described in items

(a) and (b). When completing the form, recipients (Sponsors) should disregard the quarterly and semi-annual boxes in the reporting period Section 1B of the form. For annual submissions, the reports are due by October 30th of each year or 90 days after the end of the project period, whichever comes first. The reporting requirement is based on planned procurements. Recipients (Sponsors) with funds budgeted for non-supply procurement and/or \$3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in Section 5B when completing the form. MBE/WBE reports should be sent to the DBE Coordinator in the Sponsor's region. Contact information can be found at <http://www.epa.gov/osbp/contactpage.htm>. The coordinators also can answer any questions. Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. To be in compliance with regulations, the Sponsor must submit a final MBE/WBE report. Non-compliance may impact future competitive grant proposals. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

- m. Procurement involving an EPA Financial Assistance Agreement. Pursuant to 40 C.F.R. § 33.301, the Sponsor agrees to make the following six good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients (Sponsors), and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained.
- n. Ensure Disadvantaged Business Enterprise (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For State and Local and Government Sponsors, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- o. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- p. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For State and local Government Sponsors, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- q. Encourage contracting with a consortium of DBEs when an agreement is too large for one of these firms to handle individually.
- r. Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development of the Department of Commerce.

- s. If the Sponsor awards subcontracts, require the Sponsor to take the steps in paragraphs (a) through (e) of this section.
- t. Lobbying & Litigation. By signing this Agreement, the Sponsor certifies that none of the funds received from this Agreement shall be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The chief executive officer of this Sponsor agency shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The Sponsor shall abide by its respective Attachment in 2 C.F.R. Part 200, which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities. For subawards exceeding \$100,000, EPA requires the following certification and disclosure forms:
 - I. Certification Regarding Lobbying, EPA Form 6600-06:
http://www.epa.gov/ogd/AppKit/form/Lobbying_sec.pdf
 - II. Disclosure of Lobbying Activities, SF LLL:
http://www.epa.gov/ogd/AppKit/form/sflllin_sec.pdf
- u. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.
- v. Payment to Consultants. EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients (Sponsors) or by a recipients' (Sponsor's) contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with his/her normal travel reimbursement practices). Subagreements with firms for services that are awarded using the procurement requirements in 40 C.F.R. Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient (Sponsor) with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 C.F.R. § 30.27(b) or 40 C.F.R. § 31.369(j), as applicable, for additional information. As of January 1, 2020, the limit is \$654.71 per day \$81.83 per hour.
- w. Peer Review. Where appropriate, prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review, and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.
- x. International Travel (Including Canada). All International Travel must be approved by the US Environmental Protection Agency's Office of International and Tribal Affairs (OITA) BEFORE

travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your Partnership Project manager as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can submit a request to the EPA Project Officer if they approve of such travel.

- y. Unliquidated Obligations (ULO). Sub-recipients, and all sub-awardees of Sub-Recipients, if any, should manage their agreement and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are unspent (not yet drawn down through disbursements to sub-recipients and sub-awardees).

- z. Light Refreshments And/Or Meals.

Unless the event(s) and all of its components are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops, and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- 1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- 2) A description of the purpose, agenda, location, length and timing for the event; and,
- 3) An estimated number of participants in the event and a description of their roles.

Cost for light refreshments and meals for recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements.

- aa. State grant cybersecurity.

- (a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.
- (b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.
(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the AGecy using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange.

36. ORDER OF PRECEDENCE.

- a. This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

- i. Federal law and binding executive orders;

- ii. Code of federal regulations;
- iii. Terms and conditions of a grant award to the state from the federal government;
- iv. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
- v. State Constitution, RCW, and WAC;
- vi. Agreement Terms and Conditions and Applicable Manuals
- vii. Applicable deed restrictions, and/or governing documents.

37. LIMITATION OF AUTHORITY.

Only RCO's Director or RCO's delegate authorized in writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

38. WAIVER OF DEFAULT.

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH.

The Funding Entity (if different from RCO) and RCO rely on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

40. SPECIFIC PERFORMANCE.

RCO may enforce this Agreement by the remedy of specific performance, which means Sponsors' completion of the project and/or its completion of long-term obligations as described in this Agreement. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

41. TERMINATION AND SUSPENSION.

- a. The RCO requires strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.
- b. For Cause.

- i. The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a. If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b. If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
 - c. If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;
 - d. Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
 - ii. RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.
- c. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:
- i. The Sponsor was not in default; or
 - ii. Failure to perform was outside Sponsor's control, fault or negligence.
- d. Rights of Remedies of the RCO.
- i. The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
 - ii. In the event this Agreement is terminated by the director, after any portion of the grant amount has been paid to the Sponsor under this Agreement, the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.
 - iii. Non-Availability of Funds. The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation

- is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.
- iv. **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.
 - v. **No Waiver.** The failure or neglect of RCO to require strict compliance with any term of this Agreement or to pursue a remedy provided by this Agreement or by law shall not act as or be construed as a waiver of any right to fully enforce all rights and obligations set forth in this Agreement and in applicable state or federal law and regulations.

42. DISPUTE HEARING.

- a. Except as may otherwise be provided in this Agreement , when a dispute arises between the Sponsor and the RCO, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:
 - i. The disputed issues;
 - ii. The relative positions of the parties;
 - iii. The Sponsor's name, address, project title, and the assigned project number.
- b. In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the persons chosen by the Sponsor and director shall be dismissed and an alternate person chosen by the Sponsor, and one by the director shall be appointed and they shall agree on a third person. This process shall be repeated until a three person panel is established.
- c. Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.
- d. The parties shall be bound by the majority decision of the dispute panelists, unless the remedy directed by that panel is beyond the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

- e. Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.
- f. All costs associated with the implementation of this process shall be shared equally by the parties.

43. ATTORNEYS' FEES.

In the event of litigation or other action brought to enforce the terms of this Agreement each party agrees to bear its own attorney fees and costs.

44. GOVERNING LAW/VENUE.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in the Superior Court of a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

45. SEVERABILITY.

The provisions of this Agreement 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 Agreement.

46. END OF AGREEMENT.

This is the end of the agreement.



City Council

Approval of a Resolution Setting a Public Hearing Date to Consider a Petition to Vacate a Portion of Rose Street

Agenda Date: 4/25/2022
Agenda Item Number: 4.1
File Number:22-0412

Type: resolution **Version:** 1 **Status:** Consent Calendar

Title

Approval of a Resolution Setting a Public Hearing Date to Consider a Petition to Vacate a Portion of Rose Street

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve a Resolution to schedule a Public Hearing on May 24, 2022, to hear public testimony regarding the vacation petition for a portion of Rose Street, north of Pine Street and between East Bay Drive and Pear Street.

Report

Issue:

Whether to approve a Resolution to schedule a Public Hearing on May 24, 2022, to hear public testimony regarding the vacation petition.

Staff Contact:

Kris Horton, PLS, City Surveyor, Public Works Engineering, 360.280.1547

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

A property owner adjacent to a portion of Rose Street requests the City initiate the process to abandon a portion of right-of-way. The additional property will be used as part of the development and construction of a new single-family home.

Pursuant to OMC 12.16.050 and RCW 35.79.010, the Council is required to adopt a Resolution to set the public hearing date prior to acting on a right-of-way vacation petition. OMC 12.16.050 states: "After consideration by the Public Works Director, the petition application shall be scheduled for public hearing before the Olympia City Council. Notice of such hearing shall be given not less than

twenty days in advance of the day of the hearing. . .” This Code requirement is consistent with RCW 35.79.010 which states:

The owners of an interest in any real estate abutting upon any street or alley who may desire to vacate the street or alley, or any part thereof, may petition the legislative authority to make vacation, giving a description of the property to be vacated, or the legislative authority may itself initiate by resolution such vacation procedure. The petition or resolution shall be filed with the city or town clerk, and, if the petition is signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated, legislative authority by resolution shall fix a time when the petition will be heard and determined by such authority or a committee thereof, which time shall not be more than sixty days nor less than twenty days after the date of the passage of such resolution.

OMC 12.16.050 further requires that notice of the public hearing must include (1) the posting of written notice in a prominent and conspicuous location at Olympia City Hall; (2) the posting of written notice in a prominent and conspicuous location on the street or alley; and (3) the mailing of written notice to all property owners abutting and within three hundred feet of the boundaries of the rights-of-way to be vacated.

Neighborhood/Community Interests (if known):

The public hearing will provide an opportunity for Council to hear from the community on the requested vacation petition.

Options:

1. Approve a Resolution to schedule a Public Hearing on May 24, 2022, to hear public testimony regarding the vacation petition for a portion of Rose Street, north of Pine Street and between East Bay Drive and Pear Street. This is within the required timeline of OMC 12.16.050 and RCW 35.79.010.
2. Do not approve the Resolution setting May 24, 2022 as the date for the Public Hearing. Staff will work with Council to set another public hearing date that meets the requirements of OMC 12.16.050 and RCW 35.79.010.
3. Consider the Resolution at another time.

Financial Impact:

There is no financial impact related to setting a public hearing date.

Attachments:

Resolution
Petition
Vicinity Map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF OLYMPIA, WASHINGTON, FIXING MAY 24, 2022, AS THE DATE FOR PUBLIC HEARING ON A PROPOSAL TO VACATE AS A PUBLIC THOROUGHFARE A PORTION OF ROSE STREET

WHEREAS, OMC 12.16.050 and RCW 35.79.010 require the City Council to adopt a resolution which sets a public hearing date for the consideration of a petition to vacation right-of-way; and

WHEREAS, the Olympia City Council has determined that a public hearing should be held regarding the proposal to vacate a portion of Rose Street; and

WHEREAS, one of the purposes of this Resolution is to provide notice to residents and neighbors of the proposed street vacation and to give the public an opportunity to provide testimony and comment on the vacation petition to Council;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council, pursuant to OMC 12.16.050 and RCW 35.79.010, hereby initiates procedures hold a public hearing whether to vacate as a public thoroughfare the following legally described property:

THAT PORTION OF ROSE STREET LYING NORTH OF THE NORTH MARGIN OF PINE AVENUE AND LYING 60-FEET EAST OF THE EAST BOUNDARY OF BLOCK 64 HALE ADDITION TO OLYMPIA.

Containing 4,200 square feet, more or less. (Approximately 70' x 60')

Section 2. May 24, 2022, at the hour of 7:00 p.m. or thereafter, as stated on the City Councils agenda, at the Olympia City Hall Council Chambers, 601 4th Avenue E, Olympia, Washington, is fixed as the time and place for the public hearing on said proposed street vacation, such time shall not be more than 60 days nor less than 20 days after the passage of this Resolution.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber

CITY ATTORNEY

• Vacate Rose street

Yahoo/Inbox ★



● **Grant Aaker** <aaker.grant@gmail.com>
To: garymyers222@yahoo.com

🖨️ Fri, Nov 19 at 10:34 PM ★

I hereby sign the petition to vacate Rose street

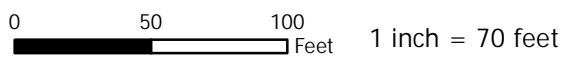
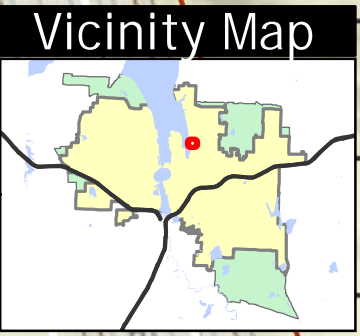
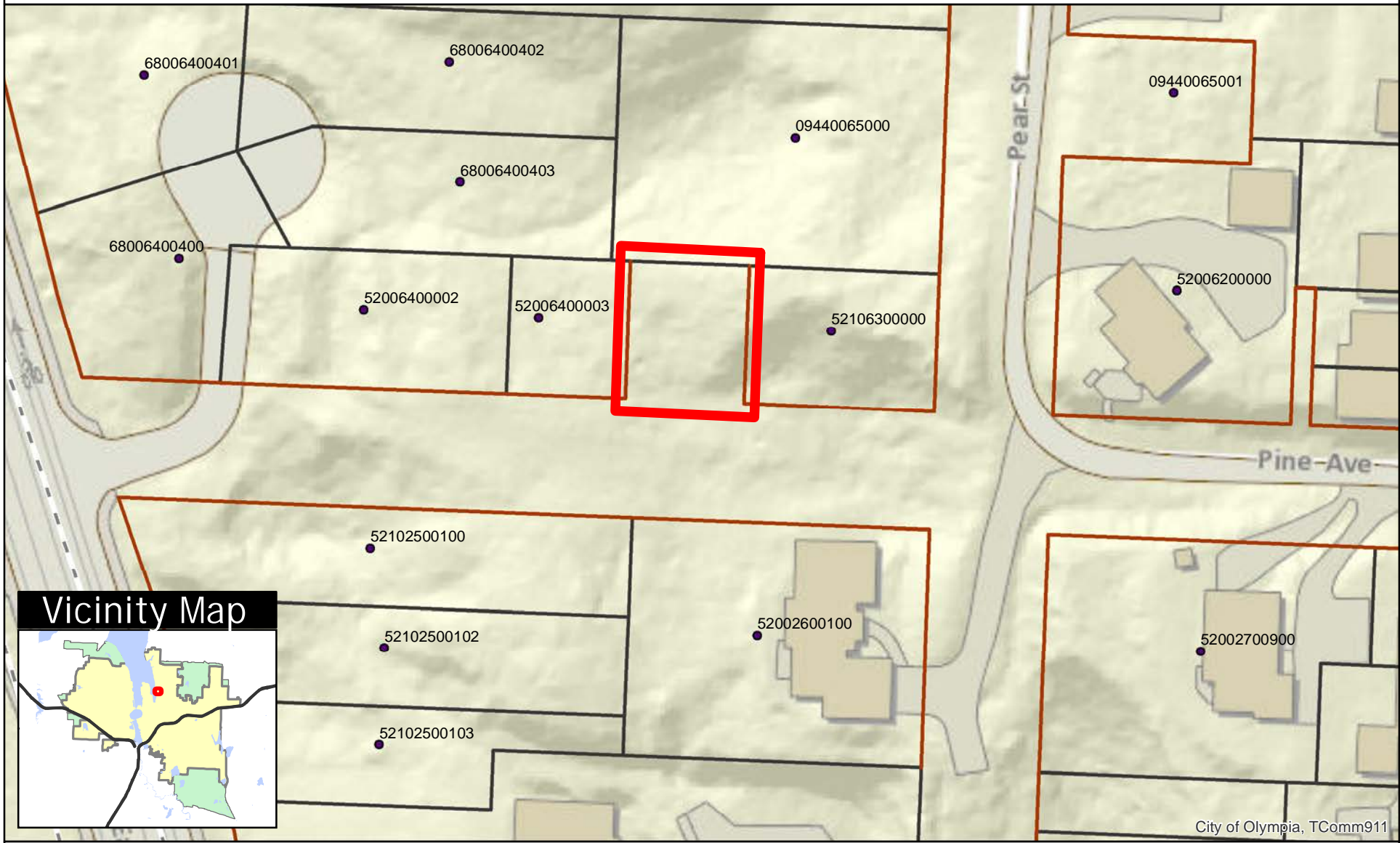
Grant Aaker





Petitioned for Right of Way Vacation

Rose Street



Map printed 1/21/2022
 For more information, please contact:
 Michael Kaminski, Engineering Technician II
 mkaminsk@ci.olympia.wa.us

This map is intended for 8.5x11" landscape printing.

The City of Olympia and its personnel cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. The parcels, right-of-ways, utilities and structures depicted hereon are based on record information and aerial photos only. It is recommended the recipient and/or user field verify all information prior to use. The use of this data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may not assert any proprietary rights to this information. The City of Olympia and its personnel neither accept or assume liability or responsibility, whatsoever, for any activity involving this information with respect to lost profits, lost savings or any other consequential damages.





City Council

Approval of a Resolution Setting a Public Hearing Date to Consider a Vacation Petition for a Portion of East Bay Drive

Agenda Date: 4/25/2022
Agenda Item Number: 4.J
File Number:22-0413

Type: resolution **Version:** 1 **Status:** Consent Calendar

Title

Approval of a Resolution Setting a Public Hearing Date to Consider a Vacation Petition for a Portion of East Bay Drive

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve a Resolution to schedule a Public Hearing on May 24, 2022, to hear public testimony regarding the vacation petition for a portion of East Bay Drive at 1929 East Bay Drive.

Report

Issue:

Whether to approve a Resolution and to schedule a Public Hearing on May 24, 2022, to hear public testimony regarding the vacation petition.

Staff Contact:

Kris Horton, PLS, City Surveyor, Public Works Engineering, 360.280.1547

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

A property owner adjacent to East Bay Drive requests the City initiate the process to abandon a portion of East Bay Drive adjacent to the northeast corner of their parcel at 1929 East Bay Drive. The additional property is already being used by the parcel owner as yard and is a portion of East Bay Drive that was overlooked in previous street vacations from 1912 (Ordinance No. 1211) and 1982 (Ordinance No. 4363), which created an area which is not used as right-of-way.

Pursuant to OMC 12.16.050 and RCW 35.79.010, the Council is required to adopt a Resolution to set the public hearing date prior to acting on a right-of-way vacation petition. OMC 12.16.050 states:

“After consideration by the Public Works Director, the petition application shall be scheduled for public hearing before the Olympia City Council. Notice of such hearing shall be given not less than twenty days in advance of the day of the hearing. . .” This Code requirement is consistent with RCW 35.79.010 which states:

The owners of an interest in any real estate abutting upon any street or alley who may desire to vacate the street or alley, or any part thereof, may petition the legislative authority to make vacation, giving a description of the property to be vacated, or the legislative authority may itself initiate by resolution such vacation procedure. The petition or resolution shall be filed with the city or town clerk, and, if the petition is signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated, legislative authority by resolution shall fix a time when the petition will be heard and determined by such authority or a committee thereof, which time shall not be more than sixty days nor less than twenty days after the date of the passage of such resolution.

OMC 12.16.050 further requires that notice of the public hearing must include (1) the posting of written notice in a prominent and conspicuous location at Olympia City Hall; (2) the posting of written notice in a prominent and conspicuous location on the street or alley; and (3) the mailing of written notice to all property owners abutting and within three hundred feet of the boundaries of the rights-of-way to be vacated.

Neighborhood/Community Interests (if known):

The public hearing will provide an opportunity for Council to hear from the community on the requested vacation petition.

Options:

1. Approve a Resolution to schedule a Public Hearing on May 24, 2022, to hear public testimony regarding the vacation petition for a portion of East Bay Drive at 1929 East Bay Drive. This is within the required timeline of OMC 12.16.050 and RCW 35.79.010.
2. Do not approve the Resolution setting May 24, 2022 as the date for the Public Hearing. Staff will work with Council to set another public hearing date that meets the requirements of OMC 12.16.050 and RCW 35.79.010.
3. Consider the Resolution at another time.

Financial Impact:

There is no financial impact related to setting a public hearing date.

Attachments:

Resolution
Petition
Vicinity Map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF OLYMPIA, WASHINGTON, FIXING MAY 24, 2022, AS THE DATE FOR A PUBLIC HEARING ON A PROPOSAL TO VACATE A PORTION OF EAST BAY DRIVE AS A PUBLIC THOROUGHFARE

WHEREAS, OMC 12.16.050 and RCW 35.79.010 requires the City Council to adopt a resolution which sets a public hearing date for the consideration of a petition to vacate right-of-way; and

WHEREAS, the City Council of the City of Olympia has determined that a public hearing should be held regarding the proposal to vacate a portion of East Bay Drive; and

WHEREAS, one of the purposes of this Resolution is to provide notice to residents and neighbors of the proposed street vacation and to give the public an opportunity to provide testimony and comment on the vacation petition to Council;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council, pursuant to OMC 12.16.050 and RCW 35.79.010, hereby initiates procedures to hold a public hearing whether to vacate as a public thoroughfare the following legal described property:

A portion of Lot 1, Block 6 of Galliher’s Addition recorded in Volume 1, Page 73 of plats, also known as a portion of Parcel C of BLA-SS-5667 recorded under Auditor’s File No. 9108130068 and amended under Auditor File No. 3189905 records of Thurston County, Washington, more particularly described as follows:

Beginning at a point on the north line of said Lot 1, said point being westerly 16.00 feet as measured perpendicular to East Bay Drive; thence along said north line N 88°00’56” W 28.79 feet; thence N11°28’48”W 20.73 feet to the north line of said Parcel C and the south line of previous vacation per Ordinance 4363; thence along said north line, S 89°20’47” E 28.51 feet to a point westerly 16.00 feet as measured perpendicular to East Bay Drive; thence S 11°28’48” E 22.08 feet to the True Point of Beginning. Also as shown on Record of Survey recorded under Auditor’s File No. 4701486.

Containing 500 square feet, more or less.

Section 2. May 24, 2022, at the hour of 7:00 p.m. or thereafter, as stated upon the City Council’s agenda at the Olympia City Hall Council Chambers, 601 4th Avenue E, Olympia, Washington, is fixed as the time and place for the public hearing on said proposed street vacation, such time shall not be more than sixty days nor less than twenty days after the passage of this Resolution.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber
CITY ATTORNEY



Signed Petition to Vacate Public Right-of-Way

HONORABLE MAYOR AND CITY COUNCIL:

We, the undersigned, do hereby petition the Olympia City Council to vacate the following described public right-of-way:

LEGAL DESCRIPTION OF AFFECTED RIGHT-OF-WAY: (Can be an attached document)

That portion of East Bay Drive Right of Way and Miller Street Right of Way if any abutting Parcel C of Boundary Line Adjustment No. BLA-SS-5657, as recorded August 13, 1991 under Auditor's File No. 9108130068 and as amended under Auditor's File No. 3189905; being that portion shown as Note A of Survey recorded August 20, 2019 under Auditor's File No. 4701486.

PETITIONERS* - Requires at least 2/3 of the abutting property owners.

Owner's signature	Owner's Names	Parcel Number
<i>[Signature]</i>	donald R. Sloma	49300600300
<i>[Signature]</i> Susan M Baumgartel	Armin Baumgartel Susan M Baumgartel	77900101601

**Attach additional sheets as necessary*

I verify that each of the above signatures represents a legal and registered owner of the property abutting the above-described right-of-way.

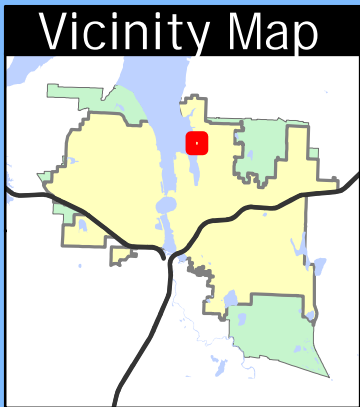
Sybil Unwin
Applicant's Signature

3/2/20
Date



Vicinity Map

1929 East Bay Drive



0 100 200 Feet 1 inch = 200 feet

Map printed 3/31/2022
 For more information, please contact:
 Kristina Horton, PLS, City Surveyor
 khorton@ci.olympia.wa.us
 (360) 753-8389

The City of Olympia and its personnel cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. The parcels, right-of-ways, utilities and structures depicted hereon are based on record information and aerial photos only. It is recommended the recipient and/or user field verify all information prior to use. The use of this data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may not assert any proprietary rights to this information. The City of Olympia and its personnel neither accept or assume liability or responsibility, whatsoever, for any activity involving this information with respect to lost profits, lost savings or any other consequential damages.





City Council

Approval of a Resolution Setting a Public Hearing Date to Consider a Vacation Petition for an Alley Right-of-Way south of Union Avenue, between Adams Street and Jefferson Street

Agenda Date: 4/25/2022
Agenda Item Number: 4.K
File Number:22-0414

Type: resolution **Version:** 1 **Status:** Consent Calendar

Title

Approval of a Resolution Setting a Public Hearing Date to Consider a Vacation Petition for an Alley Right-of-Way south of Union Avenue, between Adams Street and Jefferson Street

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve a Resolution to schedule a Public Hearing on May 24, 2022, to hear public testimony regarding the vacation petition of an alley right-of-way south of Union Avenue, between Adams Street and Jefferson Street.

Report

Issue:

Whether to approve a Resolution to schedule a Public Hearing on May 24, 2022, to hear public testimony regarding the vacation petition.

Staff Contact:

Kris Horton, PLS, City Surveyor, Public Works Engineering, 360.280.1547

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

A property owner adjacent to an alley right-of-way south of Union Avenue between Adams Street and Jefferson Street has requested the City to initiate the process to abandon the alley adjacent to their property. The additional property will be used in the development and construction of a new apartment building.

Pursuant to OMC 12.16.050 and RCW 35.79.010, the Council is required to adopt a Resolution to set the public hearing date prior to acting on a right-of-way vacation petition. OMC 12.16.050 states: “After consideration by the Public Works Director, the petition application shall be scheduled for public hearing before the Olympia City Council. Notice of such hearing shall be given not less than twenty days in advance of the day of the hearing. . .” This Code requirement is consistent with RCW 35.79.010 which states:

The owners of an interest in any real estate abutting upon any street or alley who may desire to vacate the street or alley, or any part thereof, may petition the legislative authority to make vacation, giving a description of the property to be vacated, or the legislative authority may itself initiate by resolution such vacation procedure. The petition or resolution shall be filed with the city or town clerk, and, if the petition is signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated, legislative authority by resolution shall fix a time when the petition will be heard and determined by such authority or a committee thereof, which time shall not be more than sixty days nor less than twenty days after the date of the passage of such resolution.

OMC 12.16.050 further requires that notice of the public hearing must include (1) the posting of written notice in a prominent and conspicuous location at Olympia City Hall; (2) the posting of written notice in a prominent and conspicuous location on the street or alley; and (3) the mailing of written notice to all property owners abutting and within three hundred feet of the boundaries of the rights-of-way to be vacated.

Neighborhood/Community Interests (if known):

The public hearing will provide an opportunity for Council to hear from the community on the requested vacation petition.

Options:

1. Approve a Resolution to schedule a Public Hearing on May 24, 2022, to hear public testimony regarding the vacation petition of an alley right-of-way south of Union Avenue, between Adams Street and Jefferson Street. This is within the required timeline of OMC 12.16.050 and RCW 35.79.010.
2. Do not approve the Resolution setting May 24, 2022 as the date for the Public Hearing. Staff will work with Council to set another public hearing date that meets the requirements of OMC 12.16.050 and RCW 35.79.010.
3. Consider the Resolution at another time.

Financial Impact:

There is no financial impact related to setting a public hearing date.

Attachments:

Resolution
Petition
Vicinity Map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF OLYMPIA, WASHINGTON, FIXING MAY 24, 2022, AS THE DATE FOR PUBLIC HEARING ON A PROPOSAL TO VACATE AS A PUBLIC THOROUGHFARE AN ALLEY SOUTH OF UNION AVENUE BETWEEN ADAMS STREET AND JEFFERSON STREET

WHEREAS, OMC 12.16.050 and RCW 35.79.010 require the City Council to adopt a resolution which sets a public hearing date for the consideration of a petition to vacate right-of-way; and

WHEREAS, the Olympia City Council has determined that a public hearing should be held regarding the proposal to vacate an alley south of Union Avenue, between Adams Street and Jefferson Street; and

WHEREAS, one of the purposes of this Resolution is to provide notice to residents and neighbors of the proposed alley vacation and to give the public an opportunity to provide testimony and comment on the vacation petition to Council;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council, pursuant to OMC 12.16.050 and RCW 35.79.010, hereby initiates procedures to hold a public hearing whether to vacate as a public thoroughfare the following legally described property:

THE WEST 5.00 FEET OF LOTS 1 AND 2 AND THE EAST 5.00 FEET OF LOTS 11 AND 12 IN BLOCK 95 OF CHARLES E. WILLIAM'S ADDITION TO OLYMPIA AS RECORDED IN VOLUME 1 OF PLATS, PAGE 30, RECORDS OF THURSTON COUNTY WASHINGTON.

CONTAINING 1,174 SQUARE FEET, MORE OR LESS;

SITUATE IN THE CITY OF OLYMPIA, COUNTY OF THURSTON, STATE OF WASHINTON.

Section 2. May 24, 2022, at the hour of 7:00 p.m. or thereafter, as stated upon the City Council's agenda at the Olympia City Hall Council Chambers, 601 4th Avenue E, Olympia, Washington, is fixed as the time and place for the public hearing on said proposed alley vacation, such time shall not be more than 60 days nor less than 20 days after the passage of this Resolution.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber
CITY ATTORNEY



Signed Petition to Vacate Public Right-of-Way

HONORABLE MAYOR AND CITY COUNCIL:

We, the undersigned, do hereby petition the Olympia City Council to vacate the following described public right-of-way:

LEGAL DESCRIPTION OF AFFECTED RIGHT-OF-WAY: (Can be an attached document)
THE WEST 5.00 FEET OF LOTS 1 AND 2 AND THE EAST 5.00 FEET OF LOTS 11 AND 12 IN BLOCK 95 OF CHARLES
E. WILLIAM'S ADDITION TO OLYMPIA AS RECORDED IN VOLUME 1 OF PLATS, PAGE 30, RECORDS OF THURSTON
COUNTY, WASHINGTON;
SITUATE IN THE CITY OF OLYMPIA, COUNTY OF THURSTON, STATE OF WASHINGTON.

PETITIONERS* - Requires at least 2/3 of the abutting property owners.		
Owner's signature	Owner's Names	Parcel Number
	URBAN OLYMPIA 10, LLC	83909501100
		83909500200
<i>*Attach additional sheets as necessary</i>		

I verify that each of the above signatures represents a legal and registered owner of the property abutting the above-described right-of-way.

 Applicant's Signature

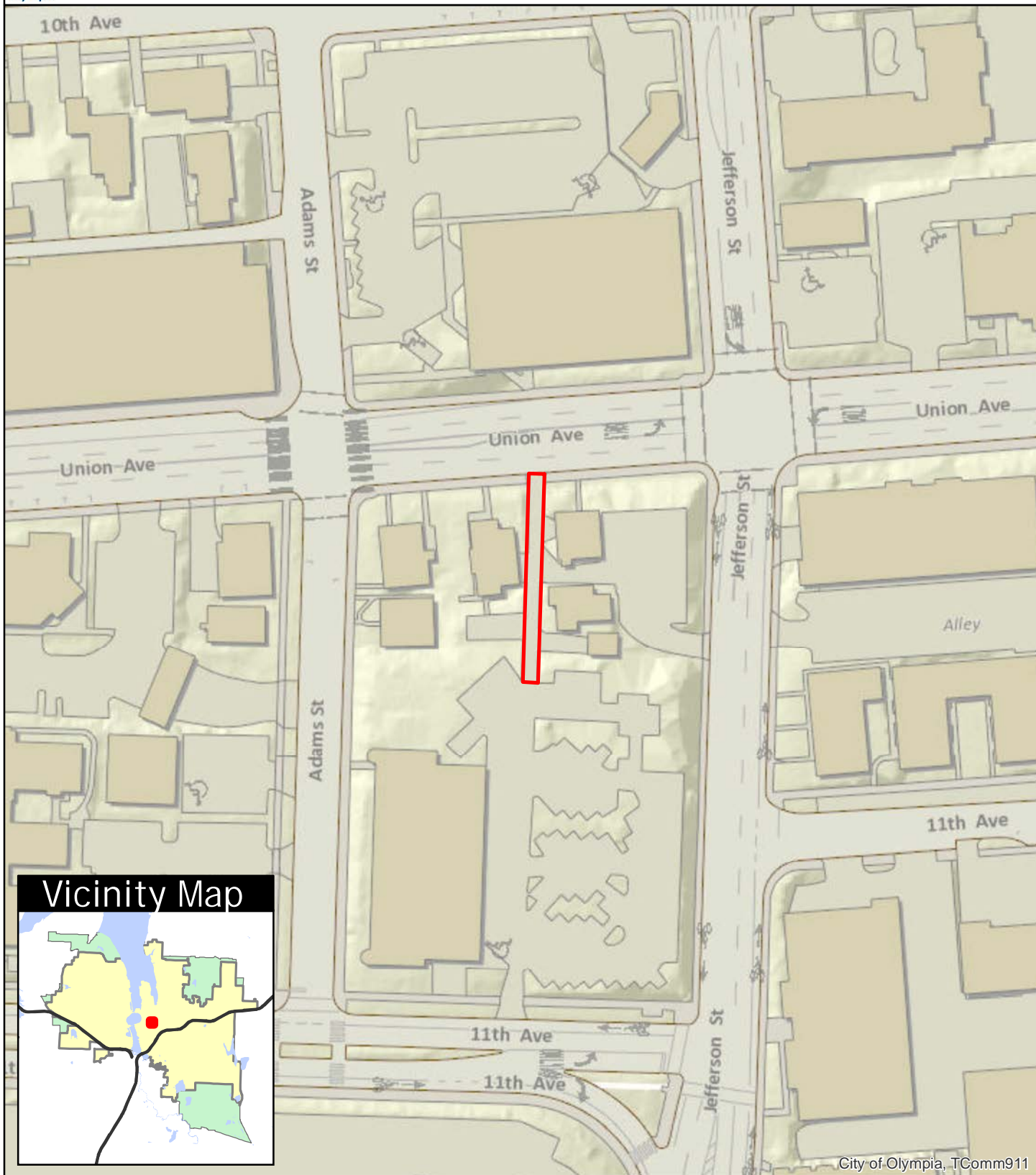
3/26/2021

 Date

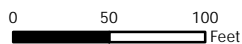


401 Union Avenue Apartments

Alley Vacation



City of Olympia, TComm911



1 inch = 100 feet

Map printed 5/17/2021

This map is intended for 8.5x11" portrait printing.

The City of Olympia and its personnel cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. The parcels, right-of-ways, utilities and structures depicted hereon are based on record information and aerial photos only. It is recommended the recipient and or user field verify all information prior to use. The use of this data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may not assert any proprietary rights to this information. The City of Olympia and its personnel neither accept or assume liability or responsibility, whatsoever, for any activity involving this information with respect to lost profits, lost savings or any other consequential damages.





City Council

Approval of an Ordinance Adopting Clarifying Amendments to Titles 14, 15, 16, and 18 of Olympia Municipal Code

Agenda Date: 4/25/2022
Agenda Item Number: 4.L
File Number:22-0312

Type: ordinance **Version:** 1 **Status:** 2d Reading-Consent

Title

Approval of an Ordinance Adopting Clarifying Amendments to Titles 14, 15, 16, and 18 of Olympia Municipal Code

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the ordinance adopting clarifying amendments to Titles 14, 15, 16, and 18 of the Olympia Municipal Code.

Report

Issue:

Whether to approve the ordinance adopting clarifying amendments to Titles 14, 15, 16, and 18 of the Olympia Municipal Code.

Staff Contact:

Joyce Phillips, Principal Planner, Community Planning and Development, 360.570.3722

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

Periodically, Community Planning and Development Department staff propose code amendments to address issues for which the code is unclear, to correct code citations, to better align with other standards, or to address changes in state laws.

The attached ordinance includes nine proposed amendments, most of which are in OMC Title 18. Staff believes these proposed amendments are minor in nature. Attachment 2, Proposed Amendments, include a summary of why each revision is proposed. To summarize, the amendments would:

Proposal 1: Recognize that covered patios or porches are allowed on Accessory Dwelling Units (ADUs). Currently the only size limits to these are based on the underlying zoning standards for maximum lot coverages (building footprints, impervious and hard surfaces). The proposal adds a maximum size of 120 square feet, to help ensure these units remain subordinate to the primary residence.

Proposal 2: Provide additional clarification about accessory structures that are not attached to the house. Increase the allowed size of detached garages (garages only, not other accessory structures) from 800 square feet to 1,200 square feet without needing a Conditional Use Permit (CUP). Add requirements for compatibility with the existing home for all detached garages and require that larger garages that do require a CUP be required to meet the garage standards in the Infill and Other Residential Design Review chapter.

Proposal 3: Remove reference to application fees for parking modifications. Requests for parking modifications are reviewed and considered as part of the Land Use Review process and do not require a separate fee.

Proposal 4: Define a minimum size for parking spaces in residential areas (such as when in a driveway) when not located in a parking lot.

Proposal 5: Add additional detail for driveways regarding location, width, and surfacing.

Proposal 6: Clarify fencing height standards, including for corner lots. This proposal includes amendments to both Title 16 (Buildings and Construction) and Title 18 (Unified Development Code) to align provisions with each other and the International Building Codes when a building permit is required for a fence.

Proposal 7: Add Public Notification requirements for projects reviewed under the State Environmental Policy Act (SEPA) "Optional DNS" process. The proposal also aligns appeal periods with issuance of the SEPA threshold decision rather than the end of the comment period. These amendments also include revisions to OMC Title 14.

Proposal 8: Remove a code reference regarding design review for signs. Under the new Sign Code and Downtown Design Review Criteria, signs are no longer required to go through a separate design review process.

Proposal 9: Add new provisions to address changes in state law (RCW 82.02.060) specific to Early Learning Facilities. These amendments revise OMC Title 15.

Public Review Process

After holding a public hearing, the Olympia Planning Commission recommends approval of the amendments, as proposed. The majority of the Commission's discussion was in regard to detached garages, fences, and the size of parking spaces in driveways.

The Land Use and Environment Committee received a report on the Planning Commission's recommendations and agreed to refer the attached ordinance to the City Council.

Neighborhood/Community Interests (if known):

Written public comments were received and are attached for your consideration. Three people testified at the hearing, related to detached garage sizes (one in support, one with concerns), fence heights, and impact fees for schools.

Options:

1. Approve the ordinance adopting clarifying amendments to the Olympia Municipal Code.
2. Approve the ordinance adopting clarifying amendments to the Olympia Municipal Code, with specific modifications.
3. Do not approve the ordinance adopting clarifying amendments to the Olympia Municipal Code.

Financial Impact:

None. Processing the proposed code amendments is covered by the Department's base budget.

