



Meeting Agenda

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, August 21, 2018

7:00 PM

Council Chambers

1. ROLL CALL

1.A ANNOUNCEMENTS

1.B APPROVAL OF AGENDA

2. SPECIAL RECOGNITION

2.A [18-0787](#) Special Recognition - The 20th Anniversary of Olympia Volunteers in Parks Program

2.B [18-0799](#) Special Recognition - Washington Recreation & Park Association Citizen Citation of Merit Award for James Reddick

3. PUBLIC COMMUNICATION

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

During this portion of the meeting, citizens 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 three (3) 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 COMMUNICATION (Optional)

4. CONSENT CALENDAR

(Items of a Routine Nature)

4.A [18-0800](#) Approval of August 14, 2018 Study Session Meeting Minutes

Attachments: [Minutes](#)

4.B [18-0801](#) Bills and Payroll Certification

Attachments: [Bills and Payroll](#)

- 4.C [18-0742](#) Approval of the Grants to Arts Organizations Program

Attachments: [Policy](#)
[Guidelines](#)
[Application](#)
[Municipal Art Plan Funding Table](#)
[Arts Commission Work Plan](#)

- 4.D [18-0726](#) Approval of a Resolution Approving the Drinking Water State Revolving Fund (DWSRF) Loan for the Elliott Reservoir Seismic Upgrades

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

- 4.E [18-0727](#) Approval of a Resolution Approving the Drinking Water State Revolving Fund (DWSRF) Loan for the Fir Street Reservoirs 1 and 2 Seismic Upgrades

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

- 4.F [18-0736](#) Approval of a Resolution Regarding the Washington State Investment Board (WSIB) and Responsible Management of Public Trust Funds

Attachments: [Resolution](#)
[Mayor Pro Tem's Referral Request](#)
[2013 Letter to WSIB](#)

- 4.G [18-0770](#) Approval of a Recommendation to Add Temporary Staffing to Support the City's Homeless Response Work

4. SECOND READINGS (Ordinances) - None

4. FIRST READINGS (Ordinances)

- 4.H [18-0792](#) Approval of an Ordinance Appropriating Funds for Woodruff Sprayground, Park Land Acquisition and Percival Landing Bulkhead Replacement

Attachments: [Ordinance](#)

- 4.I [18-0794](#) Approval to Amend Ordinance 7153 to Create a Capital Fund for Monies Collected from the Home Fund Sales Tax

Attachments: [Ordinance](#)

5. PUBLIC HEARING

6. OTHER BUSINESS

- 6.A [18-0741](#) Approval of Percival Plinth Project Peoples' Choice Award 2018
- 6.B [18-0743](#) Approval of Call for Art for the Olympia Art Crossings Public Art Project
- Attachments:** [Call for Art West Bay](#)
[Link to Olympia Crossings](#)
[Municipal Art Plan Funding Table](#)
- 6.C [18-0785](#) Approval of Resolution Authorizing the Purchase of Real Estate Owned by James L. Zahn and Sandra L. Zahn
- Attachments:** [Resolution](#)
[Purchase and Sale Agreement](#)
[Property Location Map](#)

7. CONTINUED PUBLIC COMMUNICATION

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

8. REPORTS AND REFERRALS

8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

8.B CITY MANAGER'S REPORT AND REFERRALS

9. EXECUTIVE SESSION

- 9.A [18-0802](#) Executive Session Pursuant to RCW 42.30.110(1)(i); Litigation and Potential Litigation

9. 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 - The 20th Anniversary of Olympia Volunteers in Parks Program

Agenda Date: 8/21/2018
Agenda Item Number: 2.A
File Number: 18-0787

Type: recognition **Version:** 3 **Status:** Recognition

Title

Special Recognition - The 20th Anniversary of Olympia Volunteers in Parks Program

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Recognize the 20th Anniversary of the Olympia Volunteers in Parks Program.

Report

Issue:

Whether to recognize the 20th Anniversary of the Olympia Volunteers In Parks Program.

Staff Contact:

Jonathon Turlove, Associate Director, Parks, Arts and Recreation, 360.753.8068

Presenter(s):

Jonathon Turlove, Associate Director, Parks, Arts and Recreation, 360.753.8068

Background and Analysis:

The Olympia Volunteers in Parks program was created 20 years ago this month. Since then, more than 34,000 volunteers have contributed more than 100,000 hours of volunteer service towards improving Olympia's parks. Staff will recognize these contributions in a short PowerPoint presentation.

Neighborhood/Community Interests (if known):

N/A

Options:

N/A

Financial Impact:

N/A

Type: recognition **Version:** 3 **Status:** Recognition

Attachments:

None



City Council

Special Recognition - Washington Recreation & Park Association Citizen Citation of Merit Award for James Reddick

Agenda Date: 8/21/2018
Agenda Item Number: 2.B
File Number: 18-0799

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

Title

Special Recognition - Washington Recreation & Park Association Citizen