Attachments:

Ordinance
Proposed Amendments
Public Comments

Ordinance No. _____

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, AMENDING
VARIOUS SECTIONS AND SUBSECTIONS OF TITLE 14, ENVIRONMENTAL
PROTECTION; TITLE 15, IMPACT FEES; TITLE 16, BUILDINGS AND
CONSTRUCTION; AND TITLE 18, UNIFIED DEVELOPMENT CODE, OF THE
OLYMPIA MUNICIPAL CODE**

WHEREAS, on December 30, 2021, the City of Olympia Community Planning and Development Department proposed multiple minor amendments to various chapters in Title 14, Environmental Protection; Title 15, Impact Fees; Title 16, Buildings and Construction; and Title 18, Unified Development Code, of the Olympia Municipal Code (OMC) (the Proposed Amendments); and

WHEREAS, Notice of Application for the Proposed Amendments was routed to all Recognized Neighborhood Associations within the City of Olympia and to the Council of Neighborhoods Association on December 30, 2021; and

WHEREAS, on January 3, 2022, the Proposed Amendments were sent to the Washington State Department of Commerce Growth Management Services with the Notice of Intent to Adopt Development Regulation amendments as required by RCW 36.70A.106 and no comments were received from state agencies during the comment period; and

WHEREAS, on January 5, 2022, a legal notice was published in *The Olympian* newspaper providing notice of the Proposed Amendments; and

WHEREAS, on January 24, 2022, the Olympia Planning Commission received a briefing on the Proposed Amendments; and

WHEREAS, on February 9, 2022, the City of Olympia issued a Determination of Non-Significance pursuant to the State Environmental Policy Act (SEPA) on the Proposed Amendments; and

WHEREAS, on February 17, 2022, a legal notice was published in *The Olympian* newspaper regarding the date of the Olympia Planning Commission's public hearing on the Proposed Amendments; and

WHEREAS, on February 16, 2022, notice of the public hearing for the Proposed Amendments was provided to all Recognized Neighborhood Associations with the City of Olympia pursuant to Chapter 18.78 OMC, Public Notification; and

WHEREAS, on February 16, 2022, notice of the public hearing for the Proposed Amendments was provided to all Parties of Record pursuant to Chapter 18.78 OMC, Public Notification; and

WHEREAS, on February 28, 2022, the Olympia Planning Commission received a briefing, held a public hearing, and deliberated the Proposed Amendments; and

WHEREAS, following the public hearing and deliberations, on February 28, 2022, the Planning Commission provided to the City Council its recommendation to amend multiple chapters in Title 14, Environmental Protection; Title 15, Impact Fees; Title 16, Buildings and Construction; and Title 18, Unified Development Code, of the Olympia Municipal Code (OMC), as proposed; and

WHEREAS, the Proposed Amendments are consistent with the Olympia Comprehensive Plan and other chapters of Title 18 OMC; and

WHEREAS, the Proposed Amendments have been reviewed pursuant to the Rezones and Text Amendments process outlined in chapter 18.58 OMC; and

WHEREAS, chapters 35A.63 and 36.70A RCW and Article 11, section 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 14.04.160(A). Olympia Municipal Code Subsection 14.04.160(A) is hereby amended to read as follows:

- A. The following administrative appeal procedures are established under RCW [43.21C.075](#), WAC [197-11-680](#), and RCW ~~Chapter~~[chapter 36.70B](#) RCW:
1. Any agency or person who may be aggrieved by an action may appeal to the Hearing Examiner the environmental review officers conditioning, lack of conditioning or denial of an action pursuant to WAC Chapter [197-11](#).
 2. The responsible official's initial decision to require preparation of an environmental impact statement, i.e., to issue a determination of significance, is subject to an interlocutory administrative appeal upon notice of such initial decision and only to such appeal. Notice of such decision shall be provided as set forth in OMC [18.78.020](#). Failure to appeal such determination within 14 calendar days of notice of such initial decision shall constitute a waiver of any claim of error.
 3. All appeals shall be in writing, be signed by the appellant, be accompanied by the appropriate filing fee, and set forth the specific basis for such appeal, error alleged and relief requested. Any appeal must be filed ~~within seven calendar days after the comment period expires~~ in accordance with OMC 18.75.020(B) – SEPA Appeal Procedures. Where there is an underlying governmental action requiring review by the Hearing Examiner, any appeal and the action shall be considered together. Except for threshold determinations issued under the optional DNS process, an appeal period shall conclude simultaneously with an underlying permit decision.
 4. For any appeal under this subsection, the city shall keep a record of the appeal proceeding which shall consist of the following:
 - a. Findings and conclusions;
 - b. Testimony under oath; and
 - c. A taped or written transcript of any hearing.
 5. Any procedural determination by the city's responsible official shall be given substantial weight in any appeal proceeding.
 6. See OMC [18.75.020](#)~~-(B)~~ for additional requirements.

Section 2. Amendment of OMC 15.04.060(A). Olympia Municipal Code Subsection 15.04.060(A) is hereby amended to read as follows:

- A. The following shall be exempted from the payment of impact fees as follows:

1. Alteration of an existing nonresidential structure that does not expand the usable space or add any residential units shall be exempt from paying all impact fees;
2. Miscellaneous improvements, including, but not limited to, fences, walls, swimming pools, and signs shall be exempt from paying all impact fees;
3. Demolition or moving of a structure shall be exempt from paying all impact fees;
4. Expansion of an existing structure that results in the addition of ~~one hundred twenty~~ (120) square feet or less of gross floor area shall be exempt from paying all impact fees;
5. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within ~~seventy-two~~ (72) months of the demolition or destruction of the prior structure shall be exempt from paying all impact fees. Replacement of a structure with a new structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than ~~one hundred twenty~~ (120) square feet. Such replacements shall be exempt from the payment of park, transportation impact fees, and school impact fees; provided that, park, transportation, and school impact fees will be charged for any additional residential units that are created in the replacement and, transportation impact fees shall be charged for any additional gross floor area greater than ~~one hundred twenty~~ (120) square feet added in the replacement;
6. Any form of housing intended for and solely occupied by persons ~~sixty-two~~ (62) years or older, including nursing homes and retirement centers, shall be exempt from the payment of school impact fees so long as those uses are maintained, and the necessary covenants or declaration of restrictions, in a form approved by the City Attorney and the School District attorney, required to ensure the maintenance of such uses, are recorded on the property;
7. The creation of an accessory dwelling unit shall be exempt from the payment of school impact fees and the creation of an accessory dwelling unit within an existing single-family structure shall be exempt from the payment of park impact fees;
8. A single room occupancy dwelling shall be exempt from the payment of school impact fees;
9. A change in use where the increase in trip generation is less than the threshold stated in OMC Section 15.04.040(C), Assessment of Impact Fees shall be exempt from paying transportation impact fees; or
10. Any form of low-income housing occupied by households whose income when adjusted for size, is at or below ~~eighty percent (80%)~~ 80 percent of the area median income, as annually adjusted by the U.S. Department of Housing and Urban Development shall be exempt from paying school impact fees provided that a covenant approved by the school district to assure continued use for low income housing is executed, and that the covenant is an obligation that runs with the land upon which the housing is located and is recorded against the title of the property.
11. Developments limited to residents who routinely receive assistance with activities of daily living such as, but not limited to, bathing, dressing, eating, personal hygiene, transferring, toileting, and mobility shall be exempt from paying park and school impact fees.
12. Any early learning facility, as defined in RCW 43.31.565, for the purposes of impact fee assessments, will not be subject to an impact fee that is greater than that imposed on commercial retail or office development activities that generate a similar number, volume, type, and duration of vehicle trips. Further, the early learning facility may receive:

- a. An 80 percent reduction in impact fees; or
- b. A full waiver from impact fees when the developer records a covenant with the Thurston County Auditor's Office that is compliant with RCW 82.02.060 and:
 - i. Requires that at least 25 percent of the children and families using the early learning facility qualify for state subsidized childcare, including early childhood education and assistance under chapter 43.216 RCW;
 - ii. Provides that if the property is converted to a use other than for an early learning facility, the property owner must pay the applicable impact fees in effect at the time of conversion; and
 - iii. Provides that if at no point during a calendar year does the early learning facility achieve the required percentage of children and families qualified for state subsidized child care using the early learning facility, the property owner must pay 20 percent of the impact fee that would have been imposed on the development had there not been an exemption within 90 days of the local government notifying the property owner of the breach, and any balance remaining thereafter shall be a lien on the property.

Section 3. Amendment of OMC 16.04.040(A). Olympia Municipal Code Subsection 16.04.040(A), is hereby amended to read as follows:

- A. International Building Code Amendments. The following sections of the International Building Code (IBC), as adopted by this Ordinance, are amended to read as follows:
 - 1. Amend Section 105.2 Work Exempt from Permit, item 1 to read: One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 200 square feet (18.58 m²).
 - 2. ~~Amend Section 105.2 Work Exempt from Permit, item 2 to read: Fences not over 6 feet (1828.8mm) high. Reserved.~~
 - 3. Amend Section 110.3.10 Final inspection. The final inspection is to be made after all conditions of SEPA, Hearings Examiner, Design Review, Development Engineering, Stormwater Ordinance, and the Tree, Soil and Native Vegetation Ordinance are either complied with or bonded for at a rate of 125% in addition to finish grading; and the building is completed and ready for occupancy.
 - 4. Amend Section 111.2 Certificate issued. After the Building Official inspects the building or structure and finds no violations of the provisions of this code or other laws and regulations, which are enforced, by the Community Planning and Development Department, the Building Official shall issue a Certificate of Occupancy, which shall contain the following:
 - a. The building permit number.
 - b. The address of the structure.
 - c. The name and address of the owner or the owner's authorized agent.
 - d. A description of that portion of the structure for which the certificate is issued.
 - e. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
 - f. The name of the Building Official.
 - g. The edition of the code under which the permit was issued.

- h. The name of the tenant, use and occupancy, in accordance with the provisions of Chapter 3.
 - i. The type of construction as defined in Chapter 6.
 - j. The design occupant load.
 - k. If an automatic sprinkler system is provided, whether the sprinkler system is required.
 - l. Any special stipulations or conditions of the building permit.
5. Add Subsection 903.2 Additional Sprinkler Requirements. There are additional sprinkler requirements in all structures or buildings where the gross square footage, basements included, exceeds 5,000 square feet, or in all structures or buildings more than three stories in height (unless other sections are more restrictive). The area and height increases specified in IBC Sections 504, 506, and 507 shall be permitted. For the purposes of this section, portions of buildings separated by a fire wall may be considered as separate buildings, except that the entire gross floor area of all floors will be used to determine fire sprinkler requirements.

In addition, in all buildings, including single family residences, where the fire perimeter access (as required under OMC [16.32.050](#)) or access roadways for fire apparatus cannot be provided due to design and/or location, fire sprinkler systems may be required.

Section 4. Amendment of OMC 16.04.040(B). Olympia Municipal Code Subsection 16.04.040(B) is hereby amended to read as follows:

- B. International Residential Code Amendments. The following sections of the International Residential Code (IRC), as adopted by this Ordinance, are amended to read as follows:
- 1. ~~Amend Section R105.2 Work Exempt from Permit, item 2 to read: Fences not over 6 feet (1828.8mm) high. Reserved.~~
 - 2. Amend Section R110.3 Certificate issued. After the Building Official inspects the building or structure and finds no violations of the provisions of this code or other laws and regulations, which are enforced, by the Community Planning and Development Department, the Building Official shall issue a Certificate of Occupancy, which shall contain the following:
 - a. The building permit number.
 - b. The address of the structure.
 - c. The name and address of the owner or the owners authorized agent.
 - d. A description of that portion of the structure for which the certificate is issued.
 - e. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
 - f. The name of the Building Official.
 - g. The edition of the code under which the permit was issued.
 - h. The use and occupancy.
 - i. The type of construction as defined in Chapter 6 of the International Building Code.
 - j. The design occupant load.
 - k. If an automatic sprinkler system is provided, whether the sprinkler system is required.
 - l. Any special stipulations or conditions of the building permit.
 - 3. Amend Table R301.2 (a), Climatic and Geographic Design Criteria, as follows:

Climatic and Geographic Design Criteria
IRC Table R301.2(1)

SUBJECT TO DAMAGE FROM										
ROOF SNOW LOAD	WIND SPEED (mph)	SEISMIC DESIGN CATEGORY	Weathering	Front Line Depth	Termite	WINTER DESIGN TEMP (Degrees)	ICE SHIELD UNDER-LAYMENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX (degrees)	MEAN ANNUAL TEMP (degrees)
25	110	D1	Moderate	12"	Slight to Moderate	17	No	Sept. 1, 2016	170	51

4. Add Section R313.2 Automatic Sprinkler System Requirements. A fully automatic residential fire sprinkler system shall be designed, installed, tested and maintained per N.F.P.A. (National Fire Protection Association) 13, current edition, RCW [18.160](#) and the approval of the Fire Chief, in all structures subject to this code pursuant to Section R101.2 (including additions and alterations to structures with existing sprinkler systems).

Section 5. Amendment of OMC 18.04.060(A). Olympia Municipal Code Subsection 18.04.060(A), is hereby amended to read as follows:

A. ACCESSORY DWELLING UNITS (ADU).

Accessory dwelling units (ADU) are permitted in all residential districts subject to the following requirements:

1. Number. One (1) ADU shall be allowed per residential lot in conjunction with any detached single-family structure. (See ~~OMC Section~~ [18.04.080\(A\)\(3\)](#) regarding ADUs in new subdivisions.)
2. Location. The ADU shall be permitted as a second dwelling unit added to, created within, or detached from the original dwelling. The ADU shall be oriented in a way that maintains, to the extent practical, the privacy of residents in adjoining dwellings. (See ~~Chapters~~ [chapter 18.100 OMC](#), Design Review, and [chapter 18.175 OMC](#), Infill and Other Residential.)
3. Size. The ADU shall have a gross floor area of no more than ~~eight hundred fifty (850)~~ square feet. Covered porches or patios (or similar covered spaces) do not count toward the gross floor area of the ADU but are limited to a total of 120 square feet in size for each ADU and may not be enclosed.
4. Accessory Dwelling Units may be attached to accessory structures such as a garage or shop building. In such circumstances, the ADU may be up to 850 square feet in size and the accessory structure may be up to ~~eight hundred~~ 800 square feet in size (or larger if the underlying zoning district allows or a conditional use permit for a large garage has been approved).
5. Occupancy. No more than one (~~±~~) family (as defined in ~~€~~[chapter 18.02 OMC](#), Definitions) shall be allowed to occupy an ADU.
6. Existing ADUs. Accessory dwellings created prior to the enactment of these regulations, June 19, 1995, may be approved subject to applicable requirements. If the owner of an existing unauthorized ADU applies to make the unit legal, but cannot meet all of the standards, the owner will be allowed a "grace period" of six months from date of application to comply with applicable standards. However, where health and safety ~~is~~ are an issue, the Building Official will determine

when the necessary modifications must be made. If the owner cannot meet the standards, the unauthorized accessory unit must be removed or its use as a dwelling must be suspended.

7. Deviation From Requirements. The Director or the Director's designee may allow deviation from the requirements of this section (OMC 18.04.060(A)) as follows:
 - a. To allow use of the entirety of a single floor in a dwelling constructed two ~~(2)~~ or more years prior to the date of application in order to efficiently use all floor area; and
 - b. To enable ADUs to be established in structures constructed prior to June 19, 1995, which are located in rear or side setbacks, provided that ~~Uniform~~ Building Code requirements and the Development Standards contained in ~~OMC Section 18.04.080~~ are met. [NOTE: See ~~Chapters~~ chapter 18.100 OMC, Design Review, and chapter 18.175 OMC, Infill and Other Residential for applicable design guidelines.]

Section 6. Amendment of OMC 18.04.060(B). Olympia Municipal Code Subsection 18.04.060(B) is hereby amended to read as follows:

B. ACCESSORY STRUCTURES.

Accessory structures are detached structures and are permitted in all residential districts subject to the following requirements:

1. Time of Establishment. Accessory structures shall not be built prior to commencing construction of the main building on the lot. However, lots may be created which contain an accessory structure (without an associated primary use) constructed prior to submission of the subdivision application.
2. Subordination to Primary Use. Accessory structures shall be clearly incidental and subordinate to the use of the lot (e.g., structures used for storage of personal property or the pursuit of hobbies) or used for agricultural purposes. In residential districts with a maximum density of twelve units or less per acre each accessory structure shall not exceed ~~eight hundred (800)~~ square feet in size, except for:
 - a. structures accessory to an agricultural use which are located on a parcel one ~~(1)~~ acre or larger in size.
 - b. garages and carports as described below.
3. ~~Garages. Private garages shall meet the following standards:~~ Detached garages and carports shall meet the following standards:
 - a. ~~Garages shall~~ Shall not exceed a total of ~~eight hundred (800)~~ 1,200 square feet of floor space per dwelling unit, unless approved as a conditional use.
 - b. Must be designed so the appearance of the building remains consistent with the primary structure by addressing the following:
 - i. Similar materials and colors as the primary use;
 - ii. A roof type or pitch similar to the primary use;

~~c. Garages~~ Detached garages or carports exceeding ~~eight hundred (800)~~ 1,200 square feet per dwelling unit may be permitted as conditional uses in the districts specified in Table 4.01 provided that they will not be adverse to the public interest and are compatible with the surrounding neighborhood. The criteria for garages/carports outlined above in OMC 18.04.060(B)(3) and OMC 18.175.060 must be met. ~~The Hearing Examiner approval authority shall establish a maximum size for garages receiving conditional use approval. See Section OMC 18.04.080.~~

4. See ~~OMC Section 18.04.060(P)(4)~~ regarding accessory structures in mobile home/manufactured home parks.

Section 7. Amendment of OMC 18.38.080(B). Olympia Municipal Code Subsection 18.38.080(B) is hereby amended to read as follows:

B. Administrative Modifications. A modification to increase or decrease the number of required parking spaces within the range of ~~ten-10~~ percent to ~~forty-40~~ percent shall be considered by the Director at the request of the project applicant. The project applicant shall present any modification request ~~including application fee~~, and any evidence and reports, prior to any final, discretionary approvals, such as land use approval, environmental review, or construction permits.

1. The general criteria for an administrative modification request are:

- a. Modification requests may be granted based on the effectiveness of proposed transportation demand management strategies, significance and magnitude of the proposed modification, and compliance with this chapter.
- b. Modification requests may be denied or altered if the Director has reason to believe based on experience and existing development practices that the proposed modification may lead to excessive or inadequate parking or may inhibit or prevent regular and intended functions of either the proposed or existing use, or adjacent uses.

2. Submittal Requirements. A report shall be submitted by the applicant providing the basis for more or less parking and must include the following:

a. For modification requests of up to ~~twenty-20~~ percent:

- i. Describe site and use characteristics, specifically:
 - (A) Site accessibility and proximity to transit infrastructure and transit times;
 - (B) Site accessibility and proximity to bicycle and pedestrian infrastructure;
 - (C) Shared and combined parking opportunities; and
 - (D) Employee or customer density and transportation usage and patterns.
- ii. Describe and demonstrate alternative transportation strategies such as carpooling, flexible work schedules, telecommuting, or parking fees, if used;
- iii. Demonstrate compliance with commute trip reduction measures as required by state law, if applicable;
- iv. Identify possible negative effects on adjacent uses and mitigation strategies, if applicable; and

b. For modification requests greater than ~~twenty-20~~ percent and up to ~~forty-40~~ percent:

- i. Provide the contents of a ~~twenty-20~~ percent or less request;

- ii. If increasing, provide a parking demand study prepared by a transportation engineer licensed in the state of Washington, which supports the need for more parking; or
 - iii. If decreasing, show that the site is or within six months of occupancy will be within a one-quarter-mile walk to transit service verified by Intercity Transit, and that the site is more than 300 feet from a single-family residential zone.
3. To mitigate the need for motor vehicle parking or to minimize hard surfaces, the Director may require measures, such as more efficient parking geometrics and enhanced bicycle parking and pedestrian amenities. As a condition of approval of any increase in motor vehicle parking, at minimum the Director shall require the compliance with the provisions below. Any exceptions shall be based on site and project constraints identified and described in the approval.
- a. Double the amount of required interior landscaping for that area of additional parking. This additional area may be dispersed throughout the parking area. Fifty ~~(50)~~ percent of this requirement may be in the form of parking spaces surfaced with a driveable planted pervious surface, such as 'grasscrete' or 'turfblock.'
 - b. Without unduly compromising other objectives of this Chapter, ~~ninety (90)~~ percent of the parking area shall be located behind a building. Any parking area along a flanking street shall have added landscaping and a superior design to strengthen pedestrian qualities, such as low walls, arcades, seating areas, and public art.
 - c. Any preferential parking shall be located near primary building entrances for employees who ride-share.
 - d. In locations where bus service is provided, the applicant shall install a transit shelter meeting Intercity Transit standards if none is available within ~~six hundred (600)~~ feet of the middle of the property abutting the right-of-way. Alternative improvements may be accepted if supported by Intercity Transit's Director.

Section 8. Amendment of OMC 18.38.100(A). Olympia Municipal Code Subsection 18.38.100(A), is hereby amended to read as follows:

- A. Required Vehicular and Bicycle Parking. A minimum number of bicycle parking spaces are required as set forth in Table 38-01 below. The specific number of motor vehicle parking spaces set forth in Table 38-01 must be provided, however the project proponent may increase or decrease by ~~ten (10)~~ percent ~~(10%)~~ automatically. This is not exclusive of other modifications as outlined elsewhere in the chapter. Residential uses, when parking is on site and not located in a parking lot, shall provide parking space(s) that are at least eight feet wide by 18 feet in length.

Section 9. Amendment of OMC 18.38.220. Olympia Municipal Code Section 18.38.220 is hereby amended to read as follows:

Off-street parking facilities shall be designed and maintained in accordance with the standards hereunder, provided that up to 30% of parking stalls may be small spaces as described in section B. In the alternative, an applicant may propose and, if providing equal or better function, the Director may approve alternative parking geometrics consistent with the most recent specific standards promulgated by the Institute of Transportation Engineers or the National Parking Association.

- A. General Requirements. Also see the specific zone district design standards of OMC [18.38.240](#).

1	2 SW	3 WP	4 VPW	5 VPi	6 AW	7 W2	8 W4
Parking Class	Basic Stall Width (ft)	Stall Width Parallel to Aisle (ft)	Stall Depth to Wall (ft)	Stall Depth to Interlock (ft)	Aisle Width (ft)	Modules Wall-to-Wall (ft)	Modules Interlock to Interlock (ft)
A	2-Way Aisle-90° 9.00	9.00	17.5	17.5	24	59	59
A	2-Way Aisle-60° 9.00	10.4	18.0	16.5	24	60	57
A	1-Way Aisle-75° 9.00	9.3	18.5	17.5	20	57	55
A	1-Way Aisle-60° 9.00	10.4	18.0	16.5	16	52	49
A	1-Way Aisle-45° 9.00	16.5	16.5	14.5	13	46	42

STANDARD PARKING DIMENSIONS
FIGURE 38-4

Figure 7-1. Dimensional elements of parking layouts.
SOURCE: Adapted from R. A. Weant, "Parking Garage Planning and Operation," Fig. 20, Eno Foundation for Transportation, Inc., 1978.

- 0 Parking angle
- W₁ Parking module width (wall to wall), single loaded aisle
- W₂ Parking module width (wall to wall), double loaded aisle
- W₃ Parking module width (wall to interlock), double loaded
- W₄ Parking module width (interlock to interlock), double loaded aisle
- AW Aisle width
- WP Stall width parallel to aisle
- DI Stall depth to interlock
- D Stall depth to wall measured perpendicular to aisle
- S_L Stall length
- S_W Stall width

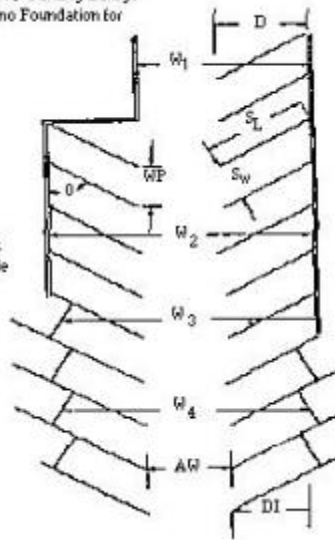


FIGURE 38-5

1. Driveways.

- a. Approaches. Driveway approaches and curb cuts within public rights-of-way shall be located and designed in accordance with the City's current Engineering Design and Development Standards.

- b. For residential driveways once the driveway is outside of the public right of way, the provisions below apply.
 - i. Setback. A driveway may be located within any required setback.
 - ii. Width. All driveways shall meet the access width requirements of the Fire Department (see OMC 16.32.050).
 - iii. Surfacing. A gravel surface driveway may be allowed for a single-family residence for that portion of the driveway that is more than 75 feet from the right of way line where access is provided. Any driveway approved for a gravel surface shall include a paved apron in front of the garage automobile door entrance extending a minimum depth of 18 feet and at least the width of the garage door.

2. Ingress/Egress Requirements.

- a. The Director, or designee, and after appropriate traffic study, including consideration of total parcel size, frontage on thoroughfares, uses proposed and other vicinity characteristics, shall have the authority to fix the location, width and manner of approach of a vehicular ingress and egress from a building or parking area to a public street and to alter existing ingress or egress as may be required to control street traffic in the interest of public safety and general welfare.
- b. Generally, but not in all cases, the internal circulation system and the ingress and egress to commercial or multifamily developments from an access street shall be so designed that the principal point of automobile cross-traffic on the street occurs at only one point--a point capable of being channelized for turning movements. Access shall be shared with adjoining parcels by placing ingress/egress points on shared lot lines, wherever safe and practical. Where parcels are bounded by more than a single street, generally, but not in all cases, access shall be provided only from the street having the lowest classification in the hierarchy of streets as established in the Engineering Design and Development Standards.

3. Maneuvering Areas.

- a. All maneuvering areas, ramps, access drives, etc. shall be provided on the property on which the parking facility is located; however, if such facility adjoins an alley, such alley may be used as a maneuvering area. A garage or carport entered perpendicular to an alley must be located a minimum of ~~ten~~(10) feet from the property line. A garage or carport entered parallel to an alley may be placed on the rear property line; provided sight distances are maintained.
- b. Maneuvering areas shall be provided so that no vehicle is obliged to back out of a parking stall onto the street, except into neighborhood collector and local access streets within the R-1/5, RLI, R-4, R 4-8, and R 6-12 use districts, or where approved by the City Engineer.

4. Parking Surface. All parking, maneuvering, and driving areas must be paved and designed to meet drainage requirements. Approved pervious surfaces may be used.

5. Landscaping. Parking areas shall be landscaped according to the requirements of Chapter [18.36](#).

6. Wheel Stop, Overhang. Appropriate wheel and bumper guards shall be provided to protect landscaped areas, to define parking spaces and to clearly separate the parking area from any

abutting street rights-of-way and property lines. Vehicles may overhang landscaped areas up to two (2) feet when wheel stops or curbing is provided.

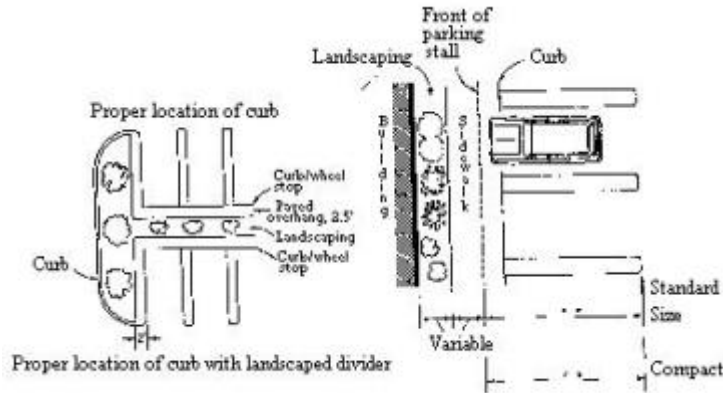


FIGURE 38-6

7. Contiguous parking lots shall not exceed one (1) acre in size. Parking lots exceeding one (1) acre in size shall be separated by a minimum ten (10) foot wide landscaped strip. This strip is in addition to interior and perimeter landscaping and may be used for stormwater management or pedestrian access.
8. Structured Parking Dimensions. Structured parking facilities may be designed to the general design standards found in Figures 38-4 and 38-5 above, Figure 38-7 below, or to the following structured parking design standard. Within parking structures, small spaces shall not exceed 30% of spaces within each structure.

	Small Space Dimension	Standard Dimensions
Standard Stall Width	8-foot	9-foot
Standard Stall Depth	16-foot	16-foot
Standard Aisle Width	24-foot	24-foot
Standard Wall-to-Wall	57-foot	57-foot

Section 10. Amendment of OMC 18.40.060(C). Olympia Municipal Code Subsection 18.40.060(C) is hereby amended to read as follows:

- C. Fences/Hedges, Walls and Site Perimeter Grading. It shall be the responsibility of property owners to ensure fences are within property lines and that a building permit is obtained when required. "Fences" as used in this section includes walls and similar above-grade unenclosed structures forming a continuous or nearly continuous line or row exceeding six feet in length. Also see definition, OMC 18.02.180-(F). For this section only, any portion of a special purpose lot, tract or parcel, such as a stormwater or tree tract, which is within ten feet of any public street right-of-way shall be a "front yard," and all other yards shall be defined as if such tract were a buildable lot.

For the purpose of fencing, the front yard is considered to be the first 10 feet of any lot, tract, or parcel that abuts a public street or right of way, excluding alleys. Corner lots adjacent to two public rights of way shall have a front yard and a flanking side yard.

1. Fence Heights:

a. Fences, when located within a required yard, shall not exceed the following height limits:

- a.i. Front yard = 48" (4'-0");
- b.ii. Side yards = 72" (6'-0"), Flanking side yards = 72" (6'-0");
- c.iii. Rear yards = 72" (6'-0");
- d.iv. Clear Sight Triangle = 30" (2'-6").

b. Agricultural uses. Rear and side yard fences for legally established agricultural uses may be permitted to a maximum height of eight feet from the ground; provided, at a minimum, the portion of the fence above six feet is composed of a fence material that is of a deer fence-type design.

Examples of deer fence designs include wire with rectangular openings generally four inches by four inches in size. Additionally, the eight-foot fences shall not be constructed of chain link or chicken wire.

c. Gardens. Front yard fences surrounding a defined garden bed may be permitted to a maximum height of eight feet from the ground and shall be composed of a fence material that is of a deer fence-type design.

Examples of deer fence designs include wire with rectangular openings generally four inches by four inches in size. Additionally, the eight-foot fences shall not be constructed of chain link or chicken wire.

For purposes of this section, a front yard shall not exceed ~~ten~~ 10 feet in depth, regardless of any other provision found in this Title.

2. Fence height is measured to the top of the fence, excluding posts. Point of ground measurement shall be the high point of the adjacent final grade.
3. Fences, walls, and hedges are permitted within all yard areas provided that regardless of yard requirements, no closed gate, garage door, bollard or other feature shall obstruct a driveway or other motor vehicle private ingress within ~~twenty~~ (20) feet of a street right-of-way nor obstruct automobile views exiting driveways and alleys (see clear vision triangle). This 20-foot requirement is not applicable within the downtown exempt parking area as illustrated at Figure 38-2. Additional exceptions may be granted in accordance with OMC 18.38.220(A)(2).
4. Front yard fences, of any common areas, such as tree, open space, park, and stormwater tracts, must be a minimum of ~~twenty-five~~ (25) percent unobstructed, i.e., must provide for visibility through the fence.
5. Fence pillars, posts, and similar features may project a maximum of two ~~(2)~~ feet above maximum fence height.
6. Site Perimeter Grading. Within required yard areas, no single retaining wall (nor combination of walls within five horizontal feet of each other) shall exceed a height of 30 inches as measured from the lowest adjacent grade, nor shall any modification of grades or combination of retaining walls result in grade changes exceeding 30 inches within five feet of a property line nor 60 inches within 10 feet of an existing or proposed property line.

7. An administrative exception may be approved by the Department to exceed maximum fence height and other provisions of these standards ~~under~~ where all of the following conditions exist.
 - a. Variation of existing grade on either side of the fence results in a fence lower than the maximum height as measured from the highest point of grade within five (5) feet of either side of the fence; or other special circumstances relating to the size, shape, topography, location, or surroundings of the subject property warrant an exception to permit a fence comparable with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located;
 - b. The special conditions and circumstances do not result from the actions of the applicant;
 - c. Granting of the exception will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property is located;
 - d. The granting of the exception will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated; and
 - e. The exception is the minimum necessary to provide the rights and privileges described above.

~~f. Rear and side yard fences for legally established agricultural uses may be permitted to a maximum height of eight feet from the ground; provided, at a minimum, the portion of the fence above six feet is composed of a fence material that is of a deer fence type design.~~

~~Examples of deer fence designs include wire with rectangular openings generally four inches by four inches in size. Additionally, the eight foot fences shall not be constructed of chain link or chicken wire.~~

~~g. Front yard fences surrounding a defined garden bed may be permitted to a maximum height of eight feet from the ground and shall be composed of a fence material that is of a deer fence type design.~~

~~Examples of deer fence designs include wire with rectangular openings generally four inches by four inches in size. Additionally, the eight foot fences shall not be constructed of chain link or chicken wire.~~

Applications for additional fence height or other exceptions shall include ~~a letter or form explaining an explanation of~~ the exception sought and its purpose ~~of~~; and fence illustrations and plan drawing that depicts proposed fence location and height, other structures, landscaping, and proposed grades in relation to existing grades.

[NOTE: A building permit is required for all fences exceeding ~~six (6) seven~~ feet in height. Fences and hedges may exceed maximum heights if located outside of required yards. But see Design Guidelines.]

8. Hedges. Hedges are allowed in all required yard areas subject to the following maximum height limits:
 - a. Front yard = 48" (4'0")

- b. Side yard, Flanking side yard = Unlimited
- c. Rear yard = Unlimited

[Note: Clear Sight Triangle = 30" (2'-6"), see OMC Section 18.40.060.(C)]

- 9. Barbed and/or razor wire fences. No person or persons being the owner of or agent for or in possession and control of any property within the city limits shall construct or permit to exist any fence around or in front of such premises, consisting wholly or partially of barbed and/or razor wire, except to provide security at a government-owned property or privately owned utility where security for the property is mandated by law; provided that the provisions of this section shall only extend to fences that are within ~~ten~~(10) feet of a street or alley or other public place within the City.
- 10. Electric fences. It is unlawful to erect or install or maintain any electric fence within the city limits except for low-voltage, solar fences installed atop a ~~six~~-foot non-electric fence for the purposes of protecting farms or agricultural animals. "Electric fence" means any fence with above-ground electric conductors carrying electric current supplied by batteries, commercial power or any other source of electricity, erected for the purpose of retaining or excluding any animals, livestock, or persons.

Section 11. Amendment of OMC 18.78.020. Olympia Municipal Code Section 18.78.020, Table 78-1, is hereby amended to read as follows:

TABLE 78-1 CITY OF OLYMPIA - PUBLIC NOTIFICATION				
PROCESS	APPLICATION TYPE	NOTICE TYPES	WHEN	WHO
CONCEPTUAL DESIGN REVIEW	Multifamily/Commercial in DR districts/Master Planned Development	Mail	Public Meeting 10 Days	PO RNA PR
SEPA	Environmental Checklist	Mail	Notice of Application	PO RNA PR Agencies
		Post site Mail Notify Paper	SEPA Threshold Determination	PO RNA PR Agencies
<u>SEPA, when using the Optional DNS Process</u>	<u>Environmental Checklist</u>	<u>Mail</u> <u>Post Site</u> <u>Notify</u> <u>Paper</u>	<u>Notice of Application/ notice of anticipated SEPA Threshold Determination</u>	<u>PO RNA PR Agencies</u>
		<u>Mail</u>	<u>Final Threshold Determination</u>	<u>PR Agencies</u>
SUBDIVISIONS	Short Plats	Post Site	Application	
HEARING EXAMINER	Subdivision Variance Rezone Conditional Use Master Planned Development	Post Site Mail Publish in Paper	Public Hearing - 10 days	PO RNA PR

**TABLE 78-1
CITY OF OLYMPIA - PUBLIC NOTIFICATION**

PROCESS	APPLICATION TYPE	NOTICE TYPES	WHEN	WHO
	Conditional Use - Wireless Communications Facility	Post Site Mail Publish in Paper	Public Hearing - 30 days	PO RNA PR
		Mail	Decision	RNA PR
SHORE LANDS	Substantial Development Permit	Post Site Mail	Public Hearing - 15 days	PO RNA PR
		Publish in Paper Mail	Decision	RNA PR
LAND USE REVIEW	Multifamily Commercial Industrial Master Planned Development	Mail	Meeting - 5 days	RNA PR
			Decision	RNA PR
DETAILED DESIGN REVIEW	Multifamily/Commercial Master Planned Development	Mail	Public Meeting 10 days	RNA PR
		Mail	Decision	RNA PR
APPEALS	Administrative to Hearing Examiner	Post Site Mail	Open Hearing - 10 Days	RNA PR
	Hearing Examiner to City Council OCC	Mail	Closed Hearing 10 Days	PR RNA
ANNEXATION	10 Percent Notice of Intent	Mail	Public Meeting 10 days	PO RNA PR
	50/60 Percent Petition	Mail Post Publish in Paper	Public Hearing - 10 days	PO RNA PR
COMPREHENSIVE PLAN AMENDMENT/ZONING MAP AMENDMENT	Proposal	Mail Publish in Paper	Proposal Availability	RNA
	Application	Mail Publish in Paper	Public Hearing - 10 days	PO RNA PR

LEGEND

PO = Property Owner within 300 feet of site
RNA = Recognized Neighborhood Associations
PR = Parties of Records on File with the Case

Section 12. Amendment of OMC 18.75.020(A). Olympia Municipal Code Subsection 18.75.020(A) is hereby amended to read as follows:

- A. Administrative Decision. Administrative decisions regarding the approval or denial of the following applications or determinations/interpretations may be appealed to the Hearing Examiner within ~~fourteen (14) days, or twenty-one (21) days if issued with a SEPA threshold determination including a comment period,~~ of the final staff decision using procedures outlined below and in OMC Chapter [18.82](#), Hearing Examiner (Refer to [OMC 18.72.080](#) for other appeal authorities).
1. All Administrative Interpretations/Determinations
 2. Boundary Line Adjustments
 3. Home Occupation Permits
 4. Preliminary Short Plats
 5. Preliminary SEPA Threshold Determination (EIS required)
 6. Shoreline Exemptions and staff-level substantial development permits
 7. Sign Permits
 8. Variances, Administrative
 9. Building permits
 10. Engineering permits
 11. Application or interpretations of the Building Code
 12. Application or interpretations of the Housing Code
 13. Application or interpretations of the ~~Uniform~~ Fire Code
 14. Application or interpretations of the ~~Uniform~~ Code for the Abatement of Dangerous Buildings
 15. Application and interpretations of the ~~Uniform~~ Code for Building Conservation
 16. Land Use (Director) decisions
 17. Administrative decisions on impact fees
 18. A recommendation to Thurston County to deny a permit to repair or replace existing, failing on-site septic systems that meet the criteria set forth in OMC [13.08.020\(2\)](#), as required by RCW [35.21.940](#)
 19. Appeals of Drainage Manual Administrator decisions
 20. Appeals of the requirements of the Engineering Design and Development Standards, including appeals to deviation request decisions made under Chapter 1 of such Standards.

Section 13. Amendment of OMC 18.75.020(B). Olympia Municipal Code Subsection 18.75.020(B) is hereby amended to read as follows:

B. SEPA.

1. The City establishes the following administrative appeal procedures under RCW [43.21C.075](#) and WAC [197-11-680](#):
 - a. Any agency or person may appeal the City's conditioning, lack of conditioning or denial of an action pursuant to WAC Chapter [197-11](#). All such appeals shall be made to the Hearing Examiner and must be filed within seven (~~7~~) days after the comment period, ~~before the threshold decision has expired~~ except when using the Optional SEPA Process which requires a 14- or 21-day appeal period as outlined in WAC 197-11-340-355. This appeal and any other appeal of a land use action shall be considered together.
 - b. The following threshold decisions or actions are subject to timely appeal.
 - i. Determination of Significance. Appeal of a determination of significance (DS) or a claim of error for failure to issue a DS may only be appealed to the Hearing Examiner within that ~~fourteen (14)~~ day period immediately following issuance of such initial determination.
 - ii. Determination of Nonsignificance or Mitigated Determination of Nonsignificance. Conditions of approval and the lack of specific conditions may be appealed to the Hearing Examiner within seven (~~7~~) calendar days after the SEPA comment period expires; except when SEPA Determination is combined with a project decision in which case appeals should follow OMC 18.175.020(C)(1) which allows for a 21-day appeal period.
 - iii. Environmental Impact Statement. A challenge to a determination of adequacy of a Final EIS may be heard by the Hearing Examiner in conjunction with any appeal or hearing regarding the associated project permit. Where no hearing is associated with the proposed action, an appeal of the determination of adequacy must be filed within ~~fourteen (14)~~ days after the ~~thirty (30)~~ day comment period has expired.
 - iv. Denial of a proposal. Any denial of a project or non-project action using SEPA policies and rules may be appealed to the Hearing Examiner within seven (~~7~~) days following the final administrative decision.
 - c. For any appeal under this subsection the City shall keep a record of the appeal proceedings, which shall consist of the following:
 - i. Findings and conclusions; and
 - ii. Testimony under oath; and
 - iii. A taped or written transcript.
 - d. Any procedural determination by the City's responsible official shall carry substantial weight in any appeal proceeding.
2. The City shall give official notice under WAC [197-11-680\(5\)](#) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal. See ~~Chapter~~ [18.78 OMC](#), Public Notification.

Section 14. Amendment of OMC 18.100.060(A). Olympia Municipal Code Subsection 18.100.060(A) is hereby amended to read as follows:

A. The following projects are subject to design review:

1. Projects within designated design review districts and corridors, as shown on the Official Design Review Map (See OMC-Section [18.100.080](#));
2. Commercial projects adjacent to residential zones;
3. Commercial or residential projects for Heritage Register properties or those within an historic district;
4. Projects with a building area greater than 5,000 square feet that require a Conditional Use Permit in a residential zone;
5. Multifamily projects;
6. Single family housing, including designated manufactured homes, on lots less than 5,000 square feet or on substandard lots;
7. Dwellings proposed on lots within the area depicted on Figure 4-2a, "Areas Subject to Infill Regulations";
8. Master Planned Developments;
9. Manufactured housing parks;
10. Duplexes, triplexes, fourplexes, townhouses, accessory dwelling units, and cottage housing;
11. All projects within scenic vistas as identified on the official maps of the City (See OMC Section [18.100.110](#)); and,
- ~~12. Signs within designated design review districts and corridors or associated with a project that is subject to design review.~~
- ~~13~~12. For the purpose of design review, projects within one of the Downtown Design Sub-Districts will be reviewed for consistency with the criteria in OMC Chapter [18.120](#) only.

Section 15. Olympia Municipal Code. Copies of the Olympia Municipal Code are and shall be retained on file with the office of the City Clerk.

Section 16. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 17. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 18. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 19. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

Amendments to the Olympia Municipal Code (OMC) for Consideration in 2022

The City of Olympia is proposing amendments to the Olympia Municipal Code. The proposal includes multiple chapters in Title 18 (Unified Development Code), and changes to Title 16 (Buildings and Construction), Title 15 (Impact Fees), and Title 14 (Environmental Protection).

Each Title has Chapters, each Chapter has sections, and most sections have subsections. Headers have been used to identify which **Title** and **Chapter** is proposed for revision. Each proposal is separately numbered and identified with a **bold blue heading**. A brief explanation of why the amendment is proposed is provided *in italics*. Proposed amendments are shown at the subsection level of each section of the chapter. Each proposal includes a link to the section of the code proposed for amendment.

The complete existing code can be viewed online at:

<https://www.codepublishing.com/WA/Olympia/?OlympiaNT.html>

Existing and unchanged code language is shown in regular text (with hyperlinks in the existing code shown in blue underlined text). Proposed new text is shown as red and underlined text. Text that is proposed to be deleted is shown in ~~red and strikethrough text~~.

TITLE 18 – UNIFIED DEVELOPMENT CODE

OMC Chapter – 18.04, Residential Districts

Proposal #1 - 18.04.060.A, Residential Districts' Use Standard

Why this is proposed: Planning staff is often asked about attaching a covered porch on an ADU. The City code states that the size of the ADU is based on "gross floor area" of the ADU itself. The code defines gross floor area as "The area included within the surrounding exterior finished wall surface of a building or portion thereof, exclusive of courtyards." Under the current code, any attachments to an ADU that are not part of the gross floor area are allowed, as long as the lot coverages of the underlying zoning district are met. The proposed language would state that while covered spaces are allowed, such spaces shall not be enclosed, nor may they exceed 120 sq. ft. in size. The intent is to keep ADUs accessory and subordinate to the primary use.

18.04.060 Residential districts' use standards

A. ACCESSORY DWELLING UNITS (ADU).

Accessory dwelling units (ADU) are permitted in all residential districts subject to the following requirements:

1. Number. One (1) ADU shall be allowed per residential lot in conjunction with any detached single-family structure. (See Section 18.04.080(A)(3) regarding ADUs in new subdivisions.)
2. Location. The ADU shall be permitted as a second dwelling unit added to, created within, or detached from the original dwelling. The ADU shall be oriented in a way that maintains, to the extent practical, the privacy of residents in adjoining dwellings. (See Chapters 18.100, Design Review and 18.175, Infill and Other Residential.)

3. Size. The ADU shall have a gross floor area of no more than eight hundred fifty (850) square feet. Covered porches or patios (or similar covered spaces) do not count toward the gross floor area of the ADU but are limited to a total of 120 square feet in size for each ADU and may not be enclosed.
4. Accessory Dwelling Units may be attached to accessory structures such as a garage or shop building. In such circumstances, the ADU may be up to 850 square feet in size and the accessory structure may be up to eight hundred square feet in size (or larger if the underlying zoning district allows or a conditional use permit for a large garage has been approved).
5. Occupancy. No more than one (1) family (as defined in Chapter [18.02](#), Definitions) shall be allowed to occupy an ADU.
6. Existing ADUs. Accessory dwellings created prior to the enactment of these regulations, June 19, 1995, may be approved subject to applicable requirements. If the owner of an existing unauthorized ADU applies to make the unit legal, but cannot meet all of the standards, the owner will be allowed a "grace period" of six months from date of application to comply with applicable standards. However, where health and safety is an issue, the Building Official will determine when the necessary modifications must be made. If the owner cannot meet the standards, the unauthorized accessory unit must be removed or its use as a dwelling must be suspended.
7. Deviation From Requirements. The Director or the Director's designee may allow deviation from the requirements of this section (18.04.060(A)) as follows:
 - a. To allow use of the entirety of a single floor in a dwelling constructed two (2) or more years prior to the date of application in order to efficiently use all floor area; and
 - b. To enable ADUs to be established in structures constructed prior to June 19, 1995, which are located in rear or side setbacks, provided that ~~Uniform~~-Building Code requirements and the Development Standards contained in Section [18.04.080](#) are met. [NOTE: See Chapters [18.100](#), Design Review and 18.175, Infill and Other Residential for applicable design guidelines.]

Proposal #2 - 18.04.060.B, Residential Districts' Use Standard

***Why this is proposed:** Accessory structures are detached structures for a variety of uses, such as garages, sheds or storage, shops, the pursuit of hobbies, or similar uses. The current code limits detached structures to 800 square feet in most residential areas but does allow detached garages to exceed that size upon approval of a conditional use permit (CUP). The CUP is a "hearing upon request" process. Since 2007 the city has issued 19 large garage CUPs. None were requested to go through a hearing. 7 of the 19 permitted large garages were 1200 square feet in size or smaller. The 19 applications were all approved, with no conditions specific to the size of the garage. These amendments are proposed to:*

1. Clarify that the standards for garages and carports are the same, whether the structure is enclosed or not.
2. Add requirements for detached garages and structures to be designed so the appearance of the building remains consistent with the primary structure.
3. Increase the size for when garages and carports (not all accessory structures) need a CUP from 800 to 1,200 square feet. Add a requirement for detached garages over 1200 square feet in size to meet the garage standards in the Infill and Other Residential design review chapter.

18.04.060 Residential districts' use standards

B. ACCESSORY STRUCTURES.

Accessory structures are detached structures and are permitted in all residential districts subject to the following requirements:

1. Time of Establishment. Accessory structures shall not be built prior to commencing construction of the main building on the lot. However, lots may be created which contain an accessory structure (without an associated primary use) constructed prior to submission of the subdivision application.
2. Subordination to Primary Use. Accessory structures shall be clearly incidental and subordinate to the use of the lot (e.g., structures used for storage of personal property or the pursuit of hobbies) or used for agricultural purposes. In residential districts with a maximum density of twelve units or less per acre each accessory structure shall not exceed eight hundred (800) square feet in size, except for:
 - a. structures accessory to an agricultural use which are located on a parcel one (1) acre or larger in size.
 - b. garages and carports as described below.
3. ~~Detached garages and carports. Private garages and carports~~ shall meet the following standards:
 - a. ~~Garages~~They shall not exceed a total of ~~eight-twelve~~ hundred (~~812~~00) square feet of floor space per dwelling unit, unless approved as a conditional use.
 - b. Must be designed so the appearance of the building remains consistent with the primary structure by including addressing the following:
 - i. Similar materials and colors as the primary use;
 - ii. A roof of equal or greater type or pitch similar to as the primary use;
 - c. ~~Detached garages or carports~~ exceeding ~~eight-twelve~~ hundred (~~812~~00) square feet per dwelling unit may be permitted as conditional uses in the districts specified in Table 4.01 provided that they will not be adverse to the public interest and are compatible with the surrounding neighborhood. The criteria for garages/carports outlined above in OMC 18.04.060.b.3 and 18.175.060 must be met. The ~~Hearing Examiner~~approval authority shall establish a maximum size for garages receiving conditional use approval. See Section 18.04.080.
4. See Section 18.04.060(P)(4) regarding accessory structures in mobile home/manufactured home parks.

OMC Chapter – 18.38, Parking and Loading

Proposal #3 – 18.38.080.B, Administrative Modifications

Why this is proposed: The code references an application fee for requests to modify parking standards. Such

requests are allowed under the code in certain instances and are determined as part of the Land Use Review process. A separate fee is not required and is not included on the City's fee schedule.

18.38.080 Administrative Modifications

B. Administrative Modifications. A modification to increase or decrease the number of required parking spaces within the range of ten percent to forty percent shall be considered by the Director at the request of the project applicant. The project applicant shall present any modification request ~~including application fee~~, and any evidence and reports, prior to any final, discretionary approvals, such as land use approval, environmental review, or construction permits.

1. The general criteria for an administrative modification request are:
 - a. Modification requests may be granted based on the effectiveness of proposed transportation demand management strategies, significance and magnitude of the proposed modification, and compliance with this chapter.
 - b. Modification requests may be denied or altered if the Director has reason to believe based on experience and existing development practices that the proposed modification may lead to excessive or inadequate parking or may inhibit or prevent regular and intended functions of either the proposed or existing use, or adjacent uses.
2. Submittal Requirements. A report shall be submitted by the applicant providing the basis for more or less parking and must include the following:
 - a. For modification requests of up to twenty percent:
 - i. Describe site and use characteristics, specifically:
 - (A) Site accessibility and proximity to transit infrastructure and transit times;
 - (B) Site accessibility and proximity to bicycle and pedestrian infrastructure;
 - (C) Shared and combined parking opportunities; and
 - (D) Employee or customer density and transportation usage and patterns.
 - ii. Describe and demonstrate alternative transportation strategies such as carpooling, flexible work schedules, telecommuting, or parking fees, if used;
 - iii. Demonstrate compliance with commute trip reduction measures as required by state law, if applicable;
 - iv. Identify possible negative effects on adjacent uses and mitigation strategies, if applicable; and
 - b. For modification requests greater than twenty percent and up to forty percent:
 - i. Provide the contents of a twenty percent or less request;
 - ii. If increasing, provide a parking demand study prepared by a transportation engineer licensed in the state of Washington, which supports the need for more parking; or

iii. If decreasing, show that the site is or within six months of occupancy will be within a one-quarter-mile walk to transit service verified by Intercity Transit, and that the site is more than 300 feet from a single-family residential zone.

3. To mitigate the need for motor vehicle parking or to minimize hard surfaces, the Director may require measures, such as more efficient parking geometrics and enhanced bicycle parking and pedestrian amenities. As a condition of approval of any increase in motor vehicle parking, at minimum the Director shall require the compliance with the provisions below. Any exceptions shall be based on site and project constraints identified and described in the approval.

- a. Double the amount of required interior landscaping for that area of additional parking. This additional area may be dispersed throughout the parking area. Fifty (50) percent of this requirement may be in the form of parking spaces surfaced with a driveable planted pervious surface, such as 'grasscrete' or 'turfblock.'
- b. Without unduly compromising other objectives of this Chapter, ninety (90) percent of the parking area shall be located behind a building. Any parking area along a flanking street shall have added landscaping and a superior design to strengthen pedestrian qualities, such as low walls, arcades, seating areas, and public art.
- c. Any preferential parking shall be located near primary building entrances for employees who ride-share.
- d. In locations where bus service is provided, the applicant shall install a transit shelter meeting Intercity Transit standards if none is available within six hundred (600) feet of the middle of the property abutting the right-of-way. Alternative improvements may be accepted if supported by Intercity Transit's Director.

Proposal #4 - 18.38.100.A, Vehicular and Bicycle Parking Standards

Why this is proposed: The city code does not provide a minimum parking space size for parking spaces that are not in a parking lot or right of way. Staff is periodically asked what amount of space is required for parking in driveways on a residential lot. Additionally, if someone would like to add a parking space at their home, staff would like to be able to provide consistent information about the size and related stormwater requirements.

18.38.100 Vehicular and Bicycle Parking Standards

A. Required Vehicular and Bicycle Parking. A minimum number of bicycle parking spaces are required as set forth in Table 38-01 below. The specific number of motor vehicle parking spaces set forth in Table 38-01 must be provided, however the project proponent may increase or decrease by ten percent (10%) automatically. This is not exclusive of other modifications as outlined elsewhere in the chapter.

Residential uses, when parking is on site and not located in a parking lot, shall provide parking space(s) that are at least eight (8) feet wide by eighteen (18) feet in length.

Proposal #5 – 18.38.220, Design Standards - General

Why this is proposed: Planners who work on project review have asked for additional clarification around driveway requirements and allowances. The proposed amendments address setback from property lines, driveway width, and surfacing materials.

[18.38.220](#) Design standards-General

Off-street parking facilities shall be designed and maintained in accordance with the standards hereunder, provided that up to 30% of parking stalls may be small spaces as described in section B. In the alternative, an applicant may propose and, if providing equal or better function, the Director may approve alternative parking geometrics consistent with the most recent specific standards promulgated by the Institute of Transportation Engineers or the National Parking Association.

A. General Requirements. Also see the specific zone district design standards of OMC [18.38.240](#).

1	2 SW	3 WP	4 VPW	5 VPi	6 AW	7 W2	8 W4
Parking Class	Basic Stall Width (ft)	Stall Width Parallel to Aisle (ft)	Stall Depth to Wall (ft)	Stall Depth to Interlock (ft)	Aisle Width (ft)	Modules Wall-to-Wall (ft)	Modules Interlock to Interlock (ft)
A	2-Way Aisle-90° 9.00	9.00	17.5	17.5	24	59	59
A	2-Way Aisle-60° 9.00	10.4	18.0	16.5	24	60	57
A	1-Way Aisle-75° 9.00	9.3	18.5	17.5	20	57	55
A	1-Way Aisle-60° 9.00	10.4	18.0	16.5	16	52	49
A	1-Way Aisle-45° 9.00	16.5	16.5	14.5	13	46	42

STANDARD PARKING DIMENSIONS
FIGURE 38-4

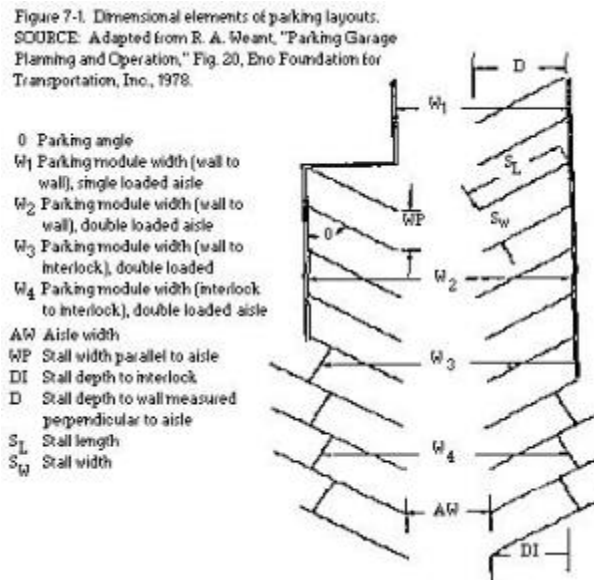


FIGURE 38-5

1. 1. Driveways:

- a. Approaches. Driveway approaches and curb cuts within public rights-of-way shall be located and designed in accordance with the City's current Engineering Design and Development Standards.
- b. For residential driveways once the driveway is outside of the public right of way, the provisions below apply.
 - i. Setback. A driveway may be located within any required setback.
 - ii. Width. All driveways shall meet the access width requirements of the Fire Department (see OMC 16.32.050).
 - iii. Surfacing. A gravel surface driveway may be allowed for a single-family residence for that portion of the driveway that is more than seventy-five (75) feet from the right of way line where access is provided. Any driveway approved for a gravel surface shall include a paved apron in front of the garage automobile door entrance extending a minimum depth of eighteen (18) feet and at least the width of the garage door.

2. Ingress/Egress Requirements.

- a. The Director, or designee, and after appropriate traffic study, including consideration of total parcel size, frontage on thoroughfares, uses proposed and other vicinity characteristics, shall have the authority to fix the location, width and manner of approach of a vehicular ingress and egress from a building or parking area to a public street and to alter existing ingress or egress as may be required to control street traffic in the interest of public safety and general welfare.
- b. Generally, but not in all cases, the internal circulation system and the ingress and egress to commercial or multifamily developments from an access street shall be so designed that the principal point of automobile cross-traffic on the street occurs at only one point--a point capable of being channelized for turning movements. Access shall be shared with adjoining parcels by placing ingress/egress points on shared lot lines, wherever safe and practical. Where parcels are bounded by more than a single street, generally, but not in all cases, access shall be provided only from the street having the lowest classification in the hierarchy of streets as established in the Engineering Design and Development Standards.

3. Maneuvering Areas.

- a. All maneuvering areas, ramps, access drives, etc. shall be provided on the property on which the parking facility is located; however, if such facility adjoins an alley, such alley may be used as a maneuvering area. A garage or carport entered perpendicular to an alley must be located a minimum of ten (10) feet from the property line. A garage or carport entered parallel to an alley may be placed on the rear property line; provided sight distances are maintained.

- b. Maneuvering areas shall be provided so that no vehicle is obliged to back out of a parking stall onto the street, except into neighborhood collector and local access streets within the R-1/5, RLI, R-4, R 4-8, and R 6-12 use districts, or where approved by the City Engineer.
4. Parking Surface. All parking, maneuvering, and driving areas must be paved and designed to meet drainage requirements. Approved pervious surfaces may be used.
 5. Landscaping. Parking areas shall be landscaped according to the requirements of Chapter [18.36](#).
 6. Wheel Stop, Overhang. Appropriate wheel and bumper guards shall be provided to protect landscaped areas, to define parking spaces and to clearly separate the parking area from any abutting street rights-of-way and property lines. Vehicles may overhang landscaped areas up to two (2) feet when wheel stops or curbing is provided.

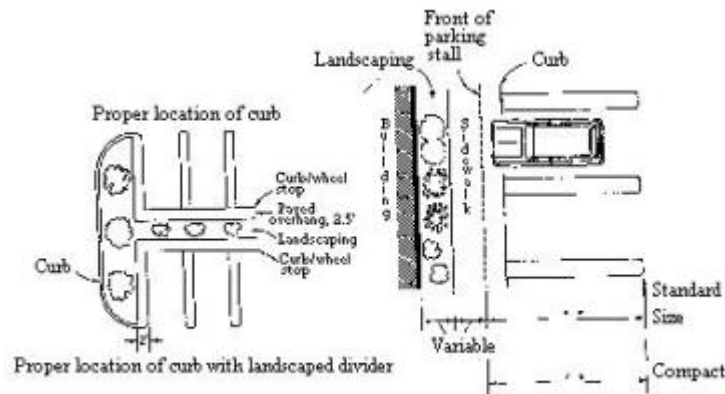


FIGURE 38-6

7. Contiguous parking lots shall not exceed one (1) acre in size. Parking lots exceeding one (1) acre in size shall be separated by a minimum ten (10) foot wide landscaped strip. This strip is in addition to interior and perimeter landscaping and may be used for stormwater management or pedestrian access.
8. Structured Parking Dimensions. Structured parking facilities may be designed to the general design standards found in Figures 38-4 and 38-5 above, Figure 38-7 below, or to the following structured parking design standard. Within parking structures, small spaces shall not exceed 30% of spaces within each structure.

	Small Space Dimension	Standard Dimensions
Standard Stall Width	8-foot	9-foot
Standard Stall Depth	16-foot	16-foot
Standard Aisle Width	24-foot	24-foot
Standard Wall-to-Wall	57-foot	57-foot

OMC Chapter – 18.40, Property Development and Protection Standards

Proposal #6 - 18.40.060, General Standards

Why this is proposed: Staff have often interpreted this section of code differently and have asked that it be modified so it is clear and will be applied consistently. Flanking streets are side yards of a corner lot that abut a street or non-alley public right of way. The current code language about fences adjacent to flanking streets is confusing to the public and is not always applied consistently by staff. The text should be improved for clarity. The changes below would implement the way staff have been interpreting this code section for several years.

18.40.060.C – Fences/Hedges, Walls and Site Perimeter Grading.

- C. Fences/Hedges, Walls and Site Perimeter Grading. It shall be the responsibility of property owners to ensure fences are within property lines and that a building permit is obtained when required. "Fences" as used in this section includes walls and similar above-grade unenclosed structures forming a continuous or nearly continuous line or row exceeding six feet in length. Also see definition, OMC 18.02.180.F. ~~For this section only, any portion of a special purpose lot, tract or parcel, such as a stormwater or tree tract, which is within ten feet of any public street right-of-way shall be a "front yard," and all other yards shall be defined as if such tract were a buildable lot.~~

For the purpose of fencing, the front yard is considered to be the first ten feet of any lot, tract, or parcel that abuts a public street or right of way, excluding alleys. Corner lots adjacent to two public rights of way shall have a front yard and a flanking side yard.

1. 1.—Fence Heights:

- a. Fences, when located within a required yard, shall not exceed the following height limits:

~~ia.~~ Front yard = 48" (4'-0");

~~ijb.~~ Side yards = 72" (6'-0"), Flanking side yards = 72" (6'-0");

~~iiie.~~ Rear yards = 72" (6'-0");

~~ivd.~~ Clear Sight Triangle = 30" (2'-6").

- b. Agricultural uses. Rear and side yard fences for legally established agricultural uses may be permitted to a maximum height of eight feet from the ground; provided, at a minimum, the portion of the fence above six feet is composed of a fence material that is of a deer fence-type design.

Examples of deer fence designs include wire with rectangular openings generally four inches by four inches in size. Additionally, the eight-foot fences shall not be constructed of chain link or chicken wire.

- c. Gardens. Front yard fences surrounding a defined garden bed may be permitted to a maximum height of eight feet from the ground and shall be composed of a fence material that is of a deer fence-type design.

Examples of deer fence designs include wire with rectangular openings generally four inches by four inches in size. Additionally, the eight-foot fences shall not be constructed of chain link or chicken wire.

For purposes of this section, a front yard shall not exceed ten feet in depth, regardless of any other provision found in this Title.

2. Fence height is measured to the top of the fence, excluding posts. Point of ground measurement shall be the high point of the adjacent final grade.
3. Fences, walls, and hedges are permitted within all yard areas provided that regardless of yard requirements, no closed gate, garage door, bollard or other feature shall obstruct a driveway or other motor vehicle private ingress within twenty (20) feet of a street right-of-way nor obstruct automobile views exiting driveways and alleys (see clear vision triangle). This 20-foot requirement is not applicable within the downtown exempt parking area as illustrated at Figure 38-2. Additional exceptions may be granted in accordance with OMC [18.38.220\(A\)\(2\)](#).
4. Front yard fences, of any common areas, such as tree, open space, park, and stormwater tracts, must be a minimum of twenty-five (25) percent unobstructed, i.e., must provide for visibility through the fence.
5. Fence pillars, posts, and similar features may project a maximum of two (2) feet above maximum fence height.
6. Site Perimeter Grading. Within required yard areas, no single retaining wall (nor combination of walls within five horizontal feet of each other) shall exceed a height of 30 inches as measured from the lowest adjacent grade, nor shall any modification of grades or combination of retaining walls result in grade changes exceeding 30 inches within five feet of a property line nor 60 inches within 10 feet of an existing or proposed property line.
7. An administrative exception may be approved by the Department to exceed maximum fence height and other provisions of these standards ~~under~~ where all of the following conditions exist.
 - a. Variation of existing grade on either side of the fence results in a fence lower than the maximum height as measured from the highest point of grade within five (5) feet of either side of the fence; or other special circumstances relating to the size, shape, topography, location, or surroundings of the subject property warrant an exception to permit a fence comparable with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located;
 - b. The special conditions and circumstances do not result from the actions of the applicant;
 - c. Granting of the exception will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property is located;
 - d. The granting of the exception will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated; and

e. The exception is the minimum necessary to provide the rights and privileges described above.

f. ~~Rear and side yard fences for legally established agricultural uses may be permitted to a maximum height of eight feet from the ground; provided, at a minimum, the portion of the fence above six feet is composed of a fence material that is of a deer fence type design.~~

~~Examples of deer fence designs include wire with rectangular openings generally four inches by four inches in size. Additionally, the eight foot fences shall not be constructed of chain link or chicken wire.~~

g. ~~Front yard fences surrounding a defined garden bed may be permitted to a maximum height of eight feet from the ground and shall be composed of a fence material that is of a deer fence type design.~~

~~Examples of deer fence designs include wire with rectangular openings generally four inches by four inches in size. Additionally, the eight foot fences shall not be constructed of chain link or chicken wire.~~

Applications for additional fence height or other exceptions shall include an explanation of letter or form explaining the exception sought and its purpose ~~of~~; and fence illustrations and plan drawing that depicts proposed fence location and height, other structures, landscaping, and proposed grades in relation to existing grades.

[NOTE: A building permit is required for all fences exceeding seven (7)~~six (6)~~ feet in height. Fences and hedges may exceed maximum heights if located outside of required yards. But see Design Guidelines.]

8. Hedges. Hedges are allowed in all required yard areas subject to the following maximum height limits:

a. Front yard = 48" (4'0")

b. Side yard, Flanking side yard = Unlimited

c. Rear yard = Unlimited

[Note: Clear Sight Triangle = 30" (2'-6"), see Section 18.40.060.(C)]

9. Barbed and/or razor wire fences. No person or persons being the owner of or agent for or in possession and control of any property within the city limits shall construct or permit to exist any fence around or in front of such premises, consisting wholly or partially of barbed and/or razor wire, except to provide security at a government-owned property or privately owned utility where security for the property is mandated by law; provided that the provisions of this section shall only extend to fences that are within ten (10) feet of a street or alley or other public place within the City.

10. Electric fences. It is unlawful to erect or install or maintain any electric fence within the city limits except for low-voltage, solar fences installed atop a 6-foot non-electric fence for the purposes of protecting farms or agricultural animals. "Electric fence" means any fence with

above-ground electric conductors carrying electric current supplied by batteries, commercial power or any other source of electricity, erected for the purpose of retaining or excluding any animals, livestock, or persons.

TITLE 16 – BUILDINGS AND CONSTRUCTION

OMC Chapter – 16.04, Building Codes

Proposal #6b – 16.04.040, Amendments to the Referenced Codes

Why this is proposed: Amendments to Title 16 are proposed so the building and zoning codes match regarding when a building permit is required for fences. These proposed amendments are consistent with the International Building Codes.

16.04.040 Amendments to the Referenced Codes

A. International Building Code Amendments. The following sections of the International Building Code (IBC), as adopted by this Ordinance, are amended to read as follows:

1. Amend Section 105.2 Work Exempt from Permit, item 1 to read: One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 200 square feet (18.58 m²).
2. ~~Amend Section 105.2 Work Exempt from Permit, item 2 to read: Fences not over 6 feet (1828.8mm) high.~~ Reserved.
3. Amend Section 110.3.10 Final inspection. The final inspection is to be made after all conditions of SEPA, Hearings Examiner, Design Review, Development Engineering, Stormwater Ordinance, and the Tree, Soil and Native Vegetation Ordinance are either complied with or bonded for at a rate of 125% in addition to finish grading; and the building is completed and ready for occupancy.
4. Amend Section 111.2 Certificate issued. After the Building Official inspects the building or structure and finds no violations of the provisions of this code or other laws and regulations, which are enforced, by the Community Planning and Development Department, the Building Official shall issue a Certificate of Occupancy, which shall contain the following:
 - a. The building permit number.
 - b. The address of the structure.
 - c. The name and address of the owner or the owner's authorized agent.
 - d. A description of that portion of the structure for which the certificate is issued.
 - e. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
 - f. The name of the Building Official.
 - g. The edition of the code under which the permit was issued.
 - h. The name of the tenant, use and occupancy, in accordance with the provisions of Chapter 3.
 - i. The type of construction as defined in Chapter 6.
 - j. The design occupant load.
 - k. If an automatic sprinkler system is provided, whether the sprinkler system is required.

- I. Any special stipulations or conditions of the building permit.

5. Add Subsection 903.2 Additional Sprinkler Requirements. There are additional sprinkler requirements in all structures or buildings where the gross square footage, basements included, exceeds 5,000 square feet, or in all structures or buildings more than three stories in height (unless other sections are more restrictive). The area and height increases specified in IBC Sections 504, 506, and 507 shall be permitted. For the purposes of this section, portions of buildings separated by a fire wall may be considered as separate buildings, except that the entire gross floor area of all floors will be used to determine fire sprinkler requirements.

In addition, in all buildings, including single family residences, where the fire perimeter access (as required under OMC [16.32.050](#)) or access roadways for fire apparatus cannot be provided due to design and/or location, fire sprinkler systems may be required.

B. International Residential Code Amendments. The following sections of the International Residential Code (IRC), as adopted by this Ordinance, are amended to read as follows:

1. ~~Amend Section R105.2 Work Exempt from Permit, item 2 to read: Fences not over 6 feet (1828.8mm) high-Reserved.~~

2. Amend Section R110.3 Certificate issued. After the Building Official inspects the building or structure and finds no violations of the provisions of this code or other laws and regulations, which are enforced, by the Community Planning and Development Department, the Building Official shall issue a Certificate of Occupancy, which shall contain the following:

- a. The building permit number.
- b. The address of the structure.
- c. The name and address of the owner or the owners authorized agent.
- d. A description of that portion of the structure for which the certificate is issued.
- e. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
- f. The name of the Building Official.
- g. The edition of the code under which the permit was issued.
- h. The use and occupancy.
- i. The type of construction as defined in Chapter 6 of the International Building Code.
- j. The design occupant load.
- k. If an automatic sprinkler system is provided, whether the sprinkler system is required.
- l. Any special stipulations or conditions of the building permit.

3. Amend Table R301.2 (a), Climatic and Geographic Design Criteria, as follows:

Climatic and Geographic Design Criteria
IRC Table R301.2(1)

SUBJECT TO DAMAGE FROM										
ROOF SNOW LOAD	WIND SPEED (mph)	SEISMIC DESIGN CATEGORY	Weathering	Front Line Depth	Termite	WINTER DESIGN TEMP (Degrees)	ICE SHIELD UNDER-LAYMENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX (degrees)	MEAN ANNUAL TEMP (degrees)
25	110	D1	Moderate	12"	Slight to Moderate	17	No	Sept. 1, 2016	170	51

4. Add Section R313.2 Automatic Sprinkler System Requirements. A fully automatic residential fire sprinkler system shall be designed, installed, tested and maintained per N.F.P.A. (National Fire Protection Association) 13, current edition, RCW [18.160](#) and the approval of the Fire Chief, in all structures subject to this code pursuant to Section R101.2 (including additions and alterations to structures with existing sprinkler systems).

TITLE 18 – UNIFIED DEVELOPMENT CODE

OMC Chapter – 18.78, Public Notification

Proposal #7 – 18.78.020, Procedures

Why this is proposed: There are two separate ways to process applications that are subject to review under the State Environmental Policy Act (SEPA) when a Determination of Significance (DS) will not be issued. The code currently contains public notice requirements that are consistent with and applicable with one process but not both. The proposed amendments would add public notice requirements so that either process could be used to match state law.

[18.78.020](#) Procedures

PROCESS	APPLICATION TYPE	NOTICE TYPES	WHEN	WHO
CONCEPTUAL DESIGN REVIEW	Multifamily/Commercial in DR districts/Master Planned Development	Mail	Public Meeting 10 Days	PO RNA PR
SEPA	Environmental Checklist	Mail	Notice of Application	PO RNA PR Agencies
		Post site Mail Notify Paper	SEPA Threshold Determination	PO RNA PR Agencies
SEPA, when using the Optional DNS Process	Environmental Checklist	Mail Post Site	Notice of Application/ notice of anticipated	PO RNA PR Agencies

**TABLE 78-1
CITY OF OLYMPIA - PUBLIC NOTIFICATION**

PROCESS	APPLICATION TYPE	NOTICE TYPES	WHEN	WHO
		Notify Paper	SEPA Threshold Determination	
		Mail	Final Threshold Determination	PR Agencies
SUBDIVISIONS	Short Plats	Post Site	Application	
HEARING EXAMINER	Subdivision Variance Rezone Conditional Use Master Planned Development	Post Site Mail Publish in Paper	Public Hearing - 10 days	PO RNA PR
	Conditional Use - Wireless Communications Facility	Post Site Mail Publish in Paper	Public Hearing - 30 days	PO RNA PR
		Mail	Decision	RNA PR
SHORE LANDS	Substantial Development Permit	Post Site Mail	Public Hearing - 15 days	PO RNA PR
		Publish in Paper Mail	Decision	RNA PR
LAND USE REVIEW	Multifamily Commercial Industrial Master Planned Development	Mail	Meeting - 5 days	RNA PR
			Decision	RNA PR
DETAILED DESIGN REVIEW	Multifamily/Commercial Master Planned Development	Mail	Public Meeting 10 days	RNA PR
		Mail	Decision	RNA PR
APPEALS	Administrative to Hearing Examiner	Post Site Mail	Open Hearing - 10 Days	RNA PR
	Hearing Examiner to City Council OCC	Mail	Closed Hearing 10 Days	PR RNA
ANNEXATION	10 Percent Notice of Intent	Mail	Public Meeting 10 days	PO RNA PR
	50/60 Percent Petition	Mail Post Publish in Paper	Public Hearing - 10 days	PO RNA PR
COMPREHENSIVE PLAN AMENDMENT/ZONING MAP AMENDMENT	Proposal	Mail Publish in Paper	Proposal Availability	RNA
	Application	Mail Publish in Paper	Public Hearing - 10 days	PO RNA PR

LEGEND

PO = Property Owner within 300 feet of site

RNA = Recognized Neighborhood Associations

PR = Parties of Records on File with the Case

The amendments in Proposal #7 also highlight the need to update the appeal language in the OMC, as follows:

TITLE 14 – ENVIRONMENTAL PROTECTION

OMC Chapter – 14.04, Environmental Policy

Proposal #7b - 14.04.160.A Appeals

Why this is proposed: Staff proposes referring to the appeal language in Title 18 rather than stating durations of appeal periods in two separate places within the code. This should help prevent any future inconsistencies that may arise.

14.04.160 Appeals

- A. The following administrative appeal procedures are established under RCW [43.21C.075](#), WAC [197-11-680](#), and RCW Chapter [36.70B](#):
1. Any agency or person who may be aggrieved by an action may appeal to the Hearing Examiner the environmental review officers conditioning, lack of conditioning or denial of an action pursuant to WAC Chapter [197-11](#).
 2. The responsible official's initial decision to require preparation of an environmental impact statement, i.e., to issue a determination of significance, is subject to an interlocutory administrative appeal upon notice of such initial decision and only to such appeal. Notice of such decision shall be provided as set forth in OMC [18.78.020](#). Failure to appeal such determination within 14 calendar days of notice of such initial decision shall constitute a waiver of any claim of error.
 3. All appeals shall be in writing, be signed by the appellant, be accompanied by the appropriate filing fee, and set forth the specific basis for such appeal, error alleged and relief requested. Any appeal must be filed in accordance with OMC 18.75.020.b – SEPA Appeal Procedures. ~~within seven calendar days after the comment period expires.~~ Where there is an underlying governmental action requiring review by the Hearing Examiner, any appeal and the action shall be considered together. Except for threshold determinations issued under the optional DNS process, an appeal period shall conclude simultaneously with an underlying permit decision.
 4. For any appeal under this subsection, the city shall keep a record of the appeal proceeding which shall consist of the following:
 - a. Findings and conclusions;

- b. Testimony under oath; and
 - c. A taped or written transcript of any hearing.
5. Any procedural determination by the city’s responsible official shall be given substantial weight in any appeal proceeding.
6. See OMC [18.75.020](#).B for additional requirements.

TITLE 18 – UNIFIED DEVELOPMENT CODE

OMC Chapter – 18.75, Appeals/Reconsideration

Proposal #7c - 18.75.020.A and 18.75.020.B - Specific Appeal Procedures

Why this is proposed: Staff is proposing these amendments to ensure the Olympia Municipal Code aligns with State Law for both of the ways in which a Determination of Non-significance can be processed according to the State Environmental Policy Act (SEPA). The “Optional DNS” process was created in the 1990’s to better align comment period and appeal period timing with the underlying permit application. This code update will ensure that the ability of someone to appeal a SEPA decision remains, however the deadline to appeal is tied to issuance of the decision, not the end of the comment period, which is consistent with how land use applications are processed in the City.

[18.75.020](#) Specific Appeal Procedures

A. Administrative Decision. Administrative decisions regarding the approval or denial of the following applications or determinations/interpretations may be appealed to the Hearing Examiner within fourteen (14) days, or twenty-one (21) days if issued with a SEPA threshold determination ~~including a comment period~~, of the final staff decision using procedures outlined below and in OMC Chapter [18.82](#), Hearing Examiner (Refer to 18.72.080 for other appeal authorities).

1. All Administrative Interpretations/Determinations
2. Boundary Line Adjustments
3. Home Occupation Permits
4. Preliminary Short Plats
5. Preliminary SEPA Threshold Determination (EIS required)
6. Shoreline Exemptions and staff-level substantial development permits
7. Sign Permits
8. Variances, Administrative
9. Building permits
10. Engineering permits

11. Application or interpretations of the Building Code
12. Application or interpretations of the Housing Code
13. Application or interpretations of the ~~Uniform~~ Fire Code
14. Application or interpretations of the ~~Uniform~~ Code for the Abatement of Dangerous Buildings
15. Application and interpretations of the ~~Uniform~~ Code for Building Conservation
16. Land Use (Director) decisions
17. Administrative decisions on impact fees
18. A recommendation to Thurston County to deny a permit to repair or replace existing, failing on-site septic systems that meet the criteria set forth in OMC [13.08.020\(2\)](#), as required by RCW [35.21.940](#)
19. Appeals of Drainage Manual Administrator decisions
20. Appeals of the requirements of the Engineering Design and Development Standards, including appeals to deviation request decisions made under Chapter 1 of such Standards.

B. SEPA.

1. The City establishes the following administrative appeal procedures under RCW [43.21C.075](#) and WAC [197-11-680](#):
 - a. Any agency or person may appeal the City's conditioning, lack of conditioning or denial of an action pursuant to WAC Chapter [197-11](#). All such appeals shall be made to the Hearing Examiner and must be filed within seven (7) days after the comment period, ~~except when using the Optional SEPA Process which requires a fourteen (14) or twenty one (21) day appeal period as outlined in WAC 197-11-340-355) before the threshold decision has expired.~~ This appeal and any other appeal of a land use action shall be considered together.
 - b. The following threshold decisions or actions are subject to timely appeal.
 - i. Determination of Significance. Appeal of a determination of significance (DS) or a claim of error for failure to issue a DS may only be appealed to the Hearing Examiner within that fourteen (14) day period immediately following issuance of such initial determination.
 - ii. Determination of Nonsignificance or Mitigated Determination of Nonsignificance. Conditions of approval and the lack of specific conditions may be appealed to the Hearing Examiner within seven (7) calendar days after the SEPA comment period expires; ~~except when SEPA Determination is combined with a project decision in which case appeals should follow OMC 18.175.020.C.1 which allows for a twenty-one (21) day appeal period.~~

- iii. Environmental Impact Statement. A challenge to a determination of adequacy of a Final EIS may be heard by the Hearing Examiner in conjunction with any appeal or hearing regarding the associated project permit. Where no hearing is associated with the proposed action, an appeal of the determination of adequacy must be filed within fourteen (14) days after the thirty (30) day comment period has expired.
 - iv. Denial of a proposal. Any denial of a project or non-project action using SEPA policies and rules may be appealed to the Hearing Examiner within seven (7) days following the final administrative decision.
- c. For any appeal under this subsection the City shall keep a record of the appeal proceedings, which shall consist of the following:
- i. Findings and conclusions; and
 - ii. Testimony under oath; and
 - iii. A taped or written transcript.
- d. Any procedural determination by the City's responsible official shall carry substantial weight in any appeal proceeding.
2. The City shall give official notice under WAC [197-11-680\(5\)](#) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal. See Chapter [18.78](#), Public Notification.

OMC Chapter – 18.100, Design Review

Proposal #8 - 18.100.060, Projects Subject to Design Review

Why this is proposed: Staff would like to eliminate the statement of applicability for design review for sign permits. When the Downtown Design Guidelines and the Sign Code were both recently updated, changes were made so that only the Downtown Design District has design review requirements for signs. These downtown design requirements for signs were written as development standards and are required standards in order to obtain sign permit approval. As such, additional review is not required. In 2021 the City's fee schedule eliminated the Design Review Sign fee.

18.100.060 Projects Subject to Design Review

- A. The following projects are subject to design review:
- 1. Projects within designated design review districts and corridors, as shown on the Official Design Review Map (See OMC Section [18.100.080](#));
 - 2. Commercial projects adjacent to residential zones;
 - 3. Commercial or residential projects for Heritage Register properties or those within an historic district;

4. Projects with a building area greater than 5000 square feet that require a Conditional Use Permit in a residential zone;
 5. Multifamily projects;
 6. Single family housing, including designated manufactured homes, on lots less than 5000 square feet or on substandard lots;
 7. Dwellings proposed on lots within the area depicted on Figure 4-2a, "Areas Subject to Infill Regulations";
 8. Master Planned Developments;
 9. Manufactured housing parks;
 10. Duplexes, triplexes, fourplexes, townhouses, accessory dwelling units, and cottage housing;
 11. All projects within scenic vistas as identified on the official maps of the City (See OMC Section [18.100.110](#)); and,
 12. ~~Signs within designated design review districts and corridors or associated with a project that is subject to design review.~~
- ~~13.~~ For the purpose of design review, projects within one of the Downtown Design Sub-Districts will be reviewed for consistency with the criteria in OMC Chapter [18.120](#) only.

TITLE 15 – IMPACT FEES

OMC Chapter – 15.04, General Provisions Governing the Assessment of Impact Fees

Proposal #9 – 15.04.060.A Exemptions

Why this is proposed: Staff proposed amendments to the exemptions section for impact fees, in order to address changes in state law (RCW 82.02.060) pertaining to Early Learning Facilities.

15.04.060 Exemptions

- A. The following shall be exempted from the payment of impact fees as follows:
 1. Alteration of an existing nonresidential structure that does not expand the usable space or add any residential units shall be exempt from paying all impact fees;
 2. Miscellaneous improvements, including, but not limited to, fences, walls, swimming pools, and signs shall be exempt from paying all impact fees;
 3. Demolition or moving of a structure shall be exempt from paying all impact fees;
 4. Expansion of an existing structure that results in the addition of one hundred twenty (120) square feet or less of gross floor area shall be exempt from paying all impact fees;

5. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within seventy-two (72) months of the demolition or destruction of the prior structure shall be exempt from paying all impact fees. Replacement of a structure with a new structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than one hundred twenty (120) square feet. Such replacements shall be exempt from the payment of park, transportation impact fees, and school impact fees; provided that, park, transportation, and school impact fees will be charged for any additional residential units that are created in the replacement and, transportation impact fees shall be charged for any additional gross floor area greater than one hundred twenty (120) square feet added in the replacement;
6. Any form of housing intended for and solely occupied by persons sixty-two (62) years or older, including nursing homes and retirement centers, shall be exempt from the payment of school impact fees so long as those uses are maintained, and the necessary covenants or declaration of restrictions, in a form approved by the City Attorney and the School District attorney, required to ensure the maintenance of such uses, are recorded on the property;
7. The creation of an accessory dwelling unit shall be exempt from the payment of school impact fees and the creation of an accessory dwelling unit within an existing single family structure shall be exempt from the payment of park impact fees;
8. A single room occupancy dwelling shall be exempt from the payment of school impact fees;
9. A change in use where the increase in trip generation is less than the threshold stated in Section [15.04.040\(C\)](#), Assessment of Impact Fees shall be exempt from paying transportation impact fees; or
10. Any form of low-income housing occupied by households whose income when adjusted for size, is at or below eighty percent (80%) of the area median income, as annually adjusted by the U.S. Department of Housing and Urban Development shall be exempt from paying school impact fees provided that a covenant approved by the school district to assure continued use for low income housing is executed, and that the covenant is an obligation that runs with the land upon which the housing is located and is recorded against the title of the property.
11. Developments limited to residents who routinely receive assistance with activities of daily living such as, but not limited to, bathing, dressing, eating, personal hygiene, transferring, toileting, and mobility shall be exempt from paying park and school impact fees.
12. Any early learning facility, as defined in RCW 43.31.565, for the purposes of impact fee assessments, will not be subject to an impact fee that is greater than that imposed on commercial retail or office development activities that generate a similar number, volume, type, and duration of vehicle trips. Further, the early learning facility may receive:
 - a. An eighty percent (80%) reduction in impact fees; or
 - a.b. A full waiver from impact fees when the developer records a covenant with the Thurston County Auditor's Office that is compliant with RCW 82.02.060 and:
 - i. Requires that at least 25 percent of the children and families using the early learning facility qualify for state subsidized child care, including early childhood education and

assistance under chapter 43.216 RCW;

- ii. Provides that if the property is converted to a use other than for an early learning facility, the property owner must pay the applicable impact fees in effect at the time of conversion; and
- iii. Provides that if at no point during a calendar year does the early learning facility achieve the required percentage of children and families qualified for state subsidized child care using the early learning facility, the property owner must pay 20 percent of the impact fee that would have been imposed on the development had there not been an exemption within 90 days of the local government notifying the property owner of the breach, and any balance remaining thereafter shall be a lien on the property.

Olympia Planning Commission, 2-28-22 Hearing on Code Amendments

I don't understand why we are expanding the size of garages and carport to 1200 sf from 800 sf before a conditional use permit is required. This code change just seems to be going in the wrong direction and is contrary to the values Olympia expounds. For the following reasons:

- First, we are worried about land for housing and housing affordability. Why would we encourage larger garages that take up additional space that could be used for housing?
- The City has just received a HAPI grant from the Department of Commerce related to the Capitol Mall area. As part of that grant, it is going to consider reducing parking requirement for housing near transit. Why on one hand would we cut back on parking to save land and then on the other hand allow bigger garages?
- Increased impervious surfaces are also a problem. Going from 800 sf to 1200 sf is a 50% increase in impervious surface. In a time when we are worried about stormwater with heavier rainfall related to climate change, shouldn't we be conserving open space, or in an urban area use that impervious surface limit for a structure that would support housing?
- ADUs – right now an ADU can be 850 sf and a garage can be converted to an ADU. What happens if someone in the future wants to convert a 1200 sf garage to an ADU? I was told that only 850 sf could be used as an ADU. What would that leave an 850 sf ADU with storage? Who would monitor that the additional space was not turned into living space? Shouldn't there be some consistency in our regulations?

From: [Joyce Phillips](#)
To: judybardin@comcast.net
Subject: RE: Checking in on the proposed code changes
Date: Wednesday, January 12, 2022 9:01:00 AM

Good morning, Judy!
You are always welcome to ask follow up questions!
I've added responses below, in red.
Joyce

From: JUDITH BARDIN <judybardin@comcast.net>
Sent: Tuesday, January 11, 2022 6:11 PM
To: Joyce Phillips <jphillip@ci.olympia.wa.us>
Subject: RE: Checking in on the proposed code changes

Thank you Joyce. Your very detailed explanations are super helpful. I don't know how you find time to do all that you do.

1) I just had a couple additional questions (sorry). You said that an ADU are based on total gross floor area not square feet. I don't really understand what this means. Could you please explain.

I agree that it can be confusing. The city defines Gross Floor Area as "The area included within the surrounding exterior finished wall surface of a building or portion thereof, exclusive of courtyards." My understanding of how that is applied is that the city considers the *interior* square footage of the structure as counting toward the 850 square feet. So, in the past, if property owners have an ADU but do still have additional area on the lot that can be building footprint and impervious surface, then covered porches have been allowed. Since there were no specific size limits, the covered porch could be as big as there was room for, as long as the proposal also met the maximum lot coverage provisions of the zoning district. The proposed language is meant to provide an overall cap on the size, so it remains accessory to the main house. It doesn't come up all that often – but we get do questions about this a few times a year.

2) I understand why 1200 sf garages need a conditional use permit. However, it now seems that with the code changes anyone could build a 1200 sf garage without a conditional use permit.

- Could that 1200 sf garage later be converted to an ADU? It could only be converted to an ADU if it was placed on the lot in a way that meets the setbacks for ADUs (slightly different than the requirements for other accessory structures). And, only 850 square feet of the garage could be converted to the ADU. The remaining space would have to be used for storage or some other accessory use, but not part of the ADU. They would also have to meet the ADU design review requirements and pay the impact fees for a new ADU.
- If there are all these efforts to limit parking requirements (such as with the Capital Mall subarea plan) why are we encouraging larger garages? We aren't trying to

encourage them but more to acknowledge that perhaps not all garages over 800 square feet need to go through a conditional use permit process. The increase in size is primarily to acknowledge that some people want larger garages to allow for storage (usually for “toys” such as jet skis, boats, campers, snowmobiles, etc.). While we do allow garages to exceed 800 square feet by Conditional Use, my understanding is that we have not denied any that have been proposed (going back to 2007) and have not had any conditions to those that have been approved related to the size of the garage. Part of the proposed amendments would require the property owner to address how the garage is consistent with the main house – by addressing materials, colors, roof type, and roof pitch. The design considerations would apply to all detached garages, not just those over 1200 square feet. One thing worth noting is that garages that are attached to the house do not have a size limit. This proposed change would only apply to detached garages.

- **How can this be good for climate change i. e., by encouraging increased impervious surfaces?**
The changes proposed won't increase or decrease the maximum amount of building, impervious, or hard surfaces allowed in any zoning districts. The changes would allow property owners to devote more of the portions of the lot that could be covered to be used for garage purposes instead of increased house size or devoted to other accessory structure types, without having to go through a conditional use permit. So, for example, if a property owner has a lot with a house on it, but wants to add a shed on one part of their lot and a garage on a different part of their lot, how they divvy up the sizes between the two accessory structures might change – but the maximum amount of new building coverage (or impervious or hard surfaces) would not change. And for anyone that still wanted a detached garage over 1200 square feet in size, they could request a conditional use permit (but still has to meet the lot coverage limits of the zoning district). Does that make sense? If I did not describe that very well please let me know.

Thank you for answering my additional questions.

JUDY

On 01/11/2022 1:02 PM Joyce Phillips <jphillip@ci.olympia.wa.us> wrote:

Additional thoughts/comments added below in blue, for a little more clarification – I hope.

From: Joyce Phillips

Sent: Tuesday, January 11, 2022 12:08 PM

To: JUDITH BARDIN <judybardin@comcast.net>
Subject: RE: Checking in on the proposed code changes

Hi, Judy.

Thanks for your patience for me getting back to you. See below for my responses in red. I am happy to chat over the phone if you would like, too. I am planning a briefing on these proposed amendments at the Planning Commission meeting on January 24th, so any questions the Commissioners ask may be of interest to you as well.

Joyce

From: JUDITH BARDIN <judybardin@comcast.net>
Sent: Monday, January 10, 2022 2:50 PM
To: Joyce Phillips <jphillip@ci.olympia.wa.us>
Subject: Checking in on the proposed code changes

Joyce,

Hi, happy New Year. Recently, new proposed code amendments were sent out. I had some questions about the changes.

1) Could you explain the SEPA changes. It looks as if there are changes to the timing of filing an appeal, but I really wasn't certain about the changes. I found them somewhat confusing. Maybe you could help me understand them better.

Our code has public notice and comment periods triggered by the City's issuance of the SEPA decision (e.g. Determination of Nonsignificance or DNS), which Olympia typically issues at the end of the review process. But the SEPA review process can also be done using the "Optional DNS process" (for those projects the city expects to issue a DNS). When the Optional DNS process is used, the comment period is at the beginning of the review process, which gives staff the ability to consider comments before issuing its decision. This is great because it allows staff time to consider public comments before making the determination, which could lead to mitigating conditions being added (in which case a mitigated determination of Nonsignificance would be issued).

The changes proposed would require that notice of the proposal and public comment period be moved to the beginning of the process **if the Optional DNS process is used**, so comments are considered before the DNS or MDNS is issued, rather than tying the notice and comment periods to the issuance of the DNS or MDNS.

Basically, the planner would have to decide early in the review process whether or not to use the Optional DNS process and then provide the appropriate notices. The ability to comment, the duration of the comment period, and the length of the appeal periods remain unchanged.

2) Why are covered porches and patios being added to ADUs? These units were already liberalized during the recent Housing Options. ADUs are no longer really accessory units, at 850 sf (the size of a small house), with no additional parking or owner onsite, and able to be two-stories. Why are we now expanding the area allowed for these units by 120 sf to allow additional structures? What about impervious and hard surface limits?

Covered porches are already allowed, because the definition of ADUs is specific to gross floor area rather than total square footage. We are proposing this language so that any such features are limited in size and cannot be enclosed (or eventually converted into living space). Any covered porches or patios (whether for the primary home or the ADU) are subject to the maximum lot coverages allowed in the zoning district the property is located within.

3) It looks like garages can now be 1200 sf. The Housing Options allowed existing 1200 sf garages to be converted to ADUs. Will owners eventually be able to convert new 1200 sf garages to ADUs? Why are we increasing the size of garages when we have climate change and are trying to move away from car dependency. Additionally, Invitation Homes currently has six Olympia homes currently listed on Zillow for rent. These homes are existing homes that are being renovated after purchase. Invitation Homes likes the model of buying properties where there is enough land to build an ADU. Are we going to feed into outside investors buying up Olympia homes with this change?

In low density residential zoning districts (e.g. R 4-8, R 6-12) garages and other accessory structures are limited to 800 square feet in size, unless a conditional use permit is approved for a larger garage. Since 2007 the city has issued 19 large garage Conditional Use Permits (hearing upon request). Of those 19 proposals, none were requested to go through a hearing. Seven of the 19 permitted large garages were 1200 square feet in size or smaller. All of the 19 applications were approved, with no conditions specific to the size of the garage. The proposed change would keep the 800 square foot size limit for most accessory structures (gazebos, sheds, art studios, etc.) but increase the size for detached garages allowed before a conditional use permit is required. Larger garages are typically requested for interior storage (RVs, boats, snowmobiles, jet skis, golf carts, etc.). All of the underlying lot coverages and setbacks would remain in place and still apply. **Additionally, the proposal includes adding in some design standards for the detached garages about colors and materials and roof type and pitch, which would apply across the city – not just in the areas subject to infill design review.**

The proposed amendments will not likely have any impact (positive or negative) on properties being purchased by “outside investors” or local families.

4) What is the rationale for allowing parking in a setback? Doesn't that defeat the purpose of a setback? What about exposing people to exhaust fumes with cars parked close to homes?

Parking and driveways are already allowed in setbacks. This usually does not occur since most driveways go straight into a garage, which does need to meet setbacks. The proposed changes are to identify what the dimensions are for a parking space that is not in a parking lot, such as for when someone is trying to figure out if they have a long enough driveway to show they have two off-street parking spaces for their home's requirement of 2 off-street parking spaces. This comes up in situations where someone wants to convert their attached garage into living space or other accessory use, but in order to do they have to show they will still have two off-street parking spaces.

Noise, odors, and emissions will still be covered by the Property Development and Protection Standards codes (OMC 18.40).

5) Why is the height for requiring a permit on a fence going from 6 ft to 7 ft? If uniformity is sought for the OMC codes 16 and 18, why not choose the lower of the two heights?

It has been confusing that some parts of the zoning code have standards for fence heights that refer to six feet and eight feet in height, while the requirement for building permits is now for fences that are seven feet or taller (I think it used to be six feet). The city's building codes, which are based on the International Residential and Commercial Building Codes, both have requirements for permits that are triggered at 7 feet, which we lowered to six feet to match the zoning code. The proposed code amendments keep the six and eight feet in height provisions but note that at 7 feet a permit is required. This was proposed to try to align permit requirements to the International Codes, which will hopefully make things more consistent and easier to track and implement. The request to match up the code section with the International Building Codes came from our building department staff. We only rarely get requests for fences over six feet because they would have to be located outside of setback areas, which most people do not want to do.

Thank you for answering my questions. I may be misinterpreting the changes, so please forgive any misunderstanding.

Judy

Judy Bardin
1517 Dickinson Ave NW
Olympia, WA 98502
360-401-5291



City Council

Approval of an Ordinance Amending Ordinance 7305 (First Quarter 2022 Budget Amendment)

Agenda Date: 4/25/2022
Agenda Item Number: 4.M
File Number: 22-0373

Type: ordinance **Version:** 2 **Status:** 2d Reading-Consent

Title

Approval of an Ordinance Amending Ordinance 7305 (First Quarter 2022 Budget Amendment)

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the proposed ordinance that amends Ordinance 7305 on second reading.

Report

Issue:

Whether to approve the proposed Ordinance that amends Ordinance 7305 on second reading.

Staff Contact:

Aaron BeMiller, Finance Director, 360.753.8465

Joan Lutz, Budget/Financial Analyst, 360.753.8760

Presenter(s):

None - Consent Calendar item

Background and Analysis:

Background and analysis have not changed from first to second reading.

City Council may revise the City's Operating Budget by approving an ordinance. Generally, budget amendments are presented quarterly to the City Council for review and approval, however they may be made at any time during the year. The amended ordinances appropriate funds and provide authorization to expend the funds.

The attached ordinance includes recommended amendments to the 2022 Operating Funds, Specials Funds, and Capital Funds for: Department requested carry-forward appropriations and Department requests for budget amendments for the first quarter in 2022.

1. Department requested carry-forward appropriations include appropriations and associated transfers representing 2021 obligations for purchase orders and contracts not completed in 2021 as well as capital project related appropriations. These appropriations total \$27,117,747.
2. Department requests for budget amendments for first quarter in 2022 represent new budget adjustments and associated transfers departments requested for 2022. These appropriations total \$2,217,503.

Department requests for budget amendments for the first quarter in 2022 are summarized below.

Office of Community Vitality

- Appropriation of \$586,491 for 2022 Lodging Tax Award Recipients. Funding from Lodging Tax Fund fund balance.
- Appropriation of \$315,000 for Quixote Village Solar, Homes First Solar, Drexel House and NW Cooperative Development. Funding from Community Development Block Grant (CDBG).
- Appropriation of \$250,000 for salary, benefits and professional services for Housing and Homelessness services. Funding from CDBG CV-1, CV-2 and CV-3 reimbursement grants.
- Appropriation of \$18,758 for Olympia Downtown Alliance small recovery contract. Funding from General Fund fund balance.
- Appropriation of \$30,000 transfer to Parking Business Improvement Area Fund. Funding from Economic Recovery account fund balance.

Office of Strategic Initiatives

- Appropriation of \$19,454 for WCIA Training. Funding from revenue received from WCIA Training Reimbursement Program.

Community Planning and Development

- Appropriation of \$100,000 to upgrade parking meters 2G to 4G. Funding from Parking Fund fund balance.
- Appropriation of \$21,302 for marketing, flower planters and art promotions. Funding from Parking Business Improvement Area Fund fund balance.
- Appropriation of \$30,000 for downtown economic recovery. Funding from transfer from the Economic Recovery account.

Fire Department

- Appropriation of \$204,942 for an additional Fire Mechanic FTE per Resolution #M-2270, parts

for external customers, and additional excise taxes. Funding from Fire Fleet Customer Services and Parts.

Parks, Arts and Recreation

- Appropriation of \$20,000 for Oly on Ice. Funding from Lodging Tax Award Recipient.
- Appropriation of \$41,505 for salary, benefits and additional expenditures for Summer Youth Programming. Funding from SEEK Grant.

Public Works

- Appropriation of \$580,051 of excise taxes in Water Resources and Waste ReSources. Funding from rates.

Neighborhood/Community Interests (if known):

None noted.

Options:

1. Approve Ordinance amending ordinance 7305. This provides staff with budget capacity to proceed with initiatives approved by Council.
2. Do not approve the amending ordinance; staff will not have authorization to expend the funds.
3. Consider the Ordinance at another time.

Financial Impact:

Operating Funds - total increase in appropriations of \$5,747,860; Special Funds - total increase in appropriations of \$2,344,994; and Capital Funds - total increase in appropriations of \$21,242,396. Funding sources of funding are noted above.

Attachments:

Ordinance

Ordinance No. _____

AN ORDINANCE RELATING TO THE ADOPTION OF THE CITY OF OLYMPIA, WASHINGTON, 2022 OPERATING, SPECIAL, AND CAPITAL BUDGETS AND 2022-2027 CAPITAL FACILITIES PLAN; SETTING FORTH THE ESTIMATED REVENUES AND APPROPRIATIONS AND AMENDING ORDINANCE NO. 7305

WHEREAS, the Olympia City Council adopted the 2022 Operating, Special Funds and Capital Budgets and 2022-2027 Capital Facilities Plan (CFP) by passing Ordinance No. 7305 on December 14, 2021; and

WHEREAS, throughout the year, updates are required to recognize changes relating to budget, finance and salaries; and

WHEREAS, the CFP meets the requirements of the Washington State Growth Management Act, including RCW 36.70A070(3); and

WHEREAS, the following changes need to be made to Ordinance No. 7305;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. That certain document entitled the “Capital Facilities Plan”, covering the years 2022 through 2027, a copy of which will be on file with the Director of Finance and available on the City’s web site, is hereby adopted as the Capital Facility Plan (CFP) for the City of Olympia and is incorporated herein as though fully set forth.

Section 2. Upon appropriation by the City Council of funds therefore, the City Manager shall be authorized to prepare plans and specifications, to take bids and to make expenditures for the projects set forth in the CFP during the year for which said projects are scheduled; provided, however, that any award bids and execution of contracts for construction shall be approved as provided in OMC Chapter 3.16.

Section 3. It is anticipated that the funding source and the construction schedule for projects identified in the CFP may be changed over the next year. Such changes shall not constitute an amendment to the Comprehensive Plan for purposes of RCW 36.70A.130.

Section 4. The Director of Finance (formerly known as the Director of Administrative Services) is hereby authorized to bring forward into fiscal year 2021 all appropriations and allocations not otherwise closed, completed, or deleted from prior fiscal years’ capital budgets.

Section 5. The 2022 Estimated Revenues and Appropriations for each Fund are as follows:

Operating Budget

FUND	USE OF FUND BALANCE	ESTIMATED REVENUE	APPROP	ADDITION TO FUND BALANCE
General, Regular Operations	\$437,155 <u>\$2,351,477</u>	\$96,041,472 <u>\$97,822,378</u>	\$96,478,627 <u>\$100,173,855</u>	\$0
General, Special Sub-Funds				
Special Accounts	82,506 <u>1,013,874</u>	1,268,318 <u>1,518,318</u>	1,350,824 <u>2,532,192</u>	0
Development Fee Revenue		4,312,407	4,303,066	9,341
Parking	288,300 <u>138,300</u>	1,573,102 <u>1,823,102</u>	1,861,402 <u>1,961,402</u>	0
Post Employment Benefits		1,020,000	1,020,000	0
Washington Center Endowment		5,000	5,000	0
Washington Center Operating		378,365	378,365	0
Municipal Arts	93,940 <u>109,891</u>	60,660	154,600 <u>170,551</u>	0
Total General Fund	\$ 901,901 \$ 3,613,542	\$ 104,659,324 \$ 106,940,230	\$ 105,551,884 \$ 110,544,431	\$9,341
Non-Voted General Obligation Debt	599	4,648,712	4,649,311	0
Voted General Obligation Debt	0	1,044,350	1,044,350	0
Water Utility O&M	0 <u>22,860</u>	16,029,000 <u>16,168,679</u>	15,925,783 <u>16,191,539</u>	103,217 <u>0</u>
Sewer Utility O&M	107,586	23,117,151 <u>23,355,267</u>	23,224,737 <u>23,462,853</u>	0
Solid Waste Utility	0	13,699,337 <u>13,839,953</u>	13,680,362 <u>13,820,978</u>	18,975
Stormwater Utility	11,939 <u>61,124</u>	6,465,927 <u>6,527,567</u>	6,477,866 <u>6,588,691</u>	0
Water/Sewer Bonds	0	3,149,239	3,149,239	0
Stormwater Debt Fund	0	551,279	551,279	0
Water/Sewer Bond Reserve	0	123,651	123,651	0
Equipment Rental	0	2,673,272	2,672,022	1,250
Subtotal Other Operating Funds	\$ 120,124 \$ 192,169	\$ 71,501,918 \$ 72,081,969	\$ 71,498,600 \$ 72,253,913	\$ 123,442 \$ 20,225
Total Operating Budget	\$ 1,022,025 \$ 3,805,711	\$ 176,161,242 \$ 179,022,199	\$ 177,050,484 \$ 182,798,344	\$ 132,783 \$ 29,566

Special Funds Budget

FUND	USE OF FUND BALANCE	ESTIMATED REVENUE	APPROP	ADDITION TO FUND BALANCE
HUD Fund	\$0	\$ 695,684 \$ 1,010,684	\$ 670,733 \$ 985,733	\$ 24,951
Lodging Tax Fund	0 <u>247,813</u>	685,618	342,809 <u>933,431</u>	342,809 <u>0</u>
Parking Business Improvement Area Fund	0 <u>26,302</u>	99,450 <u>129,450</u>	99,450 <u>155,752</u>	0
Farmers Market Repair and Hands On Children's Museum	0 416,435	0 679,734	0 1,096,169	0 0
Home Fund Operating Fund	0 <u>1,283,070</u>	2,418,843 <u>2,518,843</u>	2,418,843 <u>3,801,913</u>	0
Fire Equipment Replacement Fund	0	0	0	0
Equipment Rental Replacement	1,634,110	2,638,545	4,272,655	0
Unemployment Compensation Fund	0	112,500	85,000	27,500
Insurance Trust Fund	0	2,675,261	2,659,712	15,549
Workers Compensation Fund	237,075	1,447,875	1,684,950	0
Total Special Funds Budget	\$ 2,287,620 \$ 3,844,805	\$ 11,453,510 \$ 11,898,510	\$ 13,330,321 \$ 15,675,315	\$ 410,809 \$ 68,000

Capital Budget

FUND	USE OF FUND BALANCE	ESTIMATED REVENUE	APPROP	ADDITION TO FUND BALANCE
Impact Fee	\$3,725,031	\$0	\$3,725,031	\$0
	<u>\$3,793,448</u>		<u>\$3,793,448</u>	
SEPA Mitigation Fee Fund	20,000	0	20,000	0
Parks & Recreational Sidewalk, Utility Tax Fund	461,097	2,491,053	2,952,150	0
	<u>471,097</u>		<u>2,962,150</u>	
Real Estate Excise Tax Fund	0	3,026,326	270,000	2,756,326
Capital Improvement Fund	1,595,178	4,119,497	5,714,675	0
	<u>2,727,320</u>		<u>6,846,817</u>	
Olympia Home Fund Capital Fund	0	1,757,890	1,000,000	757,890
	<u>1,226,257</u>	<u>3,732,890</u>	<u>4,959,147</u>	<u>0</u>
Transportation Capital Improvement Fund	0	10,411,807	6,311,807	4,100,000
		<u>14,422,478</u>	<u>10,959,934</u>	<u>3,462,544</u>
Fire Equipment Reserve Fund	0	1,632,000	148,319	1,483,681
Facilities Capital Improvement Fund	2,359,406	649,037	3,008,443	0
	<u>4,438,441</u>		<u>5,087,478</u>	
Parks Capital Improvement Fund	0	7,863,399	7,863,399	0
	<u>18,319</u>	<u>8,126,026</u>	<u>8,144,345</u>	
Water CIP Fund	536	6,843,575	6,844,111	0
	<u>2,525,568</u>		<u>9,369,143</u>	
Sewer CIP Fund	0	10,660,963	10,660,963	0
	<u>4,221,571</u>		<u>14,882,534</u>	
Waste ReSources CIP Fund	0	1,154,446	1,154,446	0
Stormwater CIP Fund	0	2,813,209	2,159,209	654,000
	<u>1,663,979</u>		<u>4,477,188</u>	<u>0</u>
Storm Drainage Mitigation Fund	0	-	-	0
Total Capital Budget	\$ 8,161,248	\$ 53,423,202	\$ 51,832,553	\$ 9,751,897
	<u>\$ 21,106,000</u>	<u>\$ 59,671,500</u>	<u>\$ 73,074,949</u>	<u>\$ 7,702,551</u>
Total City Budget	\$ 11,470,893	\$241,037,954	\$242,213,358	\$ 10,295,489
	<u>\$ 28,756,516</u>	<u>\$250,592,209</u>	<u>\$271,548,608</u>	<u>\$ 7,800,117</u>

Section 6. Severability. The provisions of this Ordinance are declared separate and severable. If any provision of this Ordinance or its application to any person or circumstances is held invalid, the remainder of this Ordinance or application of the provision to other persons or circumstances shall be unaffected.

Section 7. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 8. Effective Date. This Ordinance shall take effect five (5) days after passage and publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber
CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



City Council

Approval of an Ordinance Amending Olympia Municipal Code Chapter 13.08 - Sewers

Agenda Date: 4/25/2022
Agenda Item Number: 4.N
File Number:22-0375

Type: ordinance **Version:** 2 **Status:** 2d Reading-Consent

Title

Approval of an Ordinance Amending Olympia Municipal Code Chapter 13.08 - Sewers

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve on second reading an Ordinance amending Olympia Municipal Code Chapter 13.08 - Sewers.

Report

Issue:

Whether to approve the proposed revisions to the wastewater regulations.

Staff Contact:

Diane Utter, Water Resources Engineer, Public Works/Water Resources, 360.753.8562

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

Background and analysis have not changed from first to second reading.

Wastewater staff sometimes become aware of ways the current regulations in the Olympia Municipal Code are not serving our customers in a fair and effective way. The proposed regulation changes affect a number of subjects, as summarized in the table on the attached document.

The changes are of a clarifying nature. They are not substantial enough to require input from committees or a public hearing.

Neighborhood/Community Interests (if known):

These regulations changes affect the community at large.

Options:

1. Approve on second reading an Ordinance amending Olympia Municipal Code Chapter 13.08 - Sewers. The effect of this option is the code is revised and increases in clarity. Also, a hardship status policy is created for low-income customers who meet certain criteria.
2. Direct staff to modify the regulation revisions. The effect of this option is that additional changes can be made to the proposed revisions before they are presented for approval. This will allow for Council input on the changes.
3. Do not approve the regulation revisions. The effect of this option is the code is not revised. Some portions of the code may continue to produce confusion in staff and customers. The proposed hardship status policy would not be created.

Financial Impact:

This action does not impact City revenue or spending. Some of the regulations increase customer payments; others decrease them. Some do not have a financial impact.

Attachments:

Ordinance
Summary Table

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, AMENDING
OLYMPIA MUNICIPAL CODE CHAPTER 13.08 - SEWERS**

WHEREAS, City staff have become aware of certain ways the current wastewater regulations in the Olympia Municipal Code (OMC) could be serving our customers in a more fair and effective way; and

WHEREAS, the proposed changes to OMC 13.08 will improve the clarity and fairness of the City's wastewater regulations; and

WHEREAS, the proposed changes are clarifying in nature; and

WHEREAS, the City Council determines it to be in the best interest of the City of Olympia to amend the current wastewater regulations as proposed by staff;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 13.08. Olympia Municipal Code Chapter 13.08 is hereby amended to read as follows:

Chapter 13.08

SEWERS

13.08.000 Chapter Contents

Sections:

ARTICLE I. SEWER CONNECTIONS

- 13.08.005 Purpose and policy.
- 13.08.010 Definitions.
- 13.08.015 Rules for administration and enforcement--Copy filing--Noncompliance.
- 13.08.020 Connection required when.
- 13.08.030 Permit required to open public sewer.
- 13.08.040 Side Sewer Installation and Maintenance.
- 13.08.050 Wastewater Management Plan.
- 13.08.080 Work in streets or public places.
- 13.08.090 Sewer connection type.
- 13.08.150 Tampering with and depositing rubbish in public sewer--Prohibited discharges.
- 13.08.180 Sewer service outside city limits.
- 13.08.185 Sewer service outside city limits--Agreements to run with the land.
- 13.08.186 Sewer service outside city limits--Other sections not affected.

ARTICLE II. SEWER RATES

- 13.08.190 Sewer rates--Definitions.
- 13.08.200 Payment of sewer bills.
- 13.08.205 Sewer general facility charges.
- 13.08.210 LOTT capacity development charge--Payment.
- 13.08.215 Septic to Sewer Program and infrastructure extension charges.

- 13.08.220 Charges become lien on ~~property~~ premises--Enforcement.
- 13.08.230 Shutting off water upon default.

ARTICLE III. AREA SERVICE CHARGE

- 13.08.290 Charges become lien on ~~property~~ premises.

ARTICLE IV. VIOLATIONS

- 13.08.380 Violations--Penalties.

ARTICLE I. SEWER CONNECTIONS

13.08.005 Purpose and policy

~~This Article sets forth uniform requirements for connection and use of the public sewer owned by the City of Olympia. This Article shall apply to all users of the public sewer regardless of in which jurisdiction the premises being served is located.~~

The following regulations are established for the control of the municipal wastewater system of the City. This chapter applies to all users of the City wastewater system, both public and private portions, whether the premises served is inside or outside the Olympia city limits.

13.08.010 Definitions

~~For the purpose of this Article chapter, the words or phrases below have the following meanings:~~

~~A. "Building sewer" means the same as "side sewer" and "service lateral".~~

A. "City" means the City of Olympia, Washington, or as indicated by the context, may mean the Wastewater Utility, City Clerk, City Engineer, Finance Director, or other City employee or agent representing the City in the discharge of official duties.

B. "City Council" means the City Council of the City of Olympia.

~~BC. "City Engineer" shall means the City Engineer of the City of Olympia, or the City Engineer's designee, who has the duty and authority to enforce the codes and standards adopted by the City Council, as they relate to the development and operation of the City's infrastructure by private development, including other governmental agencies, and City projects.~~

D. "City Manager" means the City Manager of the City of Olympia or the City Manager's designee.

~~CE. "Domestic use" shall means any person who use which contributes, causes, or allows the contribution of wastewater into the POTW-City wastewater conveyance system that is of a similar volume and/or chemical make-up as that of a residential dwelling unit. Discharges from a residential dwelling unit include flows with up to 300 mg/l of Biological Oxygen Demand and 300 mg/l of Total Suspended Solids.~~

~~DE. "Downtown Deferred General Facility Charge Payment Option Area" shall means all properties located within the area bounded by: Budd Inlet to the north; Budd Inlet and Capitol Lake on the west; Sid Snyder Avenue extending between Capitol Lake and Capitol Way, and 14th Avenue extending to Interstate 5 on the south; Interstate 5 on the southeast; Eastside Street on the east, and Olympia Avenue extending to Budd Inlet on the north.~~

~~EG. "Gravity sewer system" shall means that portion of the public sewer in which wastewater flows through pipes by means of gravity and the sewer lift stations and force mains that connect the gravity~~

pipes in the system. S.T.E.P. and grinder pump systems, and associated low pressure mains, are not part of the gravity sewer system.

FH. "Grinder pump system" shall mean a facility consisting of a holding tank, grinder pump, and pressure piping system for conveying wastewater liquid and solids into the sewer system.

GI. "Industrial ~~user~~ use" shall mean any ~~Person~~ use with a source of discharge which does not qualify that ~~person as a Domestic domestic User use who~~ which discharges an effluent into the POTW City wastewater conveyance system by means of pipes, conduits, pumping stations, force mains, tank trucks, constructed drainage ditches, intercepting ditches, and any constructed devices and appliances appurtenant thereto.

HJ. "Onsite sewage system" shall mean a wastewater system consisting of a tank for settling and digesting wastewater solids that disposes of effluent on the same ~~property premises~~ that produces the wastewater. This type of system is commonly called a "septic system." "Onsite sewage system" as used in this chapter has the same meaning as "on-site septic system," "on-site sewage system," and "on-site sewage disposal system" as used in revised code of Washington.

I. ~~"Person" shall mean natural persons of either sex, associations, copartnerships and corporations, whether acting by themselves or by a servant, agent, or employee. The singular number includes the plural, and words referring to a specific gender may be extended to any other gender.~~

JK. "Premises" shall mean a property, lot, continuous tract of land, building, or group of adjacent buildings under a single control with respect to connection to sewer and responsibility for payment of fees and rates thereof ~~therefor. Subdivisions of such use or responsibility shall constitute a division into separate premises as defined in this section.~~

K. ~~"Publicly Owned Treatment Works or POTW" shall mean a treatment works, as defined by Section 212 of the Federal Water Pollution Control Act, also known as the Clean Water Act (33 U.S.C. Section 1292). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, including sanitary sewer and storm sewer collection systems, which convey wastewater to a treatment plant.~~

L. "Public combined sewer" shall mean that portion of the public sewer system intended to collect both sanitary sewage and stormwater in a single sewer system and located within public rights-of-way or easements and operated and maintained by the City.

M. "Public sewer" shall mean that portion of the wastewater system located within public rights-of-way or easements and operated and maintained by the City.

N. "Public Works Director" means the Director of the City of Olympia Public Works Department or the Public Works Director's designee.

O. "Owner" means a natural person or legal entity, including an association, partnership, corporation, or limited liability company, who owns or controls a premises.

NP. "Septic tank effluent pumping or S.T.E.P. system" shall mean a facility consisting of a tank or tanks for settling and digesting wastewater solids and a pressure piping system for conveying the supernatant liquid into the sewer system. Most of the wastewater solids remain in the S.T.E.P. tank and are removed periodically.

QQ. "Side sewer" shall mean that portion of the sewer beginning outside the outer foundation wall of a structure and extending to the connection to the public sewer main, or to the S.T.E.P. tank, or to the grinder system service connection. Also referred to as a "building sewer" or a "service lateral."

R. "Standard specifications" means those standard specifications for public works construction that have been adopted by the City Council.

13.08.015 Rules for administration and enforcement--Copy filing—Noncompliance

The City Manager may adopt rules and regulations necessary for the administration of this chapter and chapter 4.24 OMC; a copy of such rules and regulations must be on file and available for public examination at the City Clerk's Office or at such other place or places as may be designated by the City Council. Failure to comply with any such rules and regulations is a violation of this chapter.

13.08.020 Connection required when

1. The owner or occupant of any lands, buildings or premises shall not be is not required to connect the lands, buildings or premises to the public sewer so long as the property premises is served by an existing lawfully functioning onsite sewage system and the property premises is not being divided. In the event any lands, buildings, or premises are is served by an onsite sewage system which that fails to function and cannot be remedied through minor repairs, and there is a public sewer available within two hundred (200) feet of the property premises, the owner or occupant shall will be shall required to connect the property premises to the public sewer. All premises within two hundred (200) feet of a public sewer main shall be are deemed to be within the area served by such public sewer. The distance to the public sewer shall must be is measured from the nearest adequate public sewer, by way of a public right-of-way or easement, to the nearest edge of the property premises. If a premises does not have frontage on any public right-of-way or easement, the distance to the premises is measured to the nearest edge of the easement used for ingress and egress to the premises. If no easement exists, it is measured to the point where the driveway meets a public right-of-way or easement.

The Public Works Director may make an exception for the requirement to connect for the replacement of a septic tank only where the connection to sewer would require an extension of the public sewer infrastructure.

In the event lands, buildings, and the premises are is served by an individual onsite sewage system which fails to function and there is no public sewer available within two (200) hundred feet and a replacement individual system cannot be lawfully approved to serve the property premises, the owner of the premises must shall nevertheless be connected connect to the public sewer, or the premises shall must cease to be occupied. An userowner can may avoid the requirement to connect by discontinuing the generation or discharge of any waste from the site and abandoning the onsite sewage system. The abandonment of the onsite sewage system shall must be in accordance with Thurston County Environmental Health regulations.

In the event any premises served by an onsite sewage system is divided or decreased in size through any means, the owner shall connect the premises with the onsite sewage system to the public sewer and abandon the existing onsite sewage system unless the criteria for a new onsite septic system in OMC 13.08.090 is met after the division or decrease in size. The only requirement of OMC 13.08.090 not applicable to the premises with the existing onsite sewage system is the provision that the premises be an undeveloped lot of record that existed prior to November 21, 2006. All other premises created by the division of the original premises must be connected to public sewer.

If any application is submitted for replacement of a septic tank or drainfield and the existing onsite sewage system is functioning, the Public Works Director shall deny the application if the premises and application do not meet the criteria in OMC 13.08.090 for a new onsite sewage system.

2. An owner who is required to connect to the public sewer based on subsection 1 of this section may appeal such requirement to the Public Works Director or to the Hearing Examiner as described in subsection 4 of this section, or to Thurston County.

3. Pursuant to RCW 35.21.940 35A.21.390, upon the failure of an ~~on-site-septic~~ onsite sewage system for which the City requires a connection to a public sewer system, the owner of such system may appeal the City's recommendation for denial of the permit to repair or replace existing, failing ~~on-site-septic-systems~~ onsite sewage system that:

- (a) Were made for a single-family residence by its owner or owners;
- (b) Were denied solely because of a law, regulation, or ordinance requiring connection to a public sewer system; and
- (c) Absent the applicable law, regulation, or ordinance requiring connection to a public sewer system upon which the denial was based, would be approved.

34. Any such appeal of the City's recommendation in circumstances set forth in subsection 2-3 of this section shall must be made to the Public Works Director or the City's hearing-examiner-Hearing Examiner as provided in OMC 18.75.020, who will-shall consider, at a minimum whether:

- (a) It is cost-prohibitive to require the ~~property~~ owner to connect to the public sewer system. In complying with this subsection (3)(a), the ~~city~~ City must consider the estimated cost to repair or replace the ~~on-site-septic~~ onsite sewage system compared to the estimated cost to connect to the public sewer system;
- (b) There are public health or environmental considerations related to allowing the ~~property~~ owner to repair or replace the ~~on-site-septic~~ onsite sewage system. In complying with this subsection (3)(b), the ~~city~~ City must consider whether the repaired or replaced ~~on-site-septic~~ onsite sewage system contributes to the pollution of surface waters or groundwater;
- (c) There are public sewer system performance or financing considerations related to allowing the ~~property~~ owner to repair or replace the ~~on-site-septic~~ onsite sewage system; and
- (d) There are financial assistance programs or latecomer agreements offered by the ~~city~~ City or state that may impact a decision of the ~~property~~ owner to repair or replace the ~~on-site-septic~~ onsite sewage system.

A copy of the Public Works Director's or City hearing-examiner's-Hearing Examiner's decision shall must be provided to the appropriate official at Thurston County for consideration in the County's decision to approve or deny the permit or in consideration of an appeal. Appeal of the final permit decision made by Thurston County shall must be made through the appropriate Thurston County appeal process.

45. Within the area to-be-served by the public sewer of the City as it now exists and as it may be improved and extended in the future, the owner of each lot or parcel of real property premises, upon which is a building or structure, for human occupation or use for any purpose shall, within thirty-30 days of notification by the City for connections to be made therewith, cause a connection to be made between the sewage system and each such building or structure within such lot or parcel premises.

56. If any connection to the public sewer is not made within the time provided in this Section, the City Engineer or such other employee of the City as the City Council may hereafter designate is authorized-

~~and directed to cause such connection to be made and to file a statement of the cost with the City Treasurer, and a check shall be issued under the direction of the City Council by the City Treasurer, and drawn on the sewer fund of the City for the payment of such cost. Such amount, together with a penalty of ten percent (10%), plus interest at the rate of six percent (6%) per year upon the total amount of such cost and penalty, shall be assessed against the property upon which the building or structure is situated, and shall become a lien thereon as provided in this chapter. Such total amount, when collected, shall be paid into the sewer fund.~~

If any connection to the public sewer is not made within the time provided in this section, the City Engineer or the City Engineer's designee is authorized and directed to cause such connection to be made. The total costs of such connection, together with a penalty of 10 percent, plus interest at the rate of six percent per year upon the total amount of such cost and penalty, is assessed against the premises upon which the building or structure is situated, and the total amount of such cost and penalty and interest becomes a lien thereon as provided in this chapter. Such total amount, when collected, must be paid into the sewer fund.

13.08.030 Permit required to open public sewer

~~It is unlawful for any person to~~ A person may not make any opening in any sewer or drain, public or private, or connect a private sewer or drain therewith to any public sewer or drain without complying with all of the provisions of this article relating thereto and obtaining and having a permit to do so from the City Engineer Community Planning and Development Department. ~~The Director of Public Works shall assess a fee as set forth in Title 4, Fees and Fines, of this code for each permit issued under this chapter.~~

13.08.040 Side Sewer Installation and Maintenance

A. ~~All~~ A person making any connections to the public sewer shall be made-make such connection in a permanent and sanitary manner, subject to the approval of the City Engineer and in accordance with the public works standard specifications, engineering design and development standards, and uniform plumbing code of the City. The property owner of premises for which a connection to the public sewer system is made is responsible for shall pay all costs and expense incidental to the installation, connection, and maintenance of a side sewer, except as ~~noted~~ provided in subsections (B) and (C.) of this section.

B. City ownership of a gravity side sewer ~~shall be~~ is from the sewer main to the property right-of-way line or sewer easement boundary, if a cleanout exists at this point. ~~The property owner shall own~~ the side sewer from the premises to the cleanout at the property right-of-way line or sewer easement boundary. ~~The property owner shall be responsible for installing and maintaining~~ install and maintain the cleanout so it is accessible to the City.

If no cleanout exists at the property right-of-way line or sewer easement boundary, ~~the property owner shall own~~ the side sewer from the premises to the sewer main, until the ~~property owner~~ installs a cleanout at the property right-of-way line or sewer easement boundary. The connection between the side sewer and the main ~~shall be~~ is owned and maintained by the City.

City ownership of a grinder side sewer ~~shall be~~ is between the main and the service connection. All other elements of the grinder pump system, including but not limited to, the valves, pumps, and pressurized service line between the grinder pump and the service connection ~~shall be~~ is owned and maintained by the ~~property owner and the owner~~ shall maintain all such elements.

City ownership of S.T.E.P. side sewers ~~shall be~~ is according to ~~the~~ an applicable bill of sale.

C. Regardless of ownership of the sewer infrastructure where a blockage occurs, ~~the property owner shall be~~ is responsible for the removal of, and shall remove, blockages in side sewers between the

premises and the city main, including tree roots, dirt, debris, broken pieces of pipe, fats, oils, and grease, or other identifiable obstruction, if the cause of the damage or blockage originated from the private property privately owned premises. The City shall not be is not liable for any damages or costs incurred by reason of blockage or damage to the side sewer, if the cause of the damage or blockage originated from the private property privately owned premises.

13.08.050 Wastewater Management Plan

The Director of Public Works, or the Director of Public Works' designee, is authorized and directed to prepare a wastewater management plan for the City wastewater conveyance system, in accordance with RCW 90.48.110. The Director of Public Works will shall also determine the standards for development and improvement of the wastewater system to provide safe and adequate conveyance of sewage to the POTW City wastewater conveyance system. A copy of the wastewater management plan shall be The plan is kept on file in the offices of the City Clerk and the Public Works Department.

13.08.080 Work in streets or public places

All work within the limits of any street or public place must be prosecuted to completion with due diligence by a licensed contractor. The contractor shall post a bond acceptable to the City Engineer prior to any street excavation. If in the judgment of the City Engineer, or the City Engineer's inspector, any excavation is left open beyond a reasonable time, the City Engineer shall cause the same to be refilled, and the street restored forthwith as soon as possible to its former condition. Any costs incurred in such work shall must be charged to the contractor in charge of such work or against the contractor's bond, and the contractor shall pay such costs must be paid before the contractor shall may receive any future permit from the City.

13.08.090 Sewer connection type

The City of Olympia permits only gravity sewer systems, with lift stations when needed, except as follows:

A. ~~New onsite sewage systems shall be permitted within the city limits only to serve a single family residence or a single family residence with an accessory dwelling unit, provided:~~

- ~~1. The property being served is an undeveloped lot of record located more than two hundred (200) feet from an available sewer, as determined by the Public Works Director or the Public Works Director's designee, and the lot is either larger than one (1) acre or is granted an exception to the lot size requirement under Section 5 below; and~~
- ~~2. The lot existed prior to November 21, 2006, or was created through consolidation of lots in existence prior to November 21, 2006; and~~
- ~~3. Onsite sewage systems for new development within the shoreline jurisdiction, as defined in the Shoreline Master Program, are prohibited, regardless of lot size; and~~
- ~~4. The lot size determination shall include only those portions of a lot unencumbered by streams and important riparian areas, wetlands and small lakes, landslide hazard areas, and their associated buffers as defined in OMC 18.32.~~
- ~~5. Exceptions to the one acre minimum lot size will be considered by the Public Works Director or the Public Works Director's designee when application is made in writing to the Public Works Director. Application shall be made on forms provided by the City. New onsite sewage systems for undeveloped lots of record smaller than one (1) acre will be evaluated using the following criteria:~~

- a. ~~New onsite sewage systems shall not be permitted on lots located within an area at high-risk for onsite septic systems, nor within a marine recovery area, nor within a shellfish protection area, as determined by input from Thurston County Environmental Health; and~~
- b. ~~New onsite sewage systems shall only be permitted on lots served by public water service; and~~
- c. ~~New onsite sewage systems shall not be permitted within two hundred (200) feet of an available sewer as defined in OMC 13.08.020; and~~
- d. ~~New onsite sewage systems shall not be permitted on lots smaller than 12,500 square feet. The lot size determination shall include only those portions of a lot unencumbered by streams and important riparian areas, wetlands and small lakes, landslide hazard areas, and their associated buffers as defined in OMC 18.32. The lot must have existed prior to November 21, 2006, or have been created through consolidation of lots in existence prior to November 21, 2006.~~

6. ~~Each property owner constructing a new residence with a new onsite sewage system located within the Urban Growth Boundary, including those within the city limits, shall enter into an Agreement for Interim Onsite Sewage System with the City, agreeing to connect the residence directly to the public sewer in accordance with the provisions herein within one (1) year after the date of official notice to connect; provided, that an available sewer is within two hundred (200) feet of the property. In addition, the following shall apply to new onsite sewage systems:~~

- a. ~~Permitted onsite sewage systems shall be considered interim facilities and must be designed and constructed to facilitate conversion to the public sewer when sewer becomes available; and~~
- b. ~~Recording fees shall be paid upon the submittal of a signed Agreement for Interim Onsite Sewage System; and~~
- c. ~~Following execution, the agreement shall be recorded by the City in the records of the Thurston County Auditor; and~~
- d. ~~Said agreement shall terminate if at any time any project application or approval expires or is revoked for any reason; and~~
- e. ~~Any cost of sewer extension required at the time of connection shall be borne in whole by the property owner.~~

A. New onsite sewage systems are permitted by Thurston County, with input from Olympia, only where all of the applicable criteria in Table 1 are met. For a septic system to be considered a replacement system, it must be replacing an existing septic system on the premises, without an increase in size due to an increase in building size, number of bedrooms, or number of ERUs.

<u>New System, Inside City Limits</u>	<u>New System, Outside City Limits</u>	<u>Replacement System, Inside Or Outside City Limits</u>	
<u>Location</u>	<u>Lot must be located more than 200 feet from an available public sewer as defined in OMC 13.08.020</u>	<u>Lot must be located more than 200 feet from an available public sewer as defined in OMC 13.08.020</u>	<u>Lot must be located more than 200 feet from an available public sewer as defined in OMC 13.08.020</u>

<u>New System, Inside City Limits</u>	<u>New System, Outside City Limits</u>	<u>Replacement System, Inside Or Outside City Limits</u>	
<u>Building</u>	<u>Systems may only be approved to serve a single-family residence or a single-family residence with an accessory dwelling unit unless the system approved is a community onsite sewage system (COSS) as described in OMC 13.08.090(3).</u>	<u>No building requirement.</u>	<u>No building requirement.</u>
<u>Lot size</u>	<u>Lot must be at least one acre, as described in subsection 1 below or be granted an exception to the one-acre rule as described in OMC 13.08.080(2).</u>	<u>Lot size requirement is determined by Thurston County.</u>	<u>Lot size requirement is determined by Thurston County.</u>
<u>Shoreline</u>	<u>All septic system components are prohibited within the shoreline jurisdiction, as defined in the Shoreline Master Program.</u>	<u>All septic system components are prohibited within the shoreline jurisdiction, as defined in the Shoreline Master Program.</u>	<u>Septic system components must be located outside the shoreline jurisdiction, as defined in the Shoreline Master Program, if possible. Exceptions may be approved by Thurston County.</u>
<u>Interim</u>	<u>System must meet criteria in OMC 13.08.090(4).</u>	<u>System must meet criteria in OMC 13.08.090(4).</u>	<u>For owners engaged in commercial use and premises with multi-family residences, system must meet criteria in OMC 13.08.090(4). No interim system requirement for a single-family residence, including a single-family residence with an ADU.</u>
<u>Lot origin</u>	<u>Lot must be a lot of record that existed prior to November 21, 2006, or have been created through consolidation of lots in existence prior to November 21, 2006, or be approved for a community onsite sewage system (COSS) as described in OMC 13.08.090(3).</u>	<u>Lot must have existed prior to application for the onsite sewage system. Lot subdivision is not permitted if the resulting lots would be served by onsite sewage systems except those approved for a community onsite sewage system (COSS) as described in OMC 13.08.090(3).</u>	<u>No lot origin requirement.</u>

Table 1

1. The lot size determination must include only those portions of a lot unencumbered by streams and important riparian areas, wetlands and small lakes, landslide hazard areas, and their

associated buffers as defined in OMC 18.32, and unencumbered by rights-of-way and easements, and.

2. Exceptions to the one-acre minimum lot size are considered by the Public Works Director or the Public Works Director's designee when application is made in writing to the Public Works Director, on forms provided by the City. New onsite sewage systems for undeveloped lots of record smaller than one acre are evaluated using the following criteria:

a. New onsite sewage systems may not be permitted on lots located within an area at high risk for onsite sewage systems, nor within a marine recovery area, nor within a shellfish protection area, as determined by input from Thurston County Environmental Health; and

b. New onsite sewage systems may only be permitted on lots connected to public water service; and

c. New onsite sewage systems may not be permitted on lots smaller than 12,500 square feet. The lot size determination is as defined in subsection (1) of this section.

3. Community onsite sewage systems (COSS) may be permitted by Thurston County with input from Olympia with the following requirements:

a. Gravity sewer lines must be installed to all sites served by the COSS and along the frontage of the project as required in EDDS 3.110; and

b. All connection charges and monthly or bi-monthly sewer bills must be paid at the same rate as properties connecting to sewer; and

c. COSS are considered interim facilities and must meet the requirements of subsection 4 of this section; and

d. Once constructed, COSS are owned and maintained by the City of Olympia. The owner shall record all related bills of sale and easements in the office of the Thurston County Auditor.

4. Permitted onsite sewage systems are considered interim facilities and must meet the following criteria:

a. The system must be designed and constructed to facilitate conversion to the public sewer when sewer becomes available, as determined by the Public Works Director.

b. Each owner constructing a new onsite sewage system must enter into an Agreement for Interim Onsite Sewage System with the City in a form approved by the City.

c. The Agreement for Interim Onsite Sewage System requires connection of the premises directly to the public sewer within one year after the date of official notice to connect at such time that a sewer is available, as defined in OMC 13.08.020.

d. Following execution, the owner shall record the Agreement for Interim Onsite Sewage System in the office of the Thurston County Auditor and shall provide a copy of the recorded document to City staff; and

e. The Agreement for Interim Onsite Sewage System terminates if at any time any septic application or approval expires or is revoked for any reason; and

f. The owner shall bear any and all cost of sewer extension required at the time of connection.

B. New septic tank effluent pump (S.T.E.P.) systems ~~shall be~~ are permitted provided a gravity sewer is not available to the ~~property premises~~ as defined in OMC 13.08.020, and:

1. The ~~property premises~~ being served is a lot of record existing prior to February 15, 2005, abutting on any street, alley, right-of-way, or easement in which there is now located a S.T.E.P. force main; ~~or~~
2. The ~~property premises~~ is located within a subdivision vested as of July 2005, in accordance with OMC Section 18.72.060, Determination of Complete Application; ~~or~~
3. The ~~property premises~~ was created through a short plat after April 30, 2018, from a property abutting on any street, alley, right-of-way, or easement in which there is now located a S.T.E.P. force main. Only one short plat per property in existence on April 30, 2018, ~~shall be~~ is eligible for S.T.E.P. sewer connection. No further short plat ~~shall be~~ is allowed until gravity sewer is available to the ~~property premises~~; ~~or~~
4. The ~~property premises~~ is abutting on any street, alley, right-of-way, or easement in which a S.T.E.P. force main was extended as part of the Septic to Sewer program as per OMC 13.08.215.

C. Grinder pump sewer systems ~~shall~~ may not be installed and used in lieu of the orderly extension of gravity sewers. Grinder pump installation and use ~~shall be~~ is subject to the following requirements ~~and/or~~ and limitations:

1. New individual grinder pump system use is limited where:
 - a. A public gravity sewer is contiguous to the ~~property premises~~, but terrain, natural features, or other physical barriers prohibit a gravity connection; or
 - b. For the conversion of onsite sewage systems to public sewer or for infill development only where it is specifically determined by the City Engineer to be in the best interest of the City of Olympia.
2. The owner shall purchase, own, and maintain and operate the Grinder-grinder pumps and side sewers which are installed as part of a grinder pump sewer system ~~shall be purchased, owned, maintained and operated by the property owner.~~
3. Grinder pump force mains receiving effluent from more than one ~~property premises~~ shall ~~must~~ be publicly owned and maintained. Publicly-owned grinder pump force mains ~~shall be~~ are permitted only where the City Engineer determines it to be in the best interest of the City and construction of a gravity and lift station sewer system is not feasible, provided that:
 - a. The proponent of the grinder pump force mains can demonstrate that no other feasible alternative is available; and

b. In such cases, the proponent is responsible for and shall pay the cost of installation of the public grinder pump force mains ~~shall be borne by the proponent~~; and

c. The installation is in accordance with the Olympia Engineering Design and Development Standards.

4. Grinder pump side sewers and force mains ~~shall not be~~ are not permitted to discharge to designated Septic Tank Effluent Pump (S.T.E.P.) force mains unless it is determined by the City Engineer or the City Engineer's designee to be in the best interest of the City.

13.08.150 Tampering with and depositing rubbish in public sewer--Prohibited discharges

A. ~~It is unlawful for any person to~~ No person may break, damage, destroy, uncover, deface, or tamper with any structure, facility, appurtenance, or equipment ~~which that is a part of the public sewer of the City. It is unlawful for any~~ No person may to deposit garbage, rubbish, soil materials, or any substance having a tendency to obstruct the flow of any sewage in any pipe, maintenance hole, cleanout, or sewer opening.

B. No person ~~shall~~ may discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, or cooling water to any public sewer. Stormwater and all other unpolluted drainage ~~shall~~ may only be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the City Engineer. ~~Industrial users~~ An owner engaged in industrial use shall discharge sewage to the public sewer in compliance with all requirements of Chapter 13.20 OMC.

C. Except as hereinafter provided, no owner engaged in domestic use ~~use~~ shall ~~may~~ discharge or cause to be discharged, any of the following described waters or wastes to any public sewer:

1. Any liquid or vapor having a temperature higher than ~~one hundred fifty~~ 150 degrees Fahrenheit;
2. Any water or waste which may contain more than ~~one hundred~~ 100 parts per million, by weight, of fat, oil, or grease;
3. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;
4. Any garbage, other than organic food wastes that have been properly shredded;
5. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage ~~works~~ system;
6. Any waters or wastes having a pH lower than five and five-tenths or higher than nine or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works;
7. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;
8. Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;
9. Any noxious or malodorous gas or substance capable of creating a public nuisance.

13.08.180 Sewer service outside city limits

A. ~~Property~~ Any owner of premises lying within the urban growth boundary area shall agree to annex to the City as a condition of sewer connection. ~~Alternatively. In the alternative,~~ the City may elect to defer annexation and require execution of an agreement described in subsection (B) of this section.

B. ~~Property~~ Premises lying within the urban growth area which is not annexed as a condition of sewer service shall be permitted ~~may receive~~ sewer connection only upon the owner of such premises entering into an Agreement to Annex ~~appropriate agreement~~ with the City containing a waiver of protest to annexation and/or power of attorney authorizing annexation at such time as the City determines the ~~property~~ premises should be annexed to the City.

C. Following execution, such agreements shall ~~must~~ be recorded by the City Clerk in the chain of title for such ~~property~~ premises in the official records office of the Thurston County Auditor.

13.08.185 Sewer service outside city limits--Agreements to run with the land

The agreement described in OMC Section 13.08.180 above shall ~~must~~ contain a provision that the obligations and privileges contained therein shall run with the land and bind future owners of said land in the same manner as the applicant is bound ~~therein~~ thereby.

13.08.186 Sewer service outside city limits—Other sections not affected

In addition to OMC 13.08.180 and 13.08.185, all other provisions of this chapter apply to connections outside the Olympia city limits.

ARTICLE II. SEWER RATES

13.08.190 Sewer rates—Definitions

A. A charge for sanitary sewage disposal shall ~~be~~ is levied against all accounts and premises connected to a sewer main or City-maintained community onsite system at the rate set forth in Title 4, Fees and Fines, of this code.

B. For purposes of subsection (A) of this section, the term "equivalent residential unit" or "ERU" shall ~~be as follows~~ means:

1. One single-family residence: one ERU; or
2. One single-family residence with accessory dwelling unit: one ERU; or
3. One mobile home, or one mobile home space in a mobile home or trailer park: one ERU; or
4. Duplex: two ERUs; or
5. Residential structure having more than two living units, seven-tenths of an ERU per living unit; or
6. With respect to uses other than residential, one ERU shall ~~be~~ is designated for each ~~nine-hundred (900)~~ cubic feet for LOTT wastewater service charges and ~~seven-hundred (700)~~ cubic feet for public sewer charges per month of water consumed or sewage discharged as measured at the source; provided, that for volumes in excess of ~~nine-hundred (900)~~ cubic feet per month and ~~seven-hundred (700)~~ cubic feet per month, the service charge per ~~one-hundred (100)~~ cubic feet shall ~~be~~ is

computed at the rate of one-ninth of the LOTT wastewater service charge, plus one-seventh of the public sewer charge; and

7. With respect to an account consisting of both residential and nonresidential uses, the residential uses ~~shall be~~ are charged as set forth in ~~this subsections (B) Nos. (1) through (5) of this section~~ and the nonresidential uses ~~shall be~~ are charged an additional one ERU; provided, that if the total monthly volume of the account exceeds the number of ERUs computed pursuant to this subsection times ~~nine hundred (900) cubic feet for LOTT wastewater service charges and seven hundred (700) cubic feet for local collection charges,~~ the charge per ~~one hundred (100) cubic feet for the account shall be~~ are computed at the rate of one-ninth of the LOTT wastewater service charge, plus one-seventh of the public sewer charge.

13.08.200 Payment of sewer bills

The City Council may in its discretion determine whether the charges for sewage disposal service ~~shall be~~ are on a monthly or bimonthly basis. The ~~foregoing~~ following rates and charges for sanitary sewage disposal ~~shall be~~ are due and payable ~~at the office of the City Treasurer or at such place or places designated by that City Treasurer~~ as Olympia City Hall on the date established by the Director of Administrative Services ~~Finance Director may require,~~ as authorized in ~~Section OMC 4.24.050 of this code.~~

13.08.205 Sewer general facility charges

A. A sewer general facility charge ("Sewer GFC") ~~shall will be~~ is assessed in the amount set forth in Title 4, Fees and Fines, ~~of this code,~~ for all new sewer connections and for all changes in use of a property premises that result in an increase in ERUs, as defined in Section OMC 13.08.190. Except as provided in subsections (B), (C), and (D) of this ~~Section~~ section, such charge ~~shall become~~ is due and payable ~~no earlier than at the time of issuance of an engineering, sewer connection, or building permit and no later than at the time of issuance of each permit to connect to the public sewer,~~ and at the rate in effect at the time of payment, except for the deferred payment option stated below. For projects located outside the City, the date of building permit issuance by Thurston County ~~shall constitutes~~ is the earliest time of payment. This charge ~~shall be~~ is assessed in addition to any other charges or assessments levied under this chapter. Said funds ~~shall will must~~ must be deposited in the sewer capital improvement fund established under ~~Section 3.04.750 OMC 3.04.500 of this code and shall will must~~ OMC 3.04.500 of this code and shall must be used only for the purposes enumerated therein.

B. The Sewer GFC may be deferred for residential developments in the Downtown Deferred General Facility Charge Payment Option Area. An unpaid Sewer GFC deferred under this section ~~shall constitutes~~ is a lien against the ~~property premises~~ for which it is payable. Payment of a Sewer GFC need not be made prior to the time of connection if the payer provides the Community Planning and Development Department with proof that a Voluntary General Facility Charge Lien Agreement, in a form approved by the City Attorney, has been executed by all legal owners of the ~~property premises~~ upon which the development activity allowed by the building permit is to occur, and the agreement has been recorded in the office of the Thurston County Auditor. When such deferral is sought for a portion of the development activity, the City, at its sole discretion, ~~shall determines~~ determines the portions of the Sewer GFC to be applied to the portions of the development activity. If a Voluntary General Facility Charge Lien Agreement has been recorded, payment of the ~~general facility charge shall be~~ Sewer GFC is deferred under the following conditions:

1. The Sewer GFC ~~will be~~ is assessed at the rate in effect at the time of issuance of the building permit for the project, and
2. ~~Payment of~~ The owner shall pay the Sewer GFC ~~will be made~~ is at the earlier of (a) the closing of sale of the ~~property premises~~ or any portion of the ~~property premises~~, or (b) three ~~(3)~~ years from the date of the City's issuance of a Certificate of Occupancy, and

3. A GFC payment made within one (1) year of issuance of the Certificate of Occupancy for the development ~~shall pay~~ is the fees assessed at the time of issuance of the building permit, and
4. A GFC payment made within the second year from issuance of the Certificate of Occupancy for the development ~~shall pay~~ is the Sewer GFC plus an interest component, for a total of 105% percent of the remaining balance of the fees assessed at the time of issuance of the building permit, and
5. A GFC payment made within the third year from issuance of the Certificate of Occupancy for the development ~~shall pay~~ is the Sewer GFC plus an interest component, for a total of 110% percent of the remaining balance of the fees assessed at the time of issuance of the building permit.

In the event that the Sewer GFC ~~and/or~~ interest (if any), ~~or both~~, is not paid within the time provided in this subsection, all such unpaid charges, fees, and interest ~~shall constitute~~ is a lien against the ~~property premises~~ for which they were assessed. The lien may be enforced either by foreclosure pursuant to RCW 61.12 or by termination of water service pursuant to ~~Section OMC 13.04.430 of this Code~~. The City may use other collection methods at its option. In the event of foreclosure, the owner at the time of foreclosure shall also pay the City's reasonable attorney fees and costs incurred in the foreclosure process. Notwithstanding the foregoing, the City ~~shall will~~ not commence foreclosure proceedings less than ~~thirty (30)~~ calendar days after providing written notification to the then-present owner of the ~~property premises~~ via certified mail with return receipt requested advising of its intent to commence foreclosure proceedings. If the then-present owner cures the default within the ~~thirty~~ 30-day cure period, no attorney fees ~~and/or~~ or costs ~~will be~~ are owed.

C. The Sewer GFC ~~will be~~ is waived for ~~properties any premises~~ served by an existing OSS that connects to the public sewer within two years following notice by the City of eligibility for a Sewer GFC waiver. ~~Notice will be sent to property~~ The City shall send notice to an owners when sewer becomes available to ~~their property the owner's premises~~. Notice ~~will be~~ is effective as of the date it is sent to the ~~property owner~~ by certified first class mail. ~~Properties that~~ An owner who fails to connect to the public sewer within two years following such notice ~~shall be~~ are is charged the Sewer GFC in effect at the time of connection to the public system, and those properties may defer payment of the Sewer GFC as provided in subsection (D) ~~below of this section~~.

An owner ~~property shall~~ is also be eligible for a Sewer GFC waiver at such time as the ~~property premises~~ becomes eligible for a full or partial rebate of the LOTT capacity development charge (LOTT CDC). The Sewer GFC waiver ~~shall expire~~ is on the same date as the expiration of the LOTT CDC rebate.

In addition, the Sewer GFC ~~will be~~ is waived for ~~properties any premises~~ served by an existing OSS that connects to the public sewer within two years of a transfer of ownership of the ~~property premises~~. ~~Property owners are required to~~ An owner shall provide documentation to the City of the transfer of ownership in order to be eligible for this waiver. The City will not provide notification to a new ~~property owners~~.

In all cases, the Sewer GFC waiver will be is limited to the number of ERUs served by the existing OSS.

D. The Sewer GFC for ~~properties premises~~ abandoning an existing OSS and connecting to public sewer without an increase in ERUs ~~shall be paid~~ is due in full or under installment contract with the following conditions:

1. The ~~property premises~~ must be served by public water with an individual City of Olympia metered water utility account.
2. In order to defer payment of a Sewer GFC, an ~~property owner~~ must shall execute a Sewer Connection Fee Contract with the City in a form approved by the City Attorney in which the ~~property owner~~ agrees to pay specified progress payments. The Sewer Connection Fee Contract ~~shall also~~ must provides that the City ~~shall be~~ is entitled to attorney's fees and costs, should legal action need

to be commenced to collect or enforce the contract. Connection to the public sewer ~~will be~~ allowed after the Sewer Connection Fee Contract has been recorded in the office of the Thurston County Auditor. The owner shall pay Recording-recording fees shall be are paid by the property owner upon submittal of the signed Sewer Connection Fee Contract.

3. The owner shall make Payments-payments toward the deferred Sewer GFC ~~shall be are made~~ on a monthly basis, including principal and interest, until the Sewer GFC and associated loan costs are paid. The minimum monthly payment ~~shall be is~~ must be calculated such that full payment ~~shall be is~~ completed within ~~eight~~ years, with at most 96 monthly payments.

4. Any unpaid balance for deferred Sewer GFC is subject to interest charges, with ~~The-the~~ interest rate charged on any unpaid balance ~~shall be equal~~ to the interest rate of the most recent general obligation bonds issued by the City prior to execution of the Sewer Connection Fee Contract.

5. Upon sale of the ~~property premises~~, the unpaid Sewer GFC ~~shall must~~ be paid in full, or the new owner ~~shall must~~ execute a Sewer Connection Fee Contract with the City for the balance of the GFC owed under the terms of this section with a maximum number of monthly payments equal to 96 minus the number of months any previous Sewer Connection Fee Contracts were in existence.

6. In the event that the Sewer GFC ~~and/or~~ interest (if any), or both, is not paid within the time provided in ~~this-subsection D of this section~~, all such unpaid charges, fees, and interest ~~shall~~ constitute a lien against the ~~property premises~~ for which they were assessed. The lien may be enforced either by foreclosure pursuant to RCW 61.12 or by termination of water service pursuant to ~~Section-OMC 13.04.430 of this Code~~. The City may use other collection methods at its option. In the event of foreclosure, the owner at the time of foreclosure shall ~~also~~ pay the City's reasonable attorney fees and costs incurred in the foreclosure process. Notwithstanding the foregoing, the City ~~shall will~~ not commence foreclosure proceedings less than ~~thirty-(30)~~ calendar days after providing written notification to the then-present owner of the ~~property premises~~ via certified mail with return receipt requested advising of its intent to commence foreclosure proceedings. If the then-present owner cures the default within the ~~thirty~~ 30-day cure period, no attorney fees ~~and/or~~ costs will be owed.

E. The Sewer GFC for properties on public combined sewers ~~shall apply-applies~~ to properties located within the Downtown Deferred General Facility Charge Payment Option Area and discharging sanitary sewage to the public combined sewer ~~upon change in the character of the use of any structure on such property or upon a significant increase of sewage discharge therefrom.~~

F. If there is a significant increase of sewage discharge from a premises and if one or more of the triggering events in subsection (F)(5) of this section occurs, additional Sewer GFCs will be charged as follows:

1. A "significant increase" means an increase of 25 percent or more in current wastewater discharge, as compared to the number of ERUs used to calculate Sewer GFCs previously paid, provided the increase is equal to at least one ERU; and
2. "Current wastewater discharge" means the average wastewater discharge of the most recent six winter months (with meter read dates in November through April) either measured by wastewater discharge meter or drinking water meter, whichever is applicable; and
3. A customer is given notice and a period of one year in which to:

- a. Decrease wastewater discharge sufficiently to no longer qualify as a significant increase as defined in subsection (F)(1) of this section; or
- b. Install a wastewater discharge meter, if one is not already installed; or
- c. Install a separate irrigation meter;

and

- 4. After the one-year period, current wastewater discharge is recalculated and if the discharge continues at or above the significant increase level, additional Sewer GFCs are imposed for the additional ERUs of wastewater discharge, and the owner shall pay such additional Sewer GFCs within 60 days of notification of charges due.
- 5. Triggering events for calculation of a possible significant increase of sewer discharge are:
 - a. Application to the LOTT Clean Water alliance for an increase in discharge limits; or
 - b. Application to the City for a larger drinking water meter or additional drinking water meter(s).
 - c. Application to the City or County for a change in use of a premises; or
 - d. Application to the City or County for a building permit.

13.08.210 LOTT capacity development charge—Payment

A. ~~There shall also be charged an additional~~ is imposed a LOTT capacity development charge (“LOTT CDC”) ~~for the any premises, as defined in OMC Section 13.08.010, which that~~ is provided sewer service by Olympia the City. ~~The LOTT capacity development charge shall also be assessed upon later change in the character of the use of any such premises or upon a significant increase of sewage discharge therefrom, determined in accordance with the guidelines and procedures adopted by the advisory committee created pursuant to the intergovernmental contract for wastewater facilities management.~~ The LOTT capacity development charge shall be CDC is in the amount set forth in Title 4, Fees and Fines, of this code the OMC. ~~The capacity development charge LOTT CDC is intended to pay a predetermined share of the estimated capital cost per ERU to provide future joint facilities and additions to existing joint facilities that are considered necessary to serve the connections paying the capacity development charge LOTT CDC while maintaining adequate system reserve capacity as described in The Highly Managed Alternative of the LOTT Wastewater Resource Management Plan of 1999.~~

B. An owner shall pay the LOTT CDC; ~~The such charge imposed under Subsection subsection (A) of this section shall become~~ is due and payable no earlier than at the time of issuance of an engineering, sewer connection, or building permit and no later than at the time each connection is completed, and at the rate in effect at the time of payment. For projects located outside the City, the date of building permit issuance by Thurston County shall constitute the earliest time of payment. If not paid on or before said date, the same shall become is delinquent and shall bears interest at the rate of six percent per year from the date of delinquency until paid.

C. If there is a significant increase of sewage discharge from a premises and if one or more of the triggering events in subsection (C)(5) of this section occurs, additional LOTT CDCs will be charged as follows:

- 1. “A significant increase” means an increase of 25% or more in current wastewater discharge, as compared to the number of ERUs used to calculate CDCs previously paid, provided the increase is equal to at least one ERU; and

2. If a premises connected to sewer before LOTT CDCs existed as a charge, the base number of ERUs is the Sewer GFCs previously paid; and
3. “Current wastewater discharge” means the average wastewater discharge of the most recent six winter months (with meter read dates in November through April) either measured by wastewater discharge meter or drinking water meter, whichever is applicable; and
4. An owner is given notice and a period of one year in which to:
 - a. Decrease wastewater discharge sufficiently such that the discharge no longer qualifies as a significant increase as defined in subsection (C)(1) of this section; or
 - b. Install a wastewater discharge meter, if one is not already installed; or
 - c. Install a separate irrigation meter;

and

5. After the one-year period, current wastewater discharge is recalculated and if the discharge continues at or above the significant increase level, additional LOTT CDCs are imposed for the additional ERUs of wastewater discharge, and payable the owner shall pay such additional LOTT CDCs within 60 days of notification of charges due.
6. Triggering events for calculation of a possible significant increase of sewer discharge are:
 - a. Application to the LOTT Clean Water Alliance for an increase in discharge limits; or
 - b. Application to the City for a larger drinking water meter or additional drinking water meter(s);
or
 - c. Application to the City or County for a change in use of a premises; or
 - d. Application to the City or County for a building permit.

13.08.215 Septic to Sewer Program and infrastructure extension charges

A. There is hereby established the City of Olympia Septic to Sewer Program with the goal of connecting properties served by onsite sewage systems (OSS) to the public sewer. In furtherance of the Septic to Sewer Program, the City may construct sewer infrastructure to facilitate connection of properties served by onsite sewage systems. Infrastructure may include sewer mains, sewer maintenance holes, sewer cleanouts, sewer lift stations, sewer force mains, and STEP (septic tank effluent pumping) systems. Infrastructure extension proposals may be submitted by the owner of an OSS. Infrastructure extension proposals ~~shall be~~ are reviewed by staff and prioritized using the following factors:

1. Public health risk for the OSS as determined with input from Thurston County Environmental Health, including factors such as depth to groundwater, soil type, lot size, OSS density, and proximity to drinking water sources. Projects serving higher risk OSS ~~shall be~~ are given higher priority;
2. Scope of infrastructure extension required with respect to number of existing OSS to potentially benefit. Projects requiring less extensive infrastructure extension and potentially benefitting a higher number of properties ~~shall be~~ are given higher priority;

3. Public drinking water availability. Projects without public drinking water available ~~shall be~~ are given higher priority;
4. Available funds.

~~Final approval of the infrastructure extension shall be made by the Public Works Director or the Public Works Director's designee. The Public Works Director makes final approval of any proposed infrastructure extension.~~

B. ~~An owner shall pay a capital charge (CC) or the portion of the CC described below shall be paid for connections to the public sewer made after November 5, 2017, to sewer infrastructure that was extended as part of the Septic to Sewer program after November 5, 2017. The CC is defined as the total project cost, divided by the potential number of ERUs as defined under OMC 13.08.190, to be served by the infrastructure. The total project cost of a sewer infrastructure extension, including the costs of design, construction, material, labor, and contract administration, shall be~~ is based on the City's Engineering Design and Development Standards for latecomer agreements. Payment ~~An owner shall make payment of the CC or the portion of the CC due must be made prior to issuance of permit for sewer connection, except as provided in section C below subsection (C) of this section. The CC shall be~~ is charged as follows:

1. ~~For properties an owner abandoning an existing OSS, and connecting to an infrastructure extension within two years of notification of completion of the extension, without an increase in ERUs, the amount due shall be~~ is 20% percent of the CC.
2. For an owner abandoning an existing OSS and connecting to an infrastructure extension within two years of a transfer of ownership of the premises, without an increase in ERUs, the amount due is 20 percent of the CC. An owner shall provide documentation to the City of the transfer of ownership in order to be eligible for the 20 percent charge. The City is not required to provide notification to the new owner of a premises.
3. For an owner abandoning an existing OSS, and connecting to an infrastructure extension, without an increase in ERUs, who qualifies for hardship status, as defined by the Public Works Director in a policy published on the City web site, the amount due is 20 percent of the CC, regardless of the date of connection.
4. ~~For properties an owner abandoning an existing OSS, and connecting to an infrastructure extension more than two years after notification of completion of the extension, without an increase in ERUs, for which subsections (B)(1) through (3) of this section do not apply, the amount due shall be~~ is 50% percent of the CC.
35. ~~For all properties for an owner to which numbers 1 and 2 above subsections (B)(1) through (4) of this section do not apply, the amount due shall be~~ is 100% percent of the CC.
46. ~~For properties that an owner who connects more than one year after completion of the infrastructure extension, the CC will be~~ is adjusted by the intervening annual changes in the Consumer Price Index for all urban consumers in the Seattle-Tacoma-Bremerton urban area, in which Olympia is included.

C. ~~For properties an owner abandoning an existing OSS and connecting to an infrastructure extension without an increase in ERUs, the CC or the portion of the CC due shall~~ must be paid in full prior to issuance of permit for sewer connection, or under installment with the following conditions:

1. The ~~property premises~~ must be served by public water with an individual City of Olympia metered water utility account.
2. In order to defer payment of the CC or the portion of the CC due, ~~an property owner must~~ shall execute a Sewer Connection Fee Contract with the City in a form approved by the City Attorney in which the ~~property owner~~ agrees to pay specified progress payments. The Sewer Connection Fee Contract ~~shall must~~ also provide that the City ~~shall be is~~ entitled to attorney's fees and costs should legal action ~~need to be~~ commenced to collect or enforce the Sewer Connection Fee Contract. Connection to the infrastructure extension ~~will be is~~ allowed after the Sewer Connection Fee Contract has been recorded in the office of the Thurston County Auditor. ~~Recording fees shall be paid by the property~~ The owner is responsible for and shall pay recording fees upon submittal of the signed Sewer Connection Fee Contract.
3. ~~Payments~~ The owner shall make payments toward the deferred CC or the portion of the CC due ~~shall be made on a monthly basis~~ until the CC or the portion of the CC due and associated ~~loan costs are interest~~ is paid. The minimum monthly payment ~~shall must~~ be calculated such that full payment ~~shall will be is~~ completed within ~~eight~~ eight years, with at most 96 monthly payments.
4. The interest rate charged on any unpaid balance ~~shall be is~~ equal to the interest rate of the most recent general obligation bonds issued by the City prior to execution of the Sewer Connection Fee Contract.
5. Upon sale of the ~~property premises~~, the unpaid CC or the portion of the CC due ~~shall must be~~ paid in full or the new owner shall execute a Sewer Connection Fee Contract with the City for the balance of the CC owed under the terms of this section.
6. In the event the CC or the portion of the CC due and interest (if any) is not paid within the time provided in this subsection, all such unpaid charges, fees, and interest ~~shall constitute a lien against the property premises~~ for which they were assessed. ~~The City may enforce the lien may be enforced either by foreclosure pursuant to RCW 61.12 or by termination of water service pursuant to Section OMC 13.04.430 of this Code.~~ The City may use other collection methods at its option. In the event of foreclosure, the owner at the time of foreclosure shall also pay the City's reasonable attorney fees and costs incurred in the foreclosure process. Notwithstanding the foregoing, the City ~~shall will~~ not commence foreclosure proceedings less than ~~thirty (30)~~ calendar days after providing written notification to the then-present owner of the ~~property premises~~ via certified mail with return receipt requested advising of its intent to commence foreclosure proceedings. If the then-present owner cures the default within the ~~thirty~~ 30-day cure period, no attorney fees and/or costs will be owed.

13.08.220 Charges become lien on ~~property premises~~ — Enforcement

All charges for sanitary sewage disposal service and for connections with the public sewer system, together with the penalties and interest thereon as provided in this article, ~~shall be~~ are a lien upon the ~~property premises~~ upon which such connection is made or sewage disposal service furnished, superior to all other liens or encumbrances, except those for general taxes and special assessments. ~~Enforcement of~~ The City may enforce such lien or liens ~~shall be~~ in the manner provided by law for the enforcement of the same and for delinquent sewage disposal service charges.

13.08.230 Shutting off water upon default

In the event that any such bill for sewage disposal service rates and charges or connections is not paid by the date established by the ~~Director of Administrative Services Finance Director~~ as set forth in ~~Chapter 4.24 of this code~~ chapter 4.24 OMC, the City ~~shall~~ may shut off the water furnished to the premises to

which the services were rendered or connection made. The City may keep water ~~shall not be turned on again~~ shut off until such bill, together with all penalties and interest due thereon has been paid in full.

ARTICLE III. AREA SERVICE CHARGE

13.08.290 Charges become lien on ~~property~~premises

In addition to all other charges that may be imposed under this chapter and under Title 4 OMC, Fees and Fines, ~~there shall be assessed~~ the City may charge a frontage or area charge (or both) for sewer connections, ~~where applicable, a frontage and/or area charge.~~ These charges ~~shall be~~ are assessed to reimburse persons or the City for the cost of constructing sewer lines and other appurtenances in the street fronting the premises served by the connection. The amount of these charges ~~shall be~~ is calculated per schedules for various sewer projects available in the Public Works Department. All charges assessed pursuant to this chapter ~~shall become a lien on the property premises~~ so assessed, which may be enforced in the manner provided by Section OMC 13.08.220.

ARTICLE IV. VIOLATIONS

13.08.380 Violations--Penalties

A. Discontinuance of Water Service. Service to any customer receiving water and wastewater service from the City water system is contingent upon compliance with all legal requirements pertaining to wastewater service. Water service may be discontinued to any customer for failure to comply with such requirements and discontinued service will not be re-established until the Director of Public Works or the Director's designee has determined that the customer is in compliance with all applicable legal requirements.

B. Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of this chapter shall will be deemed to have committed a misdemeanor, and if found guilty, shall will be subject to a fine not to exceed One Thousand Dollars (\$1,000.00), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall will be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall will constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00) and/or imprisonment not to exceed three hundred and sixty five (365) days or both such time and imprisonment. Continuing violation shall will mean the same type of violation which is committed within a one year of the initial violation.

BC. As an additional concurrent penalty, it shall be is a civil infraction for a person, firm, or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall will be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall will be assessed a monetary penalty as follows:

1. First offense: Class 3 (\$50), not including statutory assessments.
2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.
3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.

See also ~~OMC~~ chapter 4.44 OMC, Uniform Civil Enforcement.

Section 2. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances remain unaffected.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 5. Effective Date. This Ordinance takes effect 30 days after passage and publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Michael M. Young

DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

Proposed Regulation Changes Table

OMC Section	Subject	Description of Proposed Change
13.08.005	Application	Clarifying who the wastewater chapter applies to.
13.08.010	Definitions	Adding definitions. Revising some wording for clarity.
13.08.015	Administration	Adding a new section for clarity and to be consistent with other chapters.
13.08.020	Connection Requirement	Addressing properties without right-of-way frontage. Allowing for limited septic tank replacements. Addressing properties with septic systems being divided. Addressing replacement of septic systems that have not failed. Providing for an administrative appeal.
13.08.030	Permits	Clarifying when a permit is needed. Deleting reference to fees which are covered elsewhere.
13.08.040	Side Sewers	Revising some wording for clarity.
13.08.050	Wastewater Management Plan	Revising wording to be consistent with other chapters.
13.08.090	Sewer Connection Type	Clarifying which septic system requirements apply under different circumstances. Adding requirements for community onsite sewage systems (COSS).
13.08.180	Outside City Limits	Clarifying conditions for connection to the wastewater system outside the city limits.
13.08.185	Outside City Limits	Revising some wording for clarity.
13.08.186	Outside City Limits	Adding a new section for clarity and to be consistent with other chapters.
13.08.215	Septic to Sewer Program	Adding a provision for new owners of properties and those for whom hardship status applies to pay the lower rate for infrastructure charges due from a sewer infrastructure extension project.
13.08.380	Water Service Discontinuance	Allowing water service to be discontinued for violation of wastewater regulations.
13.08.205	General Facility Charge (GFC)	Clarifying under what circumstances additional GFCs will be collected and in what amounts. Clarifying language regarding GFC payments for septic to sewer conversions.
13.08.210	Capacity Development Charge (CDC)	Clarifying under what circumstances additional CDCs will be collected and in what amounts.
Multiple	Wording	Improving consistency of wording.



City Council

Public Hearing to Consider an Ordinance Declaring a Continuing State of a Public Health Emergency Related to Homelessness and COVID-19 - First and Final Reading

Agenda Date: 4/25/2022
Agenda Item Number: 5.A
File Number:22-0351

Type: ordinance **Version:** 1 **Status:** Public Hearing

Title

Public Hearing to Consider an Ordinance Declaring a Continuing State of a Public Health Emergency Related to Homelessness and COVID-19 - First and Final Reading

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Conduct a public hearing and move to approve the ordinance declaring a continuing state of public health emergency relating to human health and environmental conditions caused by increasing homelessness and COVID.

Report

Issue:

Whether to conduct a public hearing and approve an ordinance declaring a continuing state of public health emergency relating to increasing homelessness and COVID-19.

Staff Contact:

Leonard Bauer, Director, Community Planning and Development Department 360.753.8227

Presenter(s):

Leonard Bauer, Director, Community Planning and Development Director

Background and Analysis:

Homelessness is an issue of urgent public concern facing Olympia and the region. On June 14, 2018, the Thurston County Board of Health declared homelessness a public health crisis in Thurston County.

The City Council passed and adopted Ordinance No. 7146 on July 17, 2018, declaring a public health emergency related to homelessness (the Ordinance). The Ordinance requires review of the

conditions that gave rise to the public health emergency by the City Council every six months to determine if those conditions continue to warrant keeping the Ordinance measures in place. The Council previously extended the Ordinance until the sunset date of December 19, 2024.

After considering public testimony and reviewing the conditions that gave rise to this public health emergency, the City Council found that the conditions still existed and passed and adopted ordinances declaring a continuing state of public health emergency relating to homelessness as follows:

- Ordinance No. 7179 - December 18, 2018
- Ordinance No. 7192 - May 7, 2019
- Ordinance No. 7207 - November 12, 2019

After considering public testimony and finding that the emergency relating to homelessness was continuing and increasing in the City of Olympia and was further compounded and exacerbated by the special dangers posed by the COVID-19 pandemic, the City Council passed and adopted the following ordinances declaring a continuing state of public health emergency relating to homelessness:

- Ordinance No. 7243 - May 5, 2020
- Ordinance No. 7256 - November 2, 2020
- Ordinance No. 7277 - May 4, 2021
- Ordinance No. 7295 - November 1, 2021

The City has been in the process of identifying and implementing solutions-based actions to address this increasingly challenging issue since first declaring a public health emergency. However, conditions necessitating a public health emergency continue to exist in the City, including widespread unsanctioned camping, threats of communicable diseases from unsanitary conditions, environmental degradation from human waste and garbage, illegal drug use, and improper use of public and private property throughout our community.

The public health emergency relating to homelessness has been further compounded and exacerbated by the special dangers posed by the novel coronavirus COVID-19 pandemic to persons who are homeless. The pandemic has been recognized as a public health emergency by federal, state and City declarations related to the danger posed by the COVID-19 virus.

The above circumstances are and continue to present significant public health and safety issues for the entire community and necessitate urgent further actions to mitigate the conditions giving rise to this threat to public health and safety.

Declaring a state of continuing public health emergency provides a factual basis for the City's present and existing public health emergency and references statutory authority that allows the City more flexibility to act quickly in response to homelessness. Under the Ordinance, the City may, for example, obligate funds, enter into contracts, or site facilities outside of normal time-consuming procedures.

This ordinance declaring a continuing public health emergency, if adopted after the public hearing,

shall take effect immediately upon unanimous adoption, and the emergency will be in effect through October 25, 2022. Six months after adoption of this continuing public health emergency ordinance, the City Council will review the conditions that gave rise to this public health emergency to determine if the Ordinance should be extended or amended to permit another six-month extension period.

Neighborhood/Community Interests:

Homelessness and its impacts affect the entire City.

Options:

1. Conduct a public hearing and move to approve the ordinance declaring a continuing state of public health emergency relating to human health and environmental conditions caused by increasing homelessness and COVID-19.
2. Conduct a public hearing, move to declare the public emergency relating to human health and environmental conditions caused by increasing homelessness and COVID-19 no longer exists, and direct staff to prepare an ordinance repealing Ordinance No. 7146.

Financial Impact:

No immediate impacts.

Attachments:

Ordinance

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO PUBLIC HEALTH AND SAFETY AND DECLARING A CONTINUING STATE OF PUBLIC HEALTH EMERGENCY RELATING TO HOMELESSNESS AND COVID-19; AUTHORIZING SUCH ACTIONS AS ARE REASONABLE AND NECESSARY TO MITIGATE THE CONDITIONS GIVING RISE TO SUCH PUBLIC HEALTH EMERGENCY; AND DECLARING AN EMERGENCY SO THIS ORDINANCE SHALL BE EFFECTIVE UPON ADOPTION

WHEREAS, persistent and increasing homelessness is a public health and safety issue that greatly impacts people experiencing homelessness, as well as the entire community, all citizens, neighborhoods, and businesses; and

WHEREAS, the Olympia City Council passed Ordinance No. 7146 on July 17, 2018, finding and declaring a public health emergency relating to human health and environmental conditions caused by increasing homelessness in the City of Olympia; and

WHEREAS, since the adoption of Ordinance No. 7146, the number of homeless persons and tents within the City of Olympia dramatically increased, particularly since August 2018, causing serious and detrimental conditions relating to human health, sanitation, and welfare; and

WHEREAS, after considering public testimony and reviewing the conditions that gave rise to this public health emergency, the City Council found that the conditions still existed and passed and adopted ordinances declaring a continuing state of public health emergency relating to homelessness as follows:

- Ordinance No. 7179 – December 18, 2018
- Ordinance No. 7192 – May 7, 2019
- Ordinance No. 7207 – November 12, 2019

and

WHEREAS, after considering public testimony and finding that the emergency relating to homelessness was continuing and increasing in the City of Olympia and was further compounded and exacerbated by the special dangers posed by the COVID-19 pandemic, the City Council passed and adopted the following ordinances declaring a continuing state of public health emergency relating to homelessness:

- Ordinance No. 7243 – May 5, 2020
- Ordinance No. 7256 – November 2, 2020
- Ordinance No. 7277 – May 4, 2021
- Ordinance No. 7295 – November 1, 2021

WHEREAS, the number of homeless persons occupying portions of the City of Olympia has caused significant and real problems for public health and safety relating to human excrement, urine, trash, refuse, needles associated with drug use; all of which pose a serious and immediate danger to public health; and

WHEREAS, the Olympia City Council finds that in Olympia and Thurston County and throughout the nation, large numbers of individuals, families and unaccompanied youth are experiencing homelessness due to such factors as job loss, rising housing costs, stagnant and declining wages, family crisis, domestic violence, trauma, substance abuse or addiction, and mental health issues, and discrimination based on

race, disability, sexual orientation, gender expression, and transgender status; and that such conditions have not abated or decreased since the adoption by Council of Ordinance No. 7146 on July 17, 2018, but have shown increasing signs within the City of Olympia; and

WHEREAS, communities such as Seattle, Washington; Tacoma, Washington; Portland, Oregon; and Los Angeles, California, have declared states of emergency in order to provide expedited emergency services and shelters for unsheltered individuals, families and unaccompanied youth and are continuing to struggle with the effects of homelessness within their respective jurisdictions; and

WHEREAS, the supply of available temporary shelter beds in Thurston County and the City of Olympia is inadequate to meet demand of homeless persons; and

WHEREAS, the Eighth Amendment to the U.S. Constitution, as interpreted by the Ninth Circuit Court of Appeals in *Martin v. City of Boise*, 902 F.3d 1031 (Sept. 4, 2018), precludes the City from enforcing criminal ordinances against homeless persons for sleeping outside on public property when there is no access to alternative shelter or lawful camping sites, and the United States Supreme Court declined review of the Ninth Circuit's decision on December 16, 2019, resulting in the *Boise* decision being the law within the Ninth Circuit; and

WHEREAS, the Olympia City Council finds there is an emergency need for designated public property so homeless persons may lawfully camp within the City of Olympia with public sanitation facilities, potable water, and collection of trash and refuse for proper solid waste disposal; and

WHEREAS, the experience of being unsheltered is traumatic and endangers public health as these conditions expose occupants to harmful weather conditions, communicable diseases such as hepatitis, tuberculosis, respiratory illnesses, malnutrition, and violence; and exacerbate medical conditions such as high blood pressure, diabetes, and asthma because there is no safe place to properly store medications or syringes; and

WHEREAS, mental health issues such as depression or schizophrenia often develop or intensify for unsheltered individuals, and those conditions frequently co-occur with a complex mix of severe physical, alcohol and/or substance use, and other social problems; and

WHEREAS, when a patient's health is continually compromised by unstable conditions, health care services are rarely effective, and inpatient hospitalization or residential drug treatment and mental health care rarely have lasting impacts when a patient is returned to a homeless environment; and

WHEREAS, other environmental degradation can occur, such as damage to critical wetlands and river buffers when occupied by encampments, or surface water contamination due to runoff from garbage that can find its way into groundwater, rivers, and to other waterbodies causing harm to people, fish and wildlife; and

WHEREAS, conditions necessitating a public health emergency continue to exist in the City of Olympia, including widespread unsanctioned camping, threats of communicable diseases from unsanitary conditions, environmental degradation from human waste and garbage, illegal drug use, and improper use of public and private property throughout our community; and

WHEREAS, the above circumstances are and continue to present significant public health and safety issues for the entire community and necessitate urgent further actions to mitigate the conditions giving rise to this threat to public health and safety; and

WHEREAS, the City of Olympia is confronted with exigent financial circumstances related to this public health and safety emergency to protect its citizens and residents, and to protect the community; and

WHEREAS, the growing homeless population in the City of Olympia has surpassed Olympia’s available means and resources, such that assistance is urgently needed from Thurston County and the State of Washington to make available county and state lands, buildings, and other resources to help provide temporary camping and shelter for Olympia’s homeless population; and

WHEREAS, the public health emergency relating to homelessness has been further compounded and exacerbated by the special dangers posed by the novel coronavirus COVID-19 pandemic to persons who are homeless, and said pandemic has been recognized as a public health emergency by federal, state and City declarations related to the danger posed by the COVID-19 virus; and

WHEREAS, the above circumstances warrant the exercise of the City of Olympia’s power to declare a public health emergency under authority of Article XI, Section 11, of the Washington State Constitution; 35A.11.020 RCW; 35A.11.030 RCW; 35A.13.190 RCW; 35A.38.010 RCW; 35.33.081 RCW; Chapter 38.52 RCW; Chapter 39.04 RCW; WAC 197-11-880; and other applicable laws and regulations, and pursuant to Chapter 2.24 of the Olympia Municipal Code, and pursuant thereto, and the authorization of such extraordinary measures as are reasonable and necessary in light of such continuing public health emergency to mitigate the conditions giving rise to the public health emergency; and

WHEREAS, the City Council has reviewed the conditions that have given rise to this public health emergency to determine if such conditions warrant keeping in place the extraordinary measures authorized herein to respond to this continuing public health emergency; and

WHEREAS, the City Council finds such conditions still exist and determines it to be in the best interest of the residents of the City of Olympia to extend the ordinance declaring a public health emergency due to homelessness and COVID-19 for an additional six (6) month period;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. The above-stated recitals are adopted as findings of the Olympia City Council and are incorporated by this reference as though fully set forth herein.

Section 2. It is hereby declared that a continuing state of public health emergency exists due to an exigent threat to human health and environmental conditions related to homelessness and COVID-19 affecting the City of Olympia. Therefore:

- A.** The City Manager is hereby authorized and empowered to carry out those powers and duties as are reasonable and necessary to mitigate the effects of the emergency.
- B.** All of the personnel, services, and facilities of the City of Olympia will be utilized as needed, in response to the emergency needs of the community.
- C.** Those departments, officers, and employees of the City of Olympia are authorized and empowered, among other things, to do the following:
 - (1) Obligate funds for emergency expenditures as directed by the City Council;
 - (2) Enter into contracts and incur obligations necessary to combat such emergency situations to protect the public health and safety of persons and property;
 - (3) Provide appropriate emergency shelter or lawful camping sites to houseless individuals; and
 - (4) Take other actions, as appropriate, in response to such public health emergency.
- D.** Each designated City department is authorized to exercise the powers vested under Section 2 of this Ordinance in the light of these exigencies of an extreme emergency situation without regard to time consuming procedures and formalities prescribed by law (with the exception of mandatory constitutional requirements).
- E.** The Mayor is authorized to submit a written request to the Board of Commissioners for Thurston County, and to Governor Jay Inslee, to make available county and state lands, buildings, and

other resources to address the public health emergency caused by the rapidly growing homeless population in the City of Olympia.

Section 3. Sunset Provision. This Ordinance shall sunset and no longer be in force or effect at 11:59 p.m. on December 19, 2024. The City Council shall, no later than six months after the effective date of this Ordinance, review the conditions that have given rise to this public health emergency to determine if such conditions warrant keeping in place the extraordinary measures authorized herein to respond to this continuing public health emergency. If the City Council finds such conditions still exist, the City Council may extend this ordinance for an additional six-month period and can do so successively until the sunset date on December 19, 2024.

Section 4. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerk errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 5. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 6. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 7. Effective Date. This Ordinance is for the immediate preservation of public peace, health, safety, and welfare pursuant to City of Olympia public health emergency Ordinance No. 7146, and as continued by Ordinance Nos. 7179, 7192, 7207, 7243, 7256, 7277, and 7295, and shall take immediate effect upon adoption, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber
CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



City Council

Approval of a Resolution Approving a Change of Name for Priest Point Park to Squaxin Park in Recognition of the Squaxin Island Tribe's Historical Habitation Of Olympia's Environs

Agenda Date: 4/25/2022
Agenda Item Number: 6.A
File Number:22-0352

Type: resolution **Version:** 1 **Status:** Other Business

Title

Approval of a Resolution Approving a Change of Name for Priest Point Park to Squaxin Park in Recognition of the Squaxin Island Tribe's Historical Habitation Of Olympia's Environs

Recommended Action

Committee Recommendation:

Move to accept the Parks and Recreation Advisory Committee (PRAC) recommendation to approve the Resolution to officially rename Priest Point Park at 2600 East Bay Drive NE as "Squaxin Park."

City Manager Recommendation:

Move to approve PRAC's recommendation to approve the Resolution to officially rename Priest Point Park at 2600 East Bay Drive NE as "Squaxin Park."

Report

Issue:

Whether to approve a Resolution to officially rename Priest Point Park at 2600 East Bay Drive NE as "Squaxin Park."

Staff Contact:

Sylvana Niehuser, Director of Parks Planning and Maintenance, Parks, Arts and Recreation, 360.753.8068

Presenter(s):

Sylvana Niehuser, Director of Parks Planning and Maintenance, Parks, Arts and Recreation
Charlene Krise, Squaxin Island Tribal Council Vice Chair

Background and Analysis:

The Squaxin Island Tribe's habitation of what is now Olympia spans thousands of years. The ancestral families who lived and thrived here named the area Steh-Chass and occupied prosperous

villages all along the shores and inlets of lower Puget Sound. Archeological findings of ancestral artifacts in the area suggest habitation by Squaxin ancestors since the retreat of the glaciers during the last Ice Age.

Squaxin Island history also indicates that the Tribe valued the area that is now Priest Point Park for ready access to fresh and salt water, the abundant salmon from the creeks, and rich clam beds. The Tribe frequented the shorelines and woods to gather, meet, and trade with other Tribes and Coast Salish peoples from the many inlets and waterways of Puget Sound. The Tribe's concern for stewardship of the park's natural and cultural resources continues today.

Despite its importance to the Squaxin Island Tribe for thousands of years, Priest Point Park was named after a small group of Catholic missionaries, the Oblate Fathers, who came to the area in 1848. They cleared the land, planted a large garden, built a chapel, and established the St. Joseph d'Olympia mission. The mission operated for just 12 years, until 1860.

Renaming Priest Point Park with a placename chosen by the Squaxin Island Tribe will be a reminder that this land was home to the Steh-Chass people long before it served as a mission or became a park. A Native name for the park will reflect its deeper history and enduring cultural significance, and appropriately acknowledge the Tribe's continued and valued presence in our community.

In October 2021, the City of Olympia permanently raised the Squaxin Island Tribal Flag above City Hall and signed a renewed Accord between the Squaxin Island Tribe and the City of Olympia. The Accord demonstrates the commitment the two government bodies have made to working together toward common goals with honor and respect for each other's cultures. The renaming of Priest Point Park aligns with the Accord and the City's commitment to honor the Squaxin Island Tribe. The renaming to Squaxin Park will recognize the area as a place of importance to the past, present and future of the Tribe.

On March 17, 2022, PRAC held a public hearing where comments given were in full support of renaming Priest Point Park to a name chosen by the Squaxin Island Tribe. Following the hearing, PRAC voted unanimously to recommend renaming Priest Point Park to Squaxin Park as proposed by the Squaxin Island Tribe. Prior to the public hearing, staff received comments that were mostly in support of renaming the Park, however some community members expressed a desire to keep the name the same or focus resources on other issues.

Neighborhood/Community Interests (if known):

The park is a well-known and cherished community space that both the Squaxin Island Tribe and Olympia community members value. The Squaxin Island Tribe's ancestors inhabited and utilized the resource rich area where the park is since the retreat of the glaciers during the last Ice Age. The Tribe has continued interest in the Park as a significant place to the people and culture of the tribe.

All public comments at the PRAC Public Hearing expressed support of the renaming of Priest Point Park to a name chosen by the Squaxin Island Tribe. Written comments received were both in favor and opposed to the renaming. The advisory committee's support was unanimous.

Options:

1. Approve the Resolution to officially rename Priest Point Park as Squaxin Park.
2. Do not approve the Resolution to rename Priest Point Park as Squaxin Park.

3. Request additional information or process to discuss the renaming of Priest Point Park.

Financial Impact:

The renaming of the Park has financial cost in signage replacement and staff time, however the cost is minimal as signage periodically needs updating and replacement as part of regular operating and maintenance costs.

Attachments:

Resolution
Squaxin Island Tribal Council Resolution
Accord
Presentation
Public Comments

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON,
APPROVING A CHANGE OF NAME FOR PRIEST POINT PARK TO SQUAXIN PARK IN
RECOGNITION OF THE SQUAXIN ISLAND TRIBE'S HISTORICAL HABITATION OF
OLYMPIA'S ENVIRONS**

WHEREAS, the Squaxin Island Tribe's habitation of what is now Olympia spans thousands of years, and tribal ancestral families named the Steh-Chass lived and thrived here and occupied prosperous villages along the shores of lower Puget Sound; and

WHEREAS, archeological findings of ancestral artifacts in the area suggest habitation by Squaxin ancestors since the retreat of the glaciers during the last Ice Age; and

WHEREAS, Squaxin Island Tribal history indicates the Tribe valued the area that is now Priest Point Park for ready access to fresh and salt water, the abundant salmon from the creeks, and rich clam beds, frequenting the shorelines and woods to gather, meet, and trade with other tribes and Coast Salish peoples from the many inlets and waterways of Puget Sound, and the Squaxin Island Tribe's concern for stewardship of the park's natural and cultural resources today; and

WHEREAS, despite the importance of the area to the Squaxin Island Tribe for thousands of years, Priest Point Park was named after a small group of Catholic missionaries, the Oblate Fathers, who came to the area in 1848. The priests cleared the land, planted a large garden, built a chapel, and established St. Joseph d'Olympia mission, which operated for 12 years until 1860; and

WHEREAS, while the City of Olympia recognizes the historical efforts by the Catholic priests who established the mission at what subsequently became known as Priest Point Park, it is important to rename Priest Point Park to serve as a reminder that the land on which the park is located was home to the Steh-Chass people long before it served as a mission or became a park. A Native name for the park will reflect its deeper history and enduring cultural significance, and appropriately acknowledge the Squaxin Island Tribe's continued and valued presence in our community; and

WHEREAS, in October 2021, the City of Olympia permanently raised the Squaxin Island Tribal flag above Olympia City Hall and signed a renewed Accord between the Squaxin Island Tribe and the City of Olympia. The Accord demonstrates the commitment the City and the Squaxin Island Tribe have to working together toward common goals with honor and respect for each other's cultures; and

WHEREAS, in furtherance of the renaming of Priest Point Park, which aligns with the Accord and the City's commitment to honor the Squaxin Island Tribe and their history in the Olympia area, Olympia's Parks and Recreation Advisory Committee (PRAC) held a public hearing on March 17, 2022, to receive public comment on renaming Priest Point Park to a name chosen by the Squaxin Island Tribe, to recognize the area as a place of importance to the past, present, and future of the Tribe; and

WHEREAS, public comments received were both in favor and opposed to the park's renaming; however, PRAC's support was unanimously in favor of renaming Priest Point Park to Squaxin Park;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The recommendation of PRAC that Priest Point Park should be renamed to Squaxin Park is hereby accepted and approved by the Olympia City Council.
2. Priest Point Park, located at 2600 East Bay Drive NE in the City of Olympia, shall hereafter, from this day forward, be known as Squaxin Park, and all reasonable steps shall be taken to change signage within the park and on maps of the City of Olympia to reflect the park's new name as Squaxin Park.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber

CITY ATTORNEY



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 21-74

of the

SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council (the "Tribal Council") is the Governing Body of the Squaxin Island Tribe (the "Tribe"), its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Counsel and the Secretary of the Interior on July 8, 1965, as amended; and

WHEREAS, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe; and

WHEREAS, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

WHEREAS, the Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; and

WHEREAS, the Squaxin Island Tribe, through the Steh-Chass people, has since time immemorial occupied the lands and water in and around what is now known as the City of Olympia; and

WHEREAS, the Squaxin Island Tribe, through the Steh-Chass people, has since time immemorial occupied the lands and water in and around what is now known as the City of Olympia; and

WHEREAS, Tribal Council has met and considered naming options and arrived at a decision;

NOW THEREFORE BE IT RESOLVED, that the Squaxin Island Tribal Council hereby records its recommendation that Priest Point Park be renamed as Squaxin Park.

THEREFORE, BE IT FURTHER RESOLVED, that the Squaxin Island Tribal Council further recommends that all signage with the name Squaxin Park also include a reference to the Steh-Chass and the People of the Water, written in Lushootseed.

THEREFORE, BE IT FURTHER RESOLVED, that the Tribal Council indicates its desire to participate in the naming other paths and landmarks within the Park;

THEREFORE, BE IT FINALLY RESOLVED, that the Tribal Council directs its staff to take such steps as are necessary to communicate this decision to the City.

CERTIFICATION

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 9 day of December, 2021, at which time a quorum was present and was passed by a vote of 6 for and 0 against, with 0 abstentions.

Kristopher K. Peters

Kristopher K. Peters (Dec 10, 2021 11:41 PST)

Kristopher Peters, Chair

Charlene Krise

Charlene Krise (Dec 10, 2021 12:03 PST)

Charlene Krise, Vice Chair

Patrick Braese
Attested by: Patrick Braese (Dec 10, 2021 11:42 PST)

Patrick Braese, Secretary



An Accord between Squaxin Island Tribe & City of Olympia

WHEREAS, the Squaxin Island Tribe's habitation of what is now Olympia spans thousands of years. The ancestral families who lived and thrived here named it Steh-Chass and occupied prosperous villages along the shores. Archeological findings of ancestral artifacts in the area suggest habitation by Squaxin ancestors since the retreat of the glaciers during the last Ice Age; and

WHEREAS today, the Squaxin people continue stewardship of these ancestral lands, from the Deschutes watershed and what is now Budd Inlet. The Steh-Chass (Squaxin) continue to call themselves "People of the Water" because of the bounty of the region's waterways and artesian waters, which have sustained the people for millennia; and

WHEREAS, both the Squaxin Island Tribe and City of Olympia honor the Medicine Creek Treaty and have established a strong government-to-government relationship between the two sovereigns; and

WHEREAS, the recovery of Budd Inlet and the Deschutes River are necessary to restore treaty-protected salmon populations, a mutual goal of Squaxin and Olympia as demonstrated by our support for the restoration of the Deschutes Estuary and our collaboration with the restoration of West Bay; and

Now therefore the Squaxin Island Tribe and the City of Olympia, in the spirit of understanding and mutual respect, commit to the following long-term actions:

- Coordinate and cooperate to support economic and infrastructure opportunities, protect natural resources, and respond to climate change.
- Create more opportunities for public art, education, and community service that will promote a healthy exchange of cultures.

- Establish an intergovernmental work group between the two Councils to advance these commitments and develop consultation protocol, a strategic plan, and enduring channels of communication.
- Conduct biannual meetings of the Squaxin Island Tribal Council and the Olympia City Council in the Spring and Fall to maintain a shared vision, address issues of mutual concern, develop strategies and agreements, and overcome obstacles.
- Renew this Accord every five years to celebrate our achievements, evaluate our processes, and update our priorities and actions.

This Accord is entered into by the Squaxin Island Tribe and the City of Olympia to better achieve mutual goals through an improved relationship between their sovereign governments.

We affirm these principles and resolve to move forward with positive and constructive tribal and city relations.

SQUAXIN ISLAND TRIBE



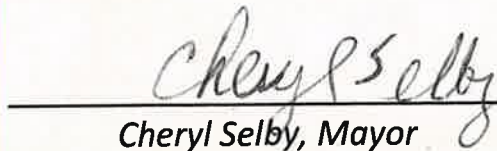
Kristopher Peters, Chairman

10-7-2021

Date



CITY OF OLYMPIA



Cheryl Selby, Mayor

10-7-2021

Date





Proposed Renaming of Priest Point Park



Naming Process

- Naming of Parks and Park Facilities Process
- 12.62.050 Policy
- 12.62.060 Procedure
- Example: Karen Fraser Woodland Trail
- Cost



Squaxin Island Tribe

- Squaxin Island Tribe has occupied the lands and water in and around what is now known as the City of Olympia for thousands of years.
- The ancestral families who lived and thrived here named the area Steh-Chass.
- Tribe inhabited and valued the area that is now Priest Point Park for the many resources it offered.
- The Tribe's concern for stewardship of the park's natural and cultural resources continues today and in the future.



The Mission

- In 1848 French Catholic missionaries of the Oblates of Mary Immaculate established St. Joseph d'Olympia mission
- Led by Father Pascal Ricard with 3 other priests.
- Ricard filed a Donation Land Claim for 324 acres that encompassed the mission site and the current park lands.
- Built a school, dwelling, dining hall and a garden.
- Pascal left in 1857 – Mission closed in 1860.



The Park

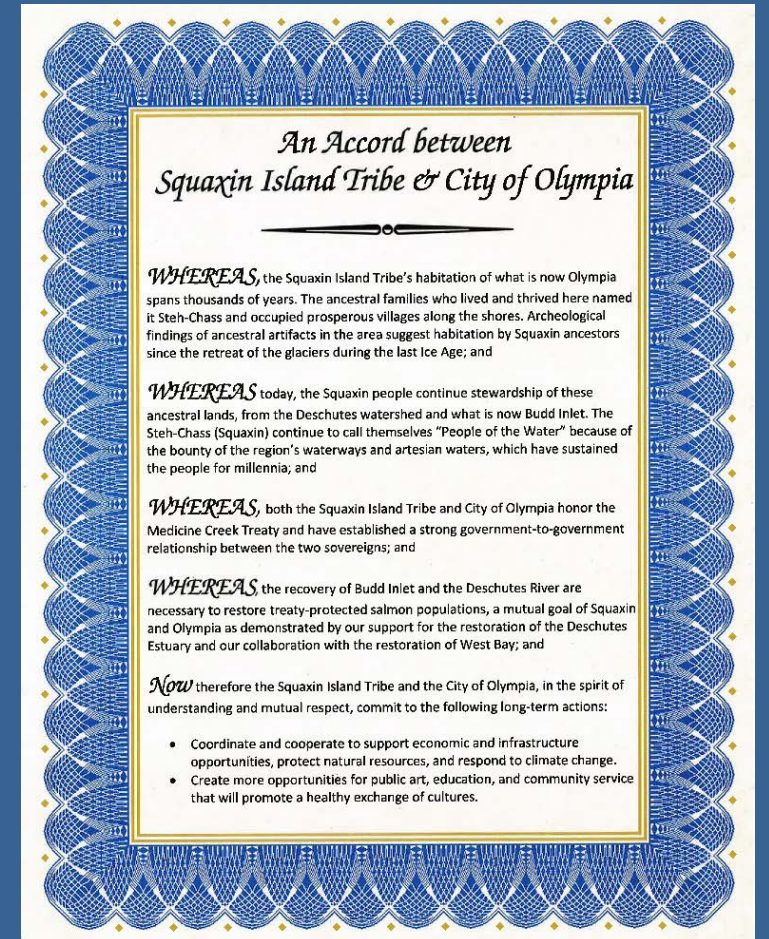
- Became a Park in 1905 for \$1,200
- In 1907 the State deeded the tidelands to the City.
- Current name is reflective of a brief period (12 years)
- Indigenous people were oppressed and forcefully removed from the area.
- *In 1854 approximately 530 Native Americans were moved to Squaxin Island.

**<https://squaxiniland.org/government/historical-timeline/>*



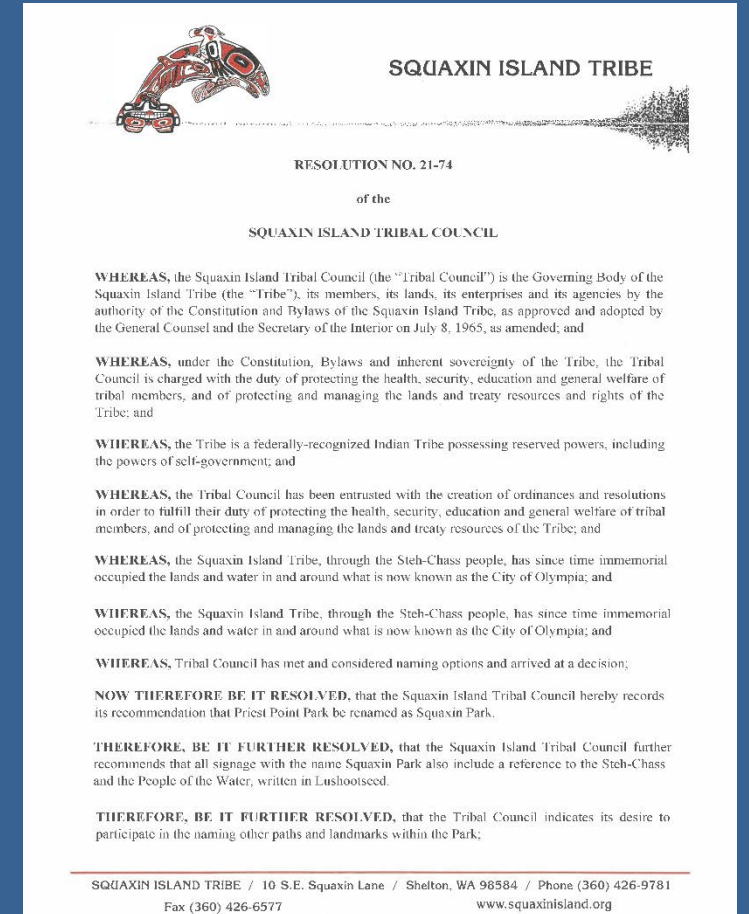
Importance of a Name

- The park's central role has been as a place of community and gathering, rich with natural resources.
- The park's significance goes well beyond the early Europeans
- A name chosen by the Squaxin Island Tribe honors the importance of the people and culture that have inhabited the area for thousands of years.
- Undoing historical harm



Proposed Name

- On December 9, 2021 the Squaxin Island Tribal Council adopted a resolution (6-0) to recommend that “Priest Point Park be renamed as **Squaxin Park**.”
- “Further recommends that all signage with the name Squaxin Park also include a reference to the Steh-Chass and the People of the Water, written in Lushootseed.”
- “Tribal Council has a desire to participate in the naming of other paths and landmarks within the park.”



Public Hearing

- On March 17, 2022 PRAC held a Public Hearing
- Public comments at the hearing were in favor of a name chosen by the Squaxin Island Tribe.
- Written comments were mostly in favor of renaming the park.
- PRAC voted unanimously to recommend renaming Priest Point Park as “Squaxin Park” to City Council.



Welcome

- **Charlene Krise**, Vice Chair of the Squaxin Island Tribal Council and Director of the Squaxin Island Museum, Library and Research Center
- **Rhonda Foster**, Cultural Resources Director
- **Margaret Seymour Henry**, Cultural Resources Technician II



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 21-74

of the

SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council (the "Tribal Council") is the Governing Body of the Squaxin Island Tribe (the "Tribe"), its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Counsel and the Secretary of the Interior on July 8, 1965, as amended; and

WHEREAS, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe; and

WHEREAS, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

WHEREAS, the Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; and

WHEREAS, the Squaxin Island Tribe, through the Steh-Chass people, has since time immemorial occupied the lands and water in and around what is now known as the City of Olympia; and

WHEREAS, the Squaxin Island Tribe, through the Steh-Chass people, has since time immemorial occupied the lands and water in and around what is now known as the City of Olympia; and

WHEREAS, Tribal Council has met and considered naming options and arrived at a decision;

NOW THEREFORE BE IT RESOLVED, that the Squaxin Island Tribal Council hereby records its recommendation that Priest Point Park be renamed as Squaxin Park.

THEREFORE, BE IT FURTHER RESOLVED, that the Squaxin Island Tribal Council further recommends that all signage with the name Squaxin Park also include a reference to the Steh-Chass and the People of the Water, written in Lushootseed.

THEREFORE, BE IT FURTHER RESOLVED, that the Tribal Council indicates its desire to participate in the naming other paths and landmarks within the Park;



Thank you.

From: [ldils](#)
To: [Laura Keehan](#)
Subject: Park renaming
Date: Thursday, March 3, 2022 6:03:31 PM

Hello,

I am in full support of renaming Priest Point Park and support the choice of Squaxin Park.

Thank you.

Laurie Dils

1107 Olympia Avenue NE

Olympia 98506

Sent from my Verizon, Samsung Galaxy smartphone

From: [Sylvana Niehuser](#)
To: [KATHY Baros Friedt](#)
Cc: [Laura Keehan](#)
Subject: RE: Big announcement--Excellent!
Date: Friday, March 4, 2022 11:07:28 AM

Hi Kathy,

Yes, there will be an upcoming opportunity to register to attend virtually and you can speak at the Public Hearing if you'd like. It is always good when the staff and advisory committee hear from the public. The link will be posted on the City's calendar for public meetings
<https://olympia.legistar.com/Calendar.aspx>.

Thank you for reaching out and have a wonderful weekend.

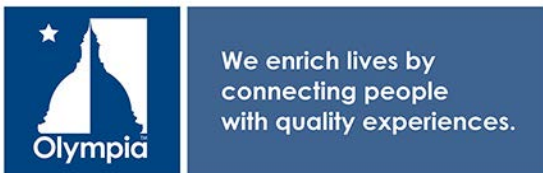
Best,

Sylvana Niehuser (she/her)

Director of Parks Planning and Maintenance | Parks, Arts and Recreation

City of Olympia | olympiawa.gov/parks

360.753.8068 | sniehuse@ci.olympia.wa.us



EXPERIENCE IT!
Parks • Arts • Recreation

All messages to/from this address are subject to public records requests

From: KATHY Baros Friedt <kbfriedt@comcast.net>
Sent: Friday, March 04, 2022 10:39 AM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: Big announcement--Excellent!

I'm following up on the question of renaming Priest Point Park...it's on the City's hearing calendar...March 17....hurray! You were listed as the contact.

In today's Olympian. Classified section (I never look at but my spouse does)...Notice of (Virtual) Public Hearing, City of Olympia, Proposed Park Renaming...Priest Point Park to Squaxin Park. Coming from Parks and Rec Advisory Committee.

GREAT NEWS!! It has an excellent paragraph re. the history. I knew this was being considered but wasn't sure which committee was guiding it or when it would come up. I am on the Program Council of Interfaith Works, who will want be on hand to provide a presence in support for this about-time action being considered by the city! I will look forward to when the webinar link comes up. Thank you.

Kathy Baros Friedt

From: hwbranch@aol.com
To: [Laura Keehan](#)
Subject: a better name than Squaxin Island
Date: Thursday, March 3, 2022 7:24:08 PM

I believe there are names that would better honor true history.

The Deschutes, was named Steh-chass River. The Steh-chass people lived in three large cedar plank homes, up to eight families in each. This would likely be about 100 people. Another village, Bus-chut-hwud, "frequented by black bears", was located near what is today Percival Landing in downtown Olympia. In what is today East Bay, a long estuary lead to another village and namesake stream, the Pe'tzlb. The name extended to the cove or inlet east of the business section of Olympias.

Today this inlet is called East Bay. The stream divides upstream into Moxlie Creek which is flled by a spring a mile and a hold upstream and Indian Creek which meanders farther to the East. The origin of the name Indian Creek is unknown. A safe assumption might be that a sizable Indian population resettled along the creek for some time after white settlement.

Olympia had several earlier names. Indians of the area referred to the site as Schict-woot or Cheet-woot which meant "place of the bear." Other Indian names for the area are Stu-chus-and, Stitchas and Stechass with various meanings of "bear's place." (Meany, Origin of Washington Geographic Names, page 197.) Smither, Smithfield, and Marshville were all names given to the community by early settlers.

Native American Name: "Old village site, in the present city of Olympia, Bls-tcE'txud, 'frequented by black bears.' The old site was in what is now the western part of the city proper, below the viaduct spanning the inlet."

"Dus-chut-wit, a word given by Costello, which he says is the name for the Deschutes River. This term seems to be intended for Tuxu stcE'txud, 'black bear place.' This of course would be another name for this spot we are describing."

"The name the Indians use for the present town, the State capital is StEtc'as. This name has however grown up since the white occupations. It seems to be connected with astEtc!, 'splicing two things together.' I fancy that this refers to the causeway which has been built across."

"The cove or inlet east of the business section of Olympias. PE'tzlb." (Waterman, Puget Sound Geography, Mss.)

<https://www.olyblog.net/newWP/thurston-county-place-names/>

Cheet Woot Section 11, T18N, R2W, W.M. An earlier native name for the bay on the southeast side of Budd Inlet. It was called Cheet woot, or bear, for when "... the tide was up, the bare land somewhat resembled the silhouette of a bear ..." (Newell, Rogues, page 13.) Alternate spelling: Schictwoot.

There was a village site in the estuary of Schneider Creek. (interview with Ron Seclist).

There were also villages in the estuaries of Percival, Schneider and Ellis Creeks. Cecelia Svinth Carpenter in her book Fort Nisqually states that villages of 80 to 100 people were located in the estuaries of each stream in South Sound, her's being the Sequatchew. People recognized the importance of stream estuaries. We don't even recognize their existence.

There were 13 Nisqually villages along the river and five additional groups of villages: South Bay, Budd's Inlet, Oyster Bay,, Shelton Inlet and Mud Bay. Those from the western portion of South Sound went to the Squaxin Island Reservation, those from the Eastern portion. People from a total of 18 villages went to the Nisqually Reservation. Indian

The Treaty of Medicine Creek exchanged the ancestral lands that the Indians had for centuries wandered freely to smaller parcels of land, here after known as the reservations. Squaxin Island, in Southwest Washington, was one of the smaller parcels that the Indians were expected to live on. 1 The Island had not had inhabitants in the memory of anyone of the time. To the knowledge of the whites negotiating the treaty, the Island also had no water. Unbeknownst to them, however, the Island had artesian wells and could sustain life. On this rocky little Island, five villages would be conglomerated. The villages of: Squawksin, Seth-Chass, T'Peeksin, Squi-aitl, and the Sa-Heh-Wamish were to be combined in one location. The people in these villages had lived in the same general area for generations. They would now to be forever known as the Squaxin Island

<https://digitalcollections.lib.washington.edu>

Harry Branch

From: [Sylvana Niehuser](#)
To: [Laura Keehan](#)
Subject: FW: Notice of Public Hearing for Priest Point Park Re-Naming
Date: Monday, March 7, 2022 2:13:22 PM

More public comment...

From: Mike Vandeman <mjvande@pacbell.net>
Sent: Monday, March 07, 2022 1:35 PM
To: City of Olympia <news@olympiawa.gov>; Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: Re: Notice of Public Hearing for Priest Point Park Re-Naming

At 11:39 AM 3/7/2022, you wrote:

Virtual public hearing on Thursday, March 17, 2022 regarding the proposed re-naming of Priest Point Park

Notice of Public Hearing for Priest Point Park Re-Naming

The Olympia Parks and Recreation Advisory Committee will conduct a virtual public hearing at or after **6:00 p.m., on Thursday, March 17, 2022**, to receive public comments prior to making a recommendation to the City Council regarding the proposed re-naming of [Priest Point Park](#), located at 2600 East Bay Drive NE, Olympia, to Squaxin Park.

Renaming Priest Point Park with a placename chosen by the [Squaxin Island Tribe](#) will be a reminder that this land was home to the [Steh-Chass people](#) long before it served as a mission or became a park. A Native name for the park will reflect its deeper history and enduring cultural significance, and appropriately acknowledge the Tribe's continued and valued presence in our community.

In October of 2021, the City of Olympia permanently raised the Squaxin Island Tribal Flag above City Hall and signed a renewed [Accord](#) between the Squaxin Island Tribe and the City of Olympia. The Accord demonstrates the commitment the two government bodies have made to working together toward common goals with honor and respect for each other's cultures. The renaming of Priest Point Park aligns with the Accord and the City's commitment to honor the Squaxin Island Tribe. The renaming to Squaxin Park will recognize the area as a place of importance to the past, present and future of the Tribe.

But before humans arrived, it was wildlife habitat. Are humans more important than the wildlife?
Naming it after the wildlife that live there would be fair to everyone.

Register for the Virtual Hearing (Zoom webinar):

https://us02web.zoom.us/webinar/register/WN_FvzZ18ErSCOHTLEYnRkB-w

After registering, you will receive a confirmation email containing information about joining the meeting.

Contact

Sylvana Niehuser, Director of Parks Planning & Maintenance
City of Olympia Parks, Arts & Recreation
360.753.8068

sniehuse@ci.olympia.wa.us

[View this email in your browser](#)

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--

Machine-Free Trails Association

I am working on creating wildlife habitat that is off-limits to humans ("pure habitat"). Want to help?
(I spent the previous 8 years fighting auto dependence and road construction.)

Wildlife must be given top priority, because they can't protect themselves from us.

Please don't put a cell phone next to any part of your body that you are fond of!

Stop obeying dictators and incompetent leaders from this time forward! Please share this message
as widely as possible!

<https://mjvande.info>

From: [Sylvana Niehuser](#)
To: [Laura Keehan](#)
Subject: FW: Supporting renaming of Priest Point Park
Date: Tuesday, March 8, 2022 8:46:16 AM

-----Original Message-----

From: CityCouncil <citycouncil@ci.olympia.wa.us>
Sent: Tuesday, March 08, 2022 8:45 AM
To: John Gear <gearjm@gmail.com>
Cc: Councilmembers <Councilmembers@ci.olympia.wa.us>; Jay Burney <jburney@ci.olympia.wa.us>; Keith Stahley <kstahley@ci.olympia.wa.us>; Debbie Sullivan <dsulliva@ci.olympia.wa.us>; Kellie Braseth <kbraseth@ci.olympia.wa.us>; Paul Simmons <psimmons@ci.olympia.wa.us>; Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: RE: Supporting renaming of Priest Point Park

Thank you for your comments. I will forward them on to all Councilmembers and appropriate staff.

Susan Grisham, Assistant to the City Manager City of Olympia |P.O. Box 1967 | Olympia WA 98507
360-753-8244 sgrisham@ci.olympia.wa.us

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Please note all correspondence is subject to public disclosure.

-----Original Message-----

From: John Gear <gearjm@gmail.com>
Sent: Monday, March 07, 2022 8:04 PM
To: CityCouncil <citycouncil@ci.olympia.wa.us>
Subject: Supporting renaming of Priest Point Park

Olympia City Council:

I strongly support renaming Priest Point Park to some other name that memorializes the first peoples.

John Gear (he/him/his)
Let's live on the planet as if we intend to stay

Elliot-Burbank neighborhood
Olympia, WA

From: [Sylvana Niehuser](#)
To: [Laura Keehan](#)
Subject: FW: Renaming Priest Point Park
Date: Wednesday, March 9, 2022 9:06:14 AM

From: Miles McEvoy <smileybirdmiles@gmail.com>
Sent: Tuesday, March 08, 2022 5:51 PM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: Renaming Priest Point Park

Thanks for the notification about the possible renaming of Priest Point Park. We live adjacent to the park. It is a magnificent place. We support renaming the park.

Please rename the park as the Squaxin Island Tribe decides is most appropriate.

Miles McEvoy
2705 Gull Harbor Rd NE, Olympia, WA 98506

From: [Sylvana Niehuser](#)
To: [Danielle Koenig](#)
Subject: RE: Feedback on renaming of Priest Point Park
Date: Wednesday, March 9, 2022 4:22:48 PM

Hi Danielle,

Thank you for your comments. I will forward them to the Parks and Recreation Advisory Committee and staff liaison for the March 17th meeting.

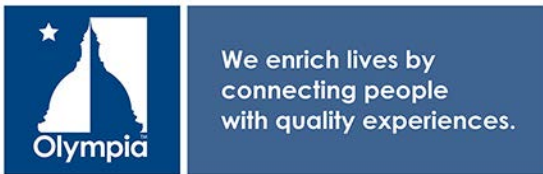
Best,

Sylvana Niehuser *(she/her)*

Director of Parks Planning and Maintenance | Parks, Arts and Recreation

City of Olympia | olympiawa.gov/parks

360.753.8068 | sniehuse@ci.olympia.wa.us



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Parks • Arts • Recreation

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From: Danielle Koenig <danielleranee@gmail.com>
Sent: Wednesday, March 09, 2022 4:19 PM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: Feedback on renaming of Priest Point Park

Hello, I'm unable to attend the public meeting about renaming Priest Point Park and couldn't find an online form to submit public comment so I hope your email is the right place! I'd appreciate if you can forward if not.

I think the plan to decolonize the name is great. I would love to see it hold a name of significance to the area and to the original stewards of the land. However, I think Squaxin Park is not creative or descriptive at all. Squaxin territory was large so the name doesn't give you a clue where the park is or what its significance is or was, and it just feels super generic. I'd love to see the park carry the name of something unique to it: an activity that was done there, something the area was known for, or something in that vein. Something more unique and meaningful than Squaxin, which could be any park anywhere.

Thank you for accepting public feedback on this important step to acknowledge the tribes!

Danielle Koenig

Gull Harbor area, Olympia (I live about 2 miles from Priest Point, and visit the park weekly)

From: [Sylvana Niehuser](#)
To: [Laura Keehan](#)
Subject: FW: Squaxin Park
Date: Thursday, March 10, 2022 12:44:26 PM

-----Original Message-----

From: Don Freas <d.freas@comcast.net>
Sent: Thursday, March 10, 2022 11:37 AM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: Squaxin Park

Hi Sylvana Niehuser,

I'm very pleased to hear of this renaming process, and of the City's renewed accord with the Squaxin tribe.

I am a neighbor of the park and walk in there 2-3 times a week, primarily in the NW corner of the park.

One thing I note in considering the new name is that the old name was the name of a prominent landscape feature, that defines the location from the water side: the jutting high point of land that anchors the north side of the mouth of Ellis Creek. I wondered if the name of that point would be changed as well? Considering the long history of the inlet and the peoples who have been here for thousands of years, the point itself has been an essential marker for navigation and placement.

I've always liked it that the name of the park included a defining feature of the landscape, of the ground on which the park is located. Made me wonder if Squaxin Woods Park might be a more complete name. Or if the point were to be renamed as well, what about Squaxin Point Park?

Just a few thoughts that have surfaced since I heard of this process a few days ago. Thank you for listening, and for shepherding this process.

Be well,

Don Freas
d.freas@comcast.net
360-357-2850

From: [Sylvana Niehuser](#)
To: [Josey](#)
Subject: RE: Re proposed name change for Priest Point Park
Date: Thursday, March 10, 2022 12:51:45 PM

Good afternoon,

Thank you for your comments. To answer your question, we have not developed the scope of work for the renaming, so the costs have not been determined. I anticipate that if Council approves the proposed name, we will work together with the Squaxin Island Tribe to collaboratively develop a plan.

I will forward your comments to the Parks and Recreation Advisory Committee and staff liaison for consideration.

Thank you,

Sylvana Niehuser (she/her)
Director of Parks Planning and Maintenance|Parks, Arts and Recreation
City of Olympia | olympiawa.gov/parks
360.753.8068 | sniehuse@ci.olympia.wa.us

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-----Original Message-----

From: Josey <joseynoly@hotmail.com>
Sent: Thursday, March 10, 2022 12:44 PM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: Re proposed name change for Priest Point Park

I am unable to attend the public hearing on Zoom this evening, but wish to ask:

How much would it cost to change the park's name, and couldn't that money be better spent elsewhere?

There is already a nice plaque within the park regarding native history there, and the current name reflects a more recent part of the park's history.

Josey Young
Olympia

From: [Sylvana Niehuser](#)
To: [Amanda S.](#)
Subject: RE: Priest Point Park possible renaming
Date: Wednesday, March 9, 2022 12:54:31 PM

Hi Amanda,

Thank you for sharing your input and we'll be sure to share your written comments with our Parks and Recreation Advisory Committee. I also appreciate your input about historical markers and will take this into consideration as we move forward.

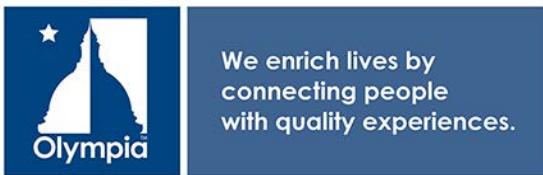
Best,

Sylvana Niehuser *(she/her)*

Director of Parks Planning and Maintenance | Parks, Arts and Recreation

City of Olympia | olympiawa.gov/parks

360.753.8068 | sniehuse@ci.olympia.wa.us



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From: Amanda S. <ladyepanda@hotmail.com>
Sent: Wednesday, March 09, 2022 12:10 PM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: Priest Point Park possible renaming

Hello Sylvana,

I hope this email finds you well. I am writing in regards to the possible name change of Priest Point Park to Squaxin Park. I was married in the Rose Garden and have special ties to this park.

I would be okay with the name change, as the Squaxin Tribe has a longer history in the area, however, I would hope that there were historical markers placed that explain the significance of the Tribe, and also the history behind the mission and why it was originally named Priest Point Park and the purpose for returning the name back to the tribe.

I cannot attend the public forum, but wanted to express my opinion, as I know a lot of folks

will be very vocal on the opposing side.

Thank you,
Amanda Stevens
Thurston County Resident

From: [Sylvana Niehuser](#)
To: [NANCY WINTERS](#)
Subject: RE: Comments on Renaming of Priest Point Park
Date: Friday, March 11, 2022 1:05:26 PM

Hi Nancy,

Thank you for your comments. I will forward them to the Parks and Recreation Advisory Committee and staff liaison for consideration.

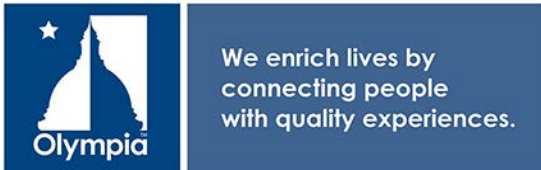
Best,

Sylvana Niehuser (she/her)

Director of Parks Planning and Maintenance | Parks, Arts and Recreation

City of Olympia | olympiawa.gov/parks

360.753.8068 | sniehuse@ci.olympia.wa.us



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From: NANCY WINTERS <wintersnl@comcast.net>
Sent: Friday, March 11, 2022 12:12 PM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: Comments on Renaming of Priest Point Park
Importance: High

Dear Sylvana,

As you know, Olympia is conducting a public hearing on March 17th at 6 pm concerning the renaming of Priest Point Park. I cannot attend that meeting due to another Zoom meeting and I would like to submit the following comment about the renaming of the park. I did not see a separate place in the announcement to submit comments and am therefore sending these to you. If there is a different place to send comments, please inform me prior to the meeting.

Thank you.
Nancy Winters

Comment: _____

My name is Nancy Winters. I have lived in Thurston County at 5537 Libby Rd NE for 35 years. My husband and I walk in the park two or three times a week. Less than a year ago, I learned of the mission that was located on what is now park land in the late 1850s, and the school for the Squaxin youth also located there. I was shocked that there had been not signage about this important part of history.

We need to better honor the Squaxin people by providing more education about how this area has been their ancestral home since time in memorial, I am strongly in favor of the renaming, and that the new name should be given by the Squaxin Tribe.

Thank you for considering my comments.

Nancy Winters

From: [Sylvana Niehuser](#)
To: [Laura Keehan](#)
Subject: FW: Renaming of Priest Point Park
Date: Monday, March 14, 2022 8:21:17 AM

From: J S <cheroke3@msn.com>
Sent: Saturday, March 12, 2022 1:45 PM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: Renaming of Priest Point Park

Why is this important when crime is at an all time high in Olympia? There are far more things to focus on other than the renaming of a park! Such as: crime, thievery, stolen cars, destroyed woodlands, parks, contaminated waterways as in our creeks, tons of trash alongside the main roads and freeway entrances, needles found on downtown streets and in our parks, stolen grocery carts littered all over the place by the hundreds, virtually no law enforcement and accountability for criminals, ineffective mayor and city council, and homelessness confused when the main issue is drug addiction! Let's get priorities in the correct order and forget about renaming a park for God's sake! Far too many other issues that need immediate attention!

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: [PAM FOLSOM](#)
To: [Laura Keehan](#)
Subject: Renaming of Priest Point Park
Date: Monday, March 14, 2022 11:55:31 AM

Hi there,

I am submitting written testimony to the P&R Advisory Committee about the renaming of Priest Point Park. I will not be able to attend the public hearing.

I am in favor of Olympia working with the Squaxin Tribe to pick a Native name that reflects a deeper history. I have lived in Olympia since 1975 and attended Olympia Schools.

Pam Folsom
1834 Centerwood Dr. SE
Olympia, WA 98501
360.790.3878

pamfolsom@comcast.net

From: [Dave Nicandri](#)
To: [Sylvana Niehuser](#)
Cc: [Laura Keehan](#); [Cheryl Selby](#)
Subject: Renaming Priest Point Park
Date: Tuesday, March 15, 2022 3:10:34 PM
Attachments: [In Defense of Priest Point.docx](#)

Since, as I understand, testimony on this subject will be limited to 2 minutes, I thought I might share the larger extent of my thinking on the matter for the benefit of the city's parks advisory committee.

Sincerely,

Dave Nicandri

From: [Sylvana Niehuser](#)
To: [Laura Keehan](#)
Subject: FW: Priest Point Park
Date: Tuesday, March 15, 2022 4:01:52 PM

I'm forwarding this because her reply may be considered public comment. I wasn't sure.

From: Sue Foulon <suefoulon@hotmail.com>
Sent: Tuesday, March 15, 2022 3:54 PM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: Re: Priest Point Park

Thank you for replying so quickly. I understand and support the new name.

From: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Sent: Tuesday, March 15, 2022 9:43 AM
To: suefoulon@hotmail.com <suefoulon@hotmail.com>
Subject: FW: Priest Point Park

Good morning,

Thank you for your email and questions. I encourage you to attend the public hearing on Thursday evening to see the presentation. I'll try to answer your questions as best I can via email.

1. Why does the park need a name change? The current name is reflective of a brief period of time (1848-1860) when the Mission was in the area of Priest Point Park. During this time the Steh-Chass people (of the Squaxin Island Tribe) were oppressed and removed from the Olympia area (1854 – 530 Native Americans were moved to Squaxin Island). The Squaxin Island Tribe has inhabited the area where the park is for thousands of years. The name change would honor the Steh-Chass people and their history. Attached is a bit more information.
2. The Squaxin Island Tribal Council has proposed the name "Squaxin Park" and that is what is being brought to the public hearing. The City has committed to honoring the indigenous people that were and are here in Olympia. As part of the City's commitment to respect and honor the Squaxin Tribe, this is an important step forward. Attached is the renewed Accord that speaks to the commitment to work with the Squaxin Island Tribe.

Again, I encourage you to [register](#) and attend the public meeting.

Best,

Sylvana Niehuser *(she/her)*

Director of Parks Planning and Maintenance | Parks, Arts and Recreation

City of Olympia | olympiawa.gov/parks

360.753.8068 | sniehuse@ci.olympia.wa.us



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connecting people
with quality experiences.

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From: Sue Foulon <suefoulon@hotmail.com>
Sent: Monday, March 14, 2022 8:05 PM
To: Olympia Parks <olympiaparks@ci.olympia.wa.us>
Subject: Priest Point Park

Why does this park need a name change? What is the story behind the proposal?

Sue Foulon

suefoulon@hotmail.com

Sent from [Mail](#) for Windows

From: [Sylvana Niehuser](#)
To: [Laura Keehan](#)
Subject: FW: Priest Point Park Re-naming
Date: Wednesday, March 16, 2022 8:43:32 AM

From: Christina Morse <hosta2@comcast.net>
Sent: Tuesday, March 15, 2022 7:51 PM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: Priest Point Park Re-naming

Hello Ms. Niehuse,

I will not be present for the hearing and wanted to express my support for the re-naming of the Priest Point Park to Squaxin Park. I feel that the Squaxin Tribal heritage has been ignored by our dominant, Caucasian culture, and politics over the last century in Thurston County.

I am delighted to learn that the City of Olympia has signed an Accord (October 2021) with the Squaxin Tribe to honor and respect the diversity of cultures within our community. Renaming Priest Point Park would be a positive step towards achieving the Accord goals.

In west Olympia, I live on original Squaxin Tribal land and hope that my action in writing you takes a small step to honor the first people of our Olympia home.

Sincerely,

Christina Duchesne Morse

360-584-8620

1515 Lakemoor Loop SW

Olympia, WA 98512

From: [Joceile Moore](#)
To: [Laura Keehan](#)
Cc: [ronnie hacken](#)
Subject: Priest Point Park Renaming
Date: Wednesday, March 16, 2022 8:50:02 AM

To: Olympia Parks and Recreation Advisory Committee
c/o Laura Keehan, Staff Liaison

Dear Ms. Keehan:

I read with excitement that Olympia is considering renaming Priest Point Park to Squaxin Park. I am unable to attend the public hearing but wanted to put my opinion on the public record for consideration. I very much want to recognize the people of this land who lived long, long before my people came here as I have benefited from its richness and beauty.

My great, great grandparents lived in this area along with subsequent generations of my family. I say this only because this does not give me a greater stake in the naming than those of native peoples. I say this in remembrance of childhood memories enjoying the park with friends and family long gone. I say this because recognition is important and has significance far beyond merely my childhood memories.

My wife and I are blessed to be long time Olympia residents. We wish to be a part of upholding the Medicine Creek Treaty. Please share these thoughts with the advisory commission.

In Appreciation.

Joceile Moore and Ronnie Hacken

5628 Pattison Lake Drive SE

Olympia, Washington 98513

From: [kathy Friedt](#)
To: [Sylvana Niehuser](#)
Cc: [Laura Keehan](#)
Subject: Comments for Public Hearing for Priest Point Park Re.docx
Date: Wednesday, March 16, 2022 3:38:10 PM
Attachments: [Comments for Public Hearing for Priest Point Park Re.docx](#)

Im looking forward to tomorrow's hearing. I hope to make brief comments and have attached those FYI, in case you don't get to me on public testimony.
Thank you for moving forward on this referral for name change.

Kathy Baros Friedt
2510 Morse Cr SE
Olympia, WA 98501

Notice of Public Hearing for Priest Point Park Re-Naming

3/17/22 Comments to the Olympia Parks and Recreation Advisory Committee:

My name is Kathy Baros Friedt. I am a resident of Olympia. I am here to make a statement of support in the renaming of Priest Point Park to be hereafter named Squaxin Park.

The words we use are important

What we name things are important and frequently symbolic of more than the literal word.

Our children are frequently named after beloved ancestors. It is a way to honor and carry forward what the emotions and memories of them elicit in us.

Truth is important. In the renaming of this park we acknowledge that there is a truth to be lifted up.

A name connects us to identity. Of who or what we want to remember.

The who or what that name MEANS has its own history. This region's history tells us this land our city of Olympia sits on, has its own truth. A history which goes further than the priests who came and established a mission in 1848. .

Renaming ACTS on the truth that the indigenous people, the Squaxin Island and other Salish people were here for centuries and centuries before Olympia, before explorers, before logging and shipping, before priests.

It should bear the name of these local indigenous peoples.

Renaming isn't reparation by a long shot, for land taken, but is a commitment to truth telling.

From: [Sylvana Niehuser](#)
To: [kathy Friedt](#)
Cc: [Laura Keehan](#)
Subject: RE: Comments for Public Hearing for Priest Point Park Re.docx
Date: Wednesday, March 16, 2022 5:21:46 PM

Thank you for your comments. We will be sure to forward those to the Parks and Recreation Advisory Committee and welcome your public testimony.

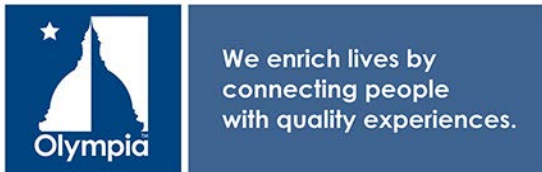
Best,

Sylvana Niehuser (she/her)

Director of Parks Planning and Maintenance | Parks, Arts and Recreation

City of Olympia | olympiawa.gov/parks

360.753.8068 | sniehuse@ci.olympia.wa.us



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From: kathy Friedt <kbfriedt@comcast.net>
Sent: Wednesday, March 16, 2022 3:38 PM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Cc: Laura Keehan <lkeehan@ci.olympia.wa.us>
Subject: Comments for Public Hearing for Priest Point Park Re.docx

Im looking forward to tomorrow's hearing. I hope to make brief comments and have attached those FYI, in case you don't get to me on public testimony.

Thank you for moving forward on this referral for name change.

Kathy Baros Friedt
2510 Morse Cr SE
Olympia, WA 98501

From: [Sylvana Niehuser](#)
To: [Laura Keehan](#)
Subject: FW: Priest Point Park hearing
Date: Wednesday, March 16, 2022 6:32:03 PM
Attachments: [Letter PPP.docx](#)

Public comment for tomorrow's hearing.

From: Bill Lindstrom <bill.lindstrom114@gmail.com>
Sent: Wednesday, March 16, 2022 6:17 PM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: Priest Point Park hearing

Hello, Sylvana.

My name is Sandra Crowell, co-editor and author of *Water, Woods & Prairies*. I am out of town and unable to participate in the hearing tomorrow for renaming Priest Point Park to Squaxin Park. I'm attaching a letter of testimony in support of the name change.

Thank you for including it in the testimonials for the hearing.

--

"A room without a book is like a body without a soul." -Cicero

Attention: Olympia Parks and Recreation Advisory Board

Re: Renaming Priest Point Park

The time has come to acknowledge the eons Native people have lived on what we know as Thurston County—by renaming Priest Point Park to Squaxin Park. When Euro-Americans arrived as explorers and settlers, they bestowed names from their culture, unaware of those used by the first inhabitants. In the early days of Washington Territory, French priests claimed a place on the point near Olympia for their mission and mission school. Their presence lasted less than a decade.

Today Washington State has 29 Native tribes, three of whom—the Nisqually, Squaxin, and Chehalis—still live in the local area. Collectively the tribes here employ several thousand people, making them among the largest block of employers outside of state government. Yet very few names reflect their significant presence and heritage.

As a writer and educator, I have been involved with tribal history on several levels. I strongly support names that reflect the Native American legacy such as Squaxin Park. At the same time, early settlement history and the years of familiarity with Priest Point Park should also be remembered through signage or interpretive kiosks, as well as the presence of other tribes who moved through the area.

Sandra Crowell

Co-editor and author *Water, Woods & Prairies*

From: [Desdra Dawning](#)
To: [Laura Keehan](#)
Subject: Name Change for Priest Point Park
Date: Wednesday, March 16, 2022 10:33:54 PM

Greetings, I signed up on Zoom to give a comment on the name change for Priest Point Park. I can't attend, but wanted to send in my comment.

I am very much in favor of removing the current name, and honoring those people who lived in this place in antiquity. I understand that the Squaxin tribe claims that honor. As long as this is historically correct, I am in favor of the change they are requesting. As I understand it, they are asking for a change to Squaxin Point Park.

Thank you for taking public comment.

Desdra Dawning
434 Cushing St NW
Olympia WA 98502
928-707-1738

“We are here—to be a gift to the world,
in reciprocity for the gift of life that we've received.”

~Charles Eisenstein~

“In a time of destruction, create something: a
poem, a parade, a community, a school, a vow, a
moral principle; one peaceful moment.”

~MAXINE HONG KINGSTON~

From: [Tim Martin](#)
To: [Barbara Benson](#); [Brent Barnes](#); [Brock Milliern](#); [Kim Murillo](#); [Maria Ruth](#); [Spence Cearns](#); [Tiffany Sandy](#)
Cc: [Laura Keehan](#); [Marygrace Goddu](#); [Stephanie Johnson](#); [Andrea SIGO](#); [Kim Martin](#)
Subject: Fwd: Priest Point Park Renaming
Date: Thursday, March 17, 2022 8:03:23 AM

My family and I live along the waterfront on land historically regarded as the general site of Rev. Pascal Ricard's short-lived mission buildings and orchards - four houses to the south of Mission Creek. For the reasons indicated below in 2020 correspondence with city officials and Olympia neighborhood association leadership, my family and I passionately support transition from the name "Priest Point Park" to "Squaxin Park."

As an aside, to celebrate renaming and in the spirit of the October 2021 Accord between the Squaxin Tribe and the City of Olympia, specifically provisions of the Accord in support of "art, education and community service that will promote a healthy exchange of cultures", my family is working in early stages with artist and carver Andrea Wilbur-Sigo (<https://www.arts.wa.gov/artist-collection/?request=record:id=4838:type=701>) on a "welcome pole" to be placed on our property facing toward Budd Bay and visible from watercraft and along the beach at "Squaxin Park." Andrea is the first known Native American woman carver of many generations of carvers. We are thankful that the Accord has brought us together with Andrea and her husband Steve. We look forward to sharing more as this effort progresses.

Tim Martin
360-549-6590

Begin forwarded message:

From: Martintimothy <martintimothy@aol.com>
Date: July 3, 2020 at 2:09:53 PM PDT
To: Kellyjgreen09@gmail.com, Klynnbrown24@gmail.com, ldils@comcast.net, blaforge@gmail.com, Bhna.506.pres@gmail.com, nwsurveqc@cs.com, northbeachcomm@cs.com, Dpantelis27@gmail.com, Hwheatley22@comcast.net, Michellepeterson.rn@gmail.com, Doric68@gmail.com, CNApresident@yahoo.com, Will.stadler@gmail.com, larryofnottingham@gmail.com, richardderosset@mac.com, Ws_harris@gmail.com, kenslakeseretary@gmail.com, Joyadams22@gmail.com, Bfuller4@yahoo.com, pguttchen@hotmail.com, badgert@earthlink.net, brucecoulter@msn.com, Cathyv63@gmail.com, ldjeza@gmail.com, Alewing49@gmail.com, info@downtownolympia.org, josh@tasolympia.com, Greg.sinnett@comcast.net, kerinllll@yahoo.com, davisrzjj@gmail.com, sthalhamer@hotmail.com, Dawn8152@msn.com, Wtaylor749@yahoo.com, Cmliaison99@gmail.com, Lornabea66@hotmail.com, olympiadna@gmail.com, Ashleynykole1998@gmail.com, Jwolf1946@aol.com, olydlaw@comcast.net, sherrychilcutt@aol.com, jimnpeggy@gmail.com, evergreenpointehoa@outlook.com, Herrington_bonnie@yahoo.com, alfonsosatgoldcrest@gmail.com, bethdubey@msn.com, presidentgsna@gmail.com, Kabbey48@gmail.com, franfrazier@msn.com, Melanie.golob@gmail.com, Rhett.brown@gmail.com,

indiancreekna@gmail.com, jasonmartinelli@gmail.com, Mctoy6@hotmail.com, ryanjhollander@gmail.com, Alltuckerout777@comcast.net, bnmaben@comcast.net, Kevin_n_ann@comcast.net, Hrrpg51@hotmail.com, sarah@smythlanding.com, philharlan@philharlan.com, darrahbaileyjohnson@gmail.com, Leahkdavis13@gmail.com, Weha2501@gmail.com, crschaffner@msn.com

Subject: Fwd: Priest Point Park Renaming

Good afternoon - and Happy 4th!

My name is Tim Martin and I live in the East Bay Neighborhood.

Please see attached letter to the City of Olympia in support of renaming Priest Point Park. I wanted to ask for your support, as neighborhood association and community leaders, in drawing attention and encouraging dialogue on this topic. My understanding from city manager Jay Burney is that there have been recent conversations around renaming.

According to the City of Olympia park description, the 314 acres of land on which the park now sits was used for generations by the Indigenous people of our region, including the Squaxin, Nisqually, Quinault, Puyallup, Chehalis, Suquamish and Duwamish. The park is currently named for Fr. Pascal Ricard and a small group of Catholic missionaries, the Oblate Fathers, who came to the area in 1848. Ricard filed a land claim in 1948 in the vicinity where the park is today and, for a very brief time, kept gardens, a school and mission house in a small area to the south of the current park. Ricard and the missionaries were gone just a few years later, by 1860, returned to France and elsewhere; they were preceded in their departure by Indigenous peoples forced from the shores of Budd Inlet and surrounding areas to be relocated to internment camps and reservations.

History recounts loathsome contemporary commentary written by Ricard about the Indigenous peoples of this area during the twelve years or less years he was here, revealing the kind of mindset common to that era which made persecution and massacre of Indigenous peoples not only acceptable, but also encouraged.

The City of Olympia is filled with streets, neighborhoods, buildings, parks and memorials named for post-1850 white civic leaders (most, unlike Ricard, who made Olympia their permanent home.) Renaming "Priest Point Park" - a prized gem among city parks - to honor the Indigenous people who called this place home long before our ancestors laid claim helps, maybe, in restoring some small balance to our historic narrative.

I am not suggesting any particular new name; that would be presumptuous, but did want to note (because I think it's interesting) it appears the area called "Priest Point" today was once known by Lushootseed speakers of the day as Tsu'lyad (according to 1920s publication by anthropologist TT Waterman.)

Happy to discuss further - and welcome your support.

Tim Martin
[360-549-6590](tel:360-549-6590)
[518 Howard Ave NE](mailto:518HowardAveNE@ci.olympia.wa.us)
[Olympia, WA 98506](mailto:518HowardAveNE@ci.olympia.wa.us)

Begin forwarded message:

From: Martintimothya <martintimothya@aol.com>
Date: July 1, 2020 at 2:48:28 PM PDT
To: cselby@ci.olympia.wa.us, jburney@ci.olympia.wa.us,
olympiaparks@ci.olympia.wa.us, lkeehan@ci.olympia.wa.us,
mgoddu@ci.olympia.wa.us
Subject: Priest Point Park Renaming

Pursuant to OMC Chapter 12.52, I would like to suggest that the City of Olympia consider working with the community and interested stakeholders, including Steh-Chass descendants, in renaming Priest Point Park, relegating the name "Priest Point Park" to historical status.

A more fitting name for the park would be one that honors the Indigenous peoples who inhabited the land represented by the park for centuries - until their removal after the Treaty of Medicine Creek.

In comparison, Rev. Pascal Ricard, for whom the park is currently named, was here less than a dozen years. His writings reflect an absolutely horrifying regard for the humanity of those here before him - words as colorfully vile as the imagination would allow; words I choose not to repeat here but that are reprinted in various publications.

Renaming the park, while likely a difficult and contentious task, would be in the spirit of reconciliation and truth-telling consistent with core values of our community and region. It would be a powerful means for us to collectively show respect and progress toward correcting stories and practices intended to erase Indigenous people's history and culture. Renaming the park would not erase the past, but the process will, hopefully, lead to dialogue, action and repaired relationships - making us and future generations all richer.

To be honest, I don't know who might join in this request. Some time ago a friend whose opinion I greatly respect highlighted the irony of the current name in casual conversation. I've contemplated that irony on many a walk through the park and felt this an issue I should put forward for consideration. It may be you are or already have considered a name change. If so, please add my name as fully

in support.

Respectfully,

Tim Martin
360-549-6590

From: [Sylvana Niehuser](#)
To: [Laura Keehan](#)
Subject: FW: support Squaxin Point Park
Date: Thursday, March 17, 2022 9:54:46 AM

From: ELIZABETH RODRICK <erodrick@comcast.net>
Sent: Wednesday, March 16, 2022 8:29 PM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: support Squaxin Point Park

Hello, I whole-heartedly support the renaming of Priest Pt Park to Squaxin Point Park or whatever name the Squaxin Island Tribe chooses.

The current name reminds me of the travesty of Indian boarding schools which were run by several religious organizations. We need to reconcile this tragedy and this renaming is a small step in the right direction.

Thank you,

Elizabeth Rodrick, member

Learning Right Relations with Coast Salish Peoples

From: [Sylvana Niehuser](#)
To: [Laura Keehan](#)
Subject: FW: Renaming Priest Point Park
Date: Thursday, March 17, 2022 9:55:43 AM

From: Roberta Adams <rlawa@comcast.net>
Sent: Wednesday, March 16, 2022 8:51 PM
To: Sylvana Niehuser <sniehuse@ci.olympia.wa.us>
Subject: Renaming Priest Point Park

Dear Director Niehuser,

I am writing to show my support for the renaming of Priest Point Park to that name which is chosen by the Squaxin tribe.

It is totally appropriate for the Park to be named for the people upon whose traditional lands it sits -- and well past time to do so!

Thank you very much.

Roberta Adams

From: [CityCouncil](#)
To: [Jack Needham](#)
Cc: [Councilmembers](#); [Jay Burney](#); [Keith Stahley](#); [Debbie Sullivan](#); [Kellie Braseth](#); [Paul Simmons](#); [Laura Keehan](#)
Subject: RE: Helm Highway Community Park
Date: Thursday, March 17, 2022 4:58:25 PM

Thank you for your comments. I will forward them on to all Councilmembers and appropriate staff.

Susan Grisham, Assistant to the City Manager
City of Olympia | P.O. Box 1967 | Olympia WA 98507
360-753-8244 sgrisham@ci.olympia.wa.us

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Please note all correspondence is subject to public disclosure.

-----Original Message-----

From: Jack Needham <needhamjs@yahoo.com>
Sent: Thursday, March 17, 2022 3:47 PM
To: CityCouncil <citycouncil@ci.olympia.wa.us>
Subject: Helm Highway Community Park

Please read the title of this subject. This is a community park, not another site for a school. I find it extremely objectionable that the school district, with its massive budget and resources, feels compelled to ruin this idea with their proposed school on this site. The Olympia High School (OHS) just completed a major addition to its existing buildings. And yet they still need more space. This is just unbelievable greed or lousy planning. OHS has numerous assistant principals, social workers, psychologists, and counselors on site. They still grasp for more. A high school at this site will dangerously impact traffic. Offers like access to a basketball court can easily be withdrawn down the line based on insurance concerns. Also, why not offer the current basketball court to public access? Besides, the YMCA just down the road has a basketball court that works great. Finally, let the school district build up not out. The old brick and mortar schools had multiple stories. People actually had to use the stairs. Elevators are available for the handicapped of course. All I can do is express my displeasure and trust you, as representatives, will listen. Thank you.

Sent from my iPad



City Council

Approval of a Resolution Authorizing an Agreement with the Thurston Chamber of Commerce for the Olympia Workforce Training Center

Agenda Date: 4/25/2022
Agenda Item Number: 6.B
File Number: 22-0346

Type: resolution **Version:** 1 **Status:** Other Business

Title

Approval of a Resolution Authorizing an Agreement with the Thurston Chamber of Commerce for the Olympia Workforce Training Center

Recommended Action

Committee Recommendation:

The project was presented and discussed at the March 16, 2022 Finance Committee and was unanimously recommended to advance to Council for action.

City Manager Recommendation:

Approve a Resolution authorizing an agreement with the Thurston County Chamber of Commerce for the Olympia Workforce Training Center.

Report

Issue:

Whether to Approve a Resolution authorizing an agreement with the Thurston County Chamber of Commerce for the Olympia Workforce Training Center: an initiative aimed at providing quality skill-up training for workers displaced by COVID-related impacts.

Staff Contact:

Mike Reid, Economic Development Director, 360.753.8591

Presenter(s):

Mike Reid, Economic Development Director
David Schaffert, Thurston County Chamber of Commerce

Background and Analysis:

As part of the City of Olympia's commitment to continued support of the ThurstonStrong Regional Economic Recovery effort, staff have worked with the Thurston County Chamber of Commerce to develop a scope of work for a temporary Workforce Training Center. The work of the center would be aimed at creating better access to career pathway programs and certified training programs allowing

Olympia residents access to higher wage jobs and Olympia based businesses access to the workforce they need.

The Olympia Workforce Training Center will provide quality skill-up training for workers displaced by COVID-related impacts who desire to learn skills that local industries require of their workforce. Individuals will have an opportunity for paid work-based learning, future employees are adequately trained, and Olympia businesses have the workforce pipeline to hire from. The Training Center will also host and/or facilitate trainings specific to the needs of area business and workers.

One area of significant identified need is in the development of workforce for the construction trades. The greater Olympia region is experiencing a housing crisis due to multiple causes, but one addressable barrier is a lack of skilled laborers in the construction trades. The Olympia Training Center would incorporate the construction trade pre-apprentice program called Construction Corps. The Construction Corps model provides a 4-week industry recognized short-term training with stackable certifications that is designed to provide a pathway and agency for individuals to embark on their path to employment in the construction industry.

Additionally, it is anticipated that the Olympia Training Center would work in concert with Pacific Mountain Workforce Development's Journey2Jobs program. The Journey2Jobs program is a workforce development effort focused on unhoused members of our communities that was funded by Olympia City Council on March 1, 2022.

The contemplated scope of work for the Olympia Training Center would be for 18 months of operation and would target the following deliverables:

- 1000 City of Olympia residents are outreached and oriented to the training center.
- 520 City of Olympia residents attend weekly Career Map Meetups where they will receive peer and Champion Network support for career navigation.
- 240 City of Olympia residents attend monthly Champion Networking events where they will be connected to Olympia businesses for employment and/or work experience.
- 110 City of Olympia residents receive job readiness training, including resume development and interview skills.
- 65 City of Olympia residents receive construction related industry recognized credentials and employment and/or work experience placement.
- 15 City of Olympia businesses/employees receive customer service and/or de-escalation training.

Neighborhood/Community Interests (if known):

This effort has roots in two existing planning documents of the City of Olympia, the Comprehensive Plan and the One Community Plan both of which had deep community involvement in their creation.

In the Economy chapter of the Comprehensive Plan item GE6 "Collaboration with other partners maximizes economic opportunity" and PE6.5 "Collaborate with local economic development organizations to create and maintain existing living-wage jobs".

The One Community Plan has two areas of connection:

1.7 Prioritize pathways to economic opportunity that help people find longer-term security.

b. Coordinate with Workforce Council, Chambers, Colleges and other partners that can help connect people to training and/or employment.

2.4 Increase education, training and resources that help people avoid or recover from homelessness.

e. Promote the availability of increased access to college education and technical certification training programs that lead to higher-wage occupations.

Options:

1. Approve a Resolution authorizing an agreement with Thurston County Chamber for the Olympia Workforce Training Center.
2. Do not Approve a Resolution authorizing an agreement with Thurston County Chamber for the Olympia Workforce Training Center.
3. Consider the Resolution authorizing an agreement with Thurston County Chamber for the Olympia Workforce Training Center at another time.

Financial Impact:

As a part of the Economic Recovery package approved by Council on May 4, 2021, a commitment of \$1.375m for future ThurstonStrong efforts was made. The Olympia Workforce Training Center would utilize \$575,000 of that funding. The funding for this project comes from the Economic Development Reserves.

Attachments:

Resolution
Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OLYMPIA AND THURSTON COUNTY CHAMBER OF COMMERCE FOR AN OLYMPIA TRAINING CENTER/CONSTRUCTION CORPS TRAINING PROGRAM

WHEREAS, as part of the City's commitment to continued support of the Thurston Strong Regional Economic Recovery effort, staff have worked with the Thurston County Chamber of Commerce (Chamber) to develop a scope of work for a temporary Workforce Training Center; and

WHEREAS, the work of the Center would be aimed at creating better access to career pathway programs and certified training programs allowing Olympia residents access to higher wage jobs and Olympia businesses access to the workforce they need; and

WHEREAS, this effort has roots in two existing planning documents of the City, the Comprehensive Plan and the One Community Plan, both of which had deep community involvement in their creation;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The Olympia City Council hereby approves the Professional Services Agreement between the City of Olympia and Thurston County Chamber of Commerce for an Olympia Training Center/Construction Corps Training Program and the terms and conditions contained therein.
2. The City Manager is directed and authorized to execute on behalf of the City of Olympia the Professional Services Agreement, and to make any amendments or minor modifications as may be required and are consistent with the intent of the Professional Services Agreement, or to correct any scrivener's errors.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



DEPUTY CITY ATTORNEY

**PROFESSIONAL SERVICES AGREEMENT
FOR
THURSTON COUNTY CHAMBER OF COMMERCE SERVICES
FOR AN OLYMPIA TRAINING CENTER/CONSTRUCTION CORPS TRAINING PROGRAM**

This Professional Services Agreement ("Agreement") is effective as of the date of the last authorizing signature below ("effective date"). The parties ("Parties") to this Agreement are the City of Olympia, a Washington municipal corporation ("City"), and Thurston County Chamber of Commerce, a Washington nonprofit corporation ("Consultant").

A. The City seeks the temporary professional services of a skilled independent consultant capable of working without direct supervision, in the capacity of providing services for an Olympia Training Center/Construction Corps training program; and

B. Consultant has the requisite skill and experience necessary to provide such services.

NOW, THEREFORE, the Parties agree as follows:

1. Services.

Consultant shall provide the services more specifically described in Exhibit "A," attached hereto and incorporated by this reference ("Services"), in a manner consistent with the accepted practices for other similar services, and when and as specified by the City's representative.

2. Term.

The term of this Agreement commences on the effective date and continues until the completion of the Services, but in any event no later than December 31, 2023 ("Term"). This Agreement may be extended for additional periods of time upon the mutual written agreement of the City and the Consultant.

3. Termination.

Prior to the expiration of the Term, this Agreement may be terminated immediately, with or without cause by the City.

4. Compensation.

A. Total Compensation. In consideration of the Consultant performing the Services, the City shall pay the Consultant an amount not to exceed **Five Hundred Thousand Seventy-Five Dollars and No/100 Dollars (\$575,000.00)**.

B. Method of Payment. Payment by the City for the Services will only be made after the Services have been performed, an invoice is submitted in the form specified by the City, ***which invoice shall specifically describe the Services performed, the name of Consultant's personnel performing such Services, the hourly labor charge rate for such personnel and description of work performed,*** and the

same is approved by the appropriate City representative. The City shall make payment monthly, within thirty (30) days after receipt of an invoice.

C. Consultant Responsible for Taxes. The Consultant is solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Agreement.

5. Contract Managers.

The Parties agree that all formal communications about this Agreement, contract deliverables, accomplishments, regulatory oversight, invoicing, and requests for amendment must be coordinated directly between the Consultant and City's Contract Manager unless otherwise approved in writing by the City. The contract managers are identified as follows:

Thurston County Chamber of Commerce

David Schaffert, President/Chief Executive Officer
809 Legion Way SE
Olympia WA 98501
dschaffert@thurstonchamber.com
360.357.3362

City of Olympia

Amy Buckler, Program and Planning Supervisor
PO Box 1967
Olympia WA 98507-1967
abuckler@ci.olympia.wa.us
360.570.587

6. Compliance with Laws.

Consultant shall comply with and perform the Services in accordance with all applicable federal, state, and City laws including, without limitation, all City codes, ordinances, resolutions, standards and policies, as now existing or hereafter adopted or amended.

7. Assurances.

The Consultant affirms that it has the requisite training, skill and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities, including but not limited to being registered to do business in the City of Olympia by obtaining a City of Olympia business registration.

8. Independent Contractor/Conflict of Interest.

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

conflicts of interest in favor of the City.

9. Equal Opportunity Employer.

A. In all Consultant services, programs and activities, and all Consultant hiring and employment made possible by or resulting from this Agreement, Consultant, and Consultant's employees, agents, subcontractors, and representatives shall not unlawfully discriminate against any person based on any legally protected class status including but not limited to: sex, age (except minimum age and retirement provisions), race, color, religion, creed, national origin, marital status, veteran status, sexual orientation, gender identity, genetic information or the presence of any disability, including sensory, mental or physical disabilities; provided, however, that the prohibition against discrimination in employment because of disability does not apply if the particular disability prevents the performance of the essential functions required of the position.

This requirement applies, but is not limited, to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant shall not violate any of the terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state or local law or regulation regarding nondiscrimination. Any material violation of this provision is grounds for termination of this Agreement by the City and, in the case of the Consultant's breach, may result in ineligibility for further City agreements.

B. In the event of Consultant's noncompliance or refusal to comply with the above nondiscrimination plan, this Agreement may be rescinded, canceled, or terminated in whole or in part, and the Consultant may be declared ineligible for further agreements or contracts with the City. The City shall, however, give Consultant a reasonable time in which to correct this noncompliance.

C. To assist the City in determining compliance with the foregoing nondiscrimination requirements, Consultant shall complete and return the Statement of Compliance with Nondiscrimination attached as Exhibit B. If the contract amount is \$50,000 or more, the Consultant shall execute the attached Equal Benefits Declaration - Exhibit C.

10. Confidentiality.

Consultant agrees not to disclose any information and/or documentation obtained by Consultant in performance of this Agreement that has been expressly declared confidential by the City. Breach of confidentiality by the Consultant will be grounds for immediate termination.

11. Indemnification/Insurance.

A. Indemnification / Hold Harmless. Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

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 Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability hereunder is only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section survive the expiration or termination of this Agreement.

B. Insurance Term. The Consultant 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 Consultant, its agents, representatives, or employees.

C. No Limitation. Consultant's maintenance of insurance as required by the Agreement may not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

D. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage must be at least as broad as ISO occurrence form (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.

2. Commercial General Liability insurance must be at least as broad as ISO occurrence form CG 00 01 and must cover liability arising from premises, operations, independent contractors, stop gap liability, personal injury and advertising injury. The City must be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability insurance appropriate to the Consultant's profession.

E. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

2. Commercial General Liability insurance must be written with limits no less than \$2,000,000 each occurrence and \$2,000,000 general aggregate.

3. Professional Liability insurance must be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

F. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain, that they are primary insurance as respect the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City must be excess of the Consultant's insurance and shall not contribute with it.

G. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

H. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

I. Notice of Cancellation. The Consultant shall provide the City with written notice of any policy cancellation, within two (2) business days of their receipt of such notice.

J. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required constitutes a material breach of contract, upon which the City may, after giving five (5) business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

K. City's Full Access to Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the City is insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

12. Work Product.

Any deliverables identified in the Scope of Work or otherwise identified in writing by the City that are produced by Consultant in performing the Services under this Agreement and which are delivered to the City belong to the City. Consultant shall deliver any such work product to the City at the termination or cancellation date of this Agreement, or as soon thereafter as possible. All other documents are owned by the Consultant.

13. Books and Records.

The Consultant shall maintain books, records, and documents which sufficiently and properly reflect all direct and indirect costs related to the performance of the Services and maintain such accounting procedures and practices as may be deemed necessary by the City to assure proper

accounting of all funds paid pursuant to this Agreement. These records are 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.

A record owned, used, or retained by the City is a “public record” pursuant to RCW 42.56.010 and is subject to disclosure upon request under Washington’s Public Records Act, even if such record is in Consultant’s sole possession. Should the City request that Consultant provide the City with a record that the City, in its sole discretion, deems to be a public record, so that it may be produced in response to a public records request, and should Consultant fail to provide such record to the City within ten (10) days of the City’s request for such record, Consultant shall indemnify, defend, and hold the City harmless for any public records judgment, including costs and attorney’s fees, against the City involving such withheld record.

14. Non-Appropriation of Funds.

If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the City is not obligated to continue the Agreement after the end of the current fiscal period, and this Agreement automatically terminates upon the completion of all remaining Services for which funds are allocated. No penalty or expense accrues to the City in the event this provision applies.

15. General Provisions.

A. Entire Agreement. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements are effective for any purpose.

B. Modification. No provision of this Agreement, including this provision, may be amended or modified except by written agreement signed by the Parties.

C. Full Force and Effect; Severability. Any provision of this Agreement that is declared invalid or illegal in no way affects or invalidates any other provision hereof and such other provisions remain in full force and effect. Further, if it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, the provision appears to conflict therewith must be deemed inoperative and null and void insofar as it may be in conflict therewith, and must be deemed modified to conform to such statutory provision.

D. Assignment. Neither the Consultant nor the City has the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

1. If the Consultant desires to assign this Agreement or subcontract any of its work hereunder, the Consultant shall submit a written request to the City for approval not less than fifteen (15) days prior to the commencement date of any proposed assignment or subcontract.

2. Any work or services assigned or subcontracted for hereunder is subject to each provision of this Agreement.

3. Any technical/professional service subcontract not listed in this Agreement, which is to be charged to this Agreement, must have prior written approval by the City.

4. The City reserves the right to inspect any assignment or subcontract document.

E. Successors in Interest. Subject to the foregoing Subsection, the rights and obligations of the Parties inure to the benefit of and be binding upon their respective successors in interest, heirs, and assigns.

F. Attorney Fees. In the event either of the Parties defaults on the performance of any term of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, the prevailing party is entitled to its reasonable attorneys' fees, costs and expenses to be paid by the other Party.

G. No Waiver. Failure or delay of the City to declare any breach or default immediately upon occurrence does not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default.

H. Governing Law. This Agreement is governed by and must be interpreted in accordance with the laws of the State of Washington.

I. Authority. Each individual executing this Agreement on behalf of the City and Consultant represents and warrants that such individual is duly authorized to execute and deliver this Agreement on behalf of the Consultant or the City.

J. Notices. Each party shall deliver any notice required to be given at the addresses set forth below. Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the address set forth below. Any notice so posted in the United States mail must be deemed received three (3) days after the date of mailing.

K. Captions. The respective captions of the Sections of this Agreement are inserted for convenience of reference only and may not be deemed to modify or otherwise affect any of the provisions of this Agreement.

L. Performance. Time is of the essence in performance of this Agreement and each and all of its provisions in which performance is a factor. Adherence to completion dates set forth in the description of the Services is essential to the Consultant's performance of this Agreement.

M. Remedies Cumulative. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but are cumulative with all other remedies available to the City at law, in equity or by statute.

N. Counterparts. This Agreement may be executed in a number of identical counterparts which, taken together, constitute collectively one Agreement; but in making proof of this Agreement, it is not necessary to produce or account for more than one such counterpart. Additionally, (i) the signature pages taken from separate individually executed counterparts of this Agreement may be

combined to form multiple fully executed counterparts; and (ii) a facsimile signature or an electronically scanned signature, or an electronic or digital signature where permitted by law, must be deemed to be an original signature for all purposes. All executed counterparts of this Agreement are originals, but all such counterparts, when taken together, constitute one and the same Agreement.

O. Equal Opportunity to Draft. The parties have participated and had an equal opportunity to participate in the drafting of this Agreement, and the Exhibits, if any, attached. No ambiguity may be construed against any party upon a claim that that party drafted the ambiguous language.

P. Venue. All lawsuits or other legal actions whatsoever with regard to this agreement must be brought in Thurston County, Washington, Superior Court.

Q. Ratification. Any work performed prior to the effective date that falls within the scope of this Agreement and is consistent with its terms is hereby ratified and confirmed.

R. Certification Regarding Debarment, Suspension, and Other Responsibility Matters.

1. By signing the agreement below, the Consultant certifies to the best of its knowledge and belief, that it and its principles:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph 1.b. of this certification; and

d. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.

2. Where the Consultant is unable to certify to any of the statements in this certification, such Consultant shall attach an explanation to this proposal.

S. Early Retirement from the State of Washington- Certification. By signing this form, you certify that no one being directly compensated for their services pursuant to this Agreement has retired

from the Washington State Retirement System using the 2008 Early Retirement Factors with restrictions on returning to work.

CITY OF OLYMPIA

Steven J. Burney, City Manager
jburney@ci.olympia.wa.us

Date of Signature: _____

I certify that I am authorized to execute this Agreement on behalf of the Consultant.


THURSTON COUNTY CHAMBER OF COMMERCE

David Schaffert

David Schaffert, President/Chief Executive Officer
dschaffert@thurstionchamber.com

Date of Signature: 04/20/2022

APPROVED AS TO FORM:



Deputy City Attorney

Exhibit "A"
SCOPE OF WORK

The Olympia Training Center is a project with the City of Olympia to provide quality skill-up training for workers displaced by COVID-related impacts who desire to learn skills that local industry requires of their workforce. Individuals will have an opportunity for paid work-based learning, future employees are adequately trained, and Olympia businesses have the workforce pipeline to hire from. The Training Center will also host and/or facilitate training specific to the needs of area businesses and workers (also referred to as Incumbent Worker Training), one example being De-Escalation or Customer Service training for local businesses and their existing staff.

The Chamber and select partners and/or subcontractors (such as ANEW-Laborer’s Pre-Apprenticeship program, Washington Hospitality Association, Dispute Resolution Center,) will work with businesses to outreach and recruit participants, reduce barriers to training completion, support the participant through training, and for those unemployed individuals—place them into employment at \$18.00 hour or more.

One area of significant identified need is in the development of the workforce for the construction trades. The greater Olympia region is experiencing a housing crisis due to multiple causes. But one identified barrier is a lack of skilled laborers in the construction trades. The Construction Corps model provides a 4-week industry-recognized short-term training with stackable certifications that are designed to provide a pathway and agency for individuals to embark on their path to employment in the construction industry.

Project	Olympia Training Center/Construction Corps
Project Period	April 2022-September 2023 (Contract termination date 12/31/23)
Funding Available	City of Olympia, \$575,000

Planning and implementation of the short-term cohort-based training include these considerations:

- Creating training opportunities in the City of Olympia that connect people to employers and assist businesses in their growth and expansion.
- Businesses have access to people who are ready to work, and people have access to training that helps them find their career pathway.
- Coach and navigate 1,000 people over 18 months to employment and 80 of those people receive training that results in the attainment of industry-recognized credentials.
- Businesses and people (with identified emphasis on people of color) access the training center and utilize its services to enhance the champion network that will help sustain and revitalize the City of Olympia.
- Funding amount awarded (\$575,000) with pass-through of funding to subcontractors for training services.

Roles:

- Chamber: fiscal agent, program oversight and management, service delivery for outreach, support services, and employment placement.
- Contractors provide industry-recognized training.
- City of Olympia: provide funding and evaluation of performance.
- Pacific Mountain Workforce Development: coordination with Journey2Jobs program, services, leverage funds and reduce duplication.

City of Olympia resident and business condition: Executed work associated with this contract will occur within the City limits of Olympia. Either or both the business utilizing the services of the training center or the individuals participating in the training programs must reside in the city limits of Olympia.

Facility expenses: The Chamber will prioritize leveraging this contract and work to identify a facility and location that has no or low operating costs. Up to 10% of the total contract amount can be utilized for facility operational expenses such as lease expenses and utilities.

Reporting: Monthly reporting will include items like:

- Outreach efforts such as events, contacts, marketing
- Tracking participants outcomes (training enrollment, training completion, and employment placement)
- Tracking business engagement
- Tracking on training offered
- Demographic data on participation and businesses status

Program completion analysis:

- Final analysis of program performance to be complete in the final quarter of the program.
- Report to include:
 - Total activity: # of training, # of participants, # for employment retention and placements
 - Total dollars leveraged through Training Center and related programs

Project Design

The Chamber will hire a program coordinator to oversee the following workplan.

Program Area	Objectives	Outcomes	Activities	Cost
Task 1: Center Development, Implementation & Management	Create a centralized training center in the City of Olympia that connects people to employers	Coach and navigate 1,000 City of Olympia job seekers and career builders, for over 18 months, through the City of Olympia training center	<ul style="list-style-type: none"> • Administer contract, project reporting, and project outcomes • Administer training contracts and develop partnerships for additional in-kind or leveraged training, including the training space • Convene and lead partners and stakeholders to develop and deliver a robust training program that operates a regular M-F schedule • Help transition certificate completers to on-the-job or other employment • Manage day to day operations at leased facility 	\$97,000
Task 2: Training Coordination & Delivery	Deliver in-demand, short-term trainings that provide an entry into a career pathway	Businesses have access to people who are ready to work, and people have access to trainings that help them find their career pathway. <ul style="list-style-type: none"> • 1000 City of Olympia residents are outreached and oriented to the training center 	<ul style="list-style-type: none"> • Deliver workforce related trainings such as: <ul style="list-style-type: none"> ○ Career Exploration-Local In-Demand Industries and Occupations ○ How to Build Your Champion Network ○ Financial Literacy ○ Strengths Finder and Telling Your 	\$261,000

Program Area	Objectives	Outcomes	Activities	Cost
		<ul style="list-style-type: none"> • 520 City of Olympia residents attend weekly Career Map Meetups where they will receive peer and Champion Network support for career navigation • 240 City of Olympia residents attend monthly Champion Networking events where they will be connected to Olympia businesses for employment and/or work experience • 110 City of Olympia residents receive job readiness training, including resume development and interview skills • 15 City of Olympia business employees 	<ul style="list-style-type: none"> ○ Story-Resume and Interviewing ○ Customer service training ○ De-escalation training ○ Equity, Diversity, and Inclusion training ○ Unlocking the Hidden Talent Pipeline: Transitioning Workforce from Criminal Justice Involvement Green industry and energy efficiency work • Host weekly career-map-meet ups • Emphasis on career training that can transition into On-the-job (OJT) supported jobs with employer partners • Host a monthly networking and hiring events 	

Program Area	Objectives	Outcomes	Activities	Cost
		<p>receive customer service and/or de-escalation training</p>		
<p>Task 3: Construction Corps: Training Emphasis on Construction Trades</p>	<p>Deliver certified cohort trainings for unemployed individuals seeking careers in the construction industry.</p>	<p>Businesses have access to people who are ready to work, and people have access to trainings that help them find their career pathway.</p> <ul style="list-style-type: none"> • 65 City of Olympia residents receive construction related industry recognized credentials and employment and/or work experience placement 	<ul style="list-style-type: none"> • Coordinate short-term, in-demand industry recognized certified trainings such as: <ul style="list-style-type: none"> ○ Construction Pre-Apprenticeship, 160-hour trade certified training 	<p>\$187,000</p>
<p>Task 4: Outreach & Bundled Services</p>	<p>Create awareness, desire and knowledge about the training center and its services to people in the City of Olympia and surrounding areas</p>	<p>Businesses and people—specifically BIPOC people—access the training center and utilize its services to create a champion network that will help sustain and revitalize the City of Olympia and surrounding areas</p>	<ul style="list-style-type: none"> • Leverage partnerships to host a workshop space for businesses to connect with students and people • Host space where partners can provide additional resources and services to enhance career pathway opportunities • Develop and implement an outreach and marketing campaign to 	<p>\$30,000</p>

Program Area	Objectives	Outcomes	Activities	Cost
			Business and people <ul style="list-style-type: none"> Coordinate with partners to leverage work-based learning opportunities such as paid internships and on-the-job training 	
Task 5: Leveraged Services	Provide and coordinate a space where community-based organizations and the public workforce system partners can leverage services	Workforce services are leveraged with existing resource to provide non-duplicated services and a more robust wrap-around and bundled support system to participants and businesses	<ul style="list-style-type: none"> Chamber Workforce Solutions (\$750,000) Chamber Foundation Business2Youth Connect (\$50,000) 	(\$800,000)
Total Direct Costs				\$575,000

Proposed Staffing Complement—18 Month program

Position	Percentage of FTE 18 mos	Estimated Hours on Project 18 mos	Estimated Salary Cost 18 mos	Hourly Rate*
Senior Project Manager	25%	783	\$27,679	\$35.35
Project Coordinator	100%	3132	\$101,477	\$32.40
Workforce Navigator	100%	3132	\$86,631	\$27.66
Total			\$215,787	

*Hourly rate includes wages and benefits

Position	Role and Responsibility
Senior Project Manager	<ul style="list-style-type: none"> Administer contract, project reporting, and project outcomes Administer training contracts and develop partnerships for additional in-kind or leveraged training, including the training space Convene and lead partners and stakeholders

	<p>to develop and deliver a robust training program that operates a regular M-F schedule</p> <ul style="list-style-type: none"> • Manage day to day operations at the training center • Supervise training center staff
Project Coordinator	<ul style="list-style-type: none"> • Coordinate contracted short-term training, including the corresponding graduation and hiring events upon training completions • Deliver weekly orientations and in-house training: Career Exploration-Local In-Demand Industries and Occupations, How to Build Your Champion Network, Financial Literacy, Strengths Finder and Telling Your Story-Resume and Interviewing, Unlocking the Hidden Talent Pipeline Business Training: Transitioning Workforce from Criminal Justice Involvement to Green Industries and energy efficiency work • Host weekly Career Map Meetups • Host monthly networking/hiring events • Provide follow-up services for job seekers and business
Workforce Navigator	<ul style="list-style-type: none"> • Coordinate and deliver targeted outreach to job seekers and businesses • Register participants and navigate them to training • Coordinate wrap around/bundled support services, such as: transportation, childcare, and housing • Cultivate employment and work-based learning placements for job seekers • Provide follow-up services for job seekers and business

Exhibit "B"

STATEMENT OF COMPLIANCE WITH NONDISCRIMINATION REQUIREMENT

The Olympia City Council has made compliance with the City's *Nondiscrimination in Delivery of City Services or Resources* ordinance (OMC 1.24) a high priority, whether services are provided by City employees or through a contract with other entities. It is important that all contract agencies or vendors and their employees understand and carry out the City's nondiscrimination policy. Accordingly, each City agreement or contract for services contains language that requires an agency or vendor to agree that it shall not unlawfully discriminate against an employee or client based on any legally protected status, which includes but is not limited to race, creed, religion, color, national origin, age, sex, marital status, veteran status, sexual orientation, gender identity, genetic information, or the presence of any disability. Listed below are methods to ensure that this policy is communicated to your employees, if applicable.

- Nondiscrimination provisions are posted on printed material with broad distribution (newsletters, brochures, etc.).
- Nondiscrimination provisions are posted on applications for service.
- Nondiscrimination provisions are posted on the agency's website.
- Nondiscrimination provisions are included in human resource materials provided to job applicants and new employees.
- Nondiscrimination provisions are shared during meetings.

Failure to implement at least two of the measures specified above or to comply with the City of Olympia's nondiscrimination ordinance constitutes a breach of contract.

By signing this statement, I acknowledge compliance with the City of Olympia's nondiscrimination ordinance by the use of at least two of the measures specified above.

David Schaffert
(Signature)

04/20/2022
(Date)

David Schaffert
Print Name of Person Signing

Alternative Section for Sole Proprietor: I am a sole proprietor and have reviewed the statement above. I agree not to discriminate against any client, or any future employees, based on any legally protected status.

(Sole Proprietor Signature)

(Date)

Exhibit "C"
EQUAL BENEFITS COMPLIANCE DECLARATION

Contractors or consultants on City agreements or contracts estimated to cost \$50,000 or more shall comply with Olympia Municipal Code, Chapter 3.18. This provision requires that if contractors or consultants provide benefits, they do so without discrimination based on age, sex, race, creed, color, sexual orientation, national origin, or the presence of any physical, mental or sensory disability, or because of any other status protected from discrimination by law. Contractors or consultants must have policies in place prohibiting such discrimination, prior to contracting with the City.

I declare that the Consultant listed below complies with the City of Olympia Equal Benefits Ordinance, that the information provided on this form is true and correct, and that I am legally authorized to bind the Consultant.

Thurston County Chamber of Commerce
Consultant Name

David Schaffert
Signature

David Schaffert,
Name (please print)

04/20/2022
Date

President/Chief Executive Officer
Title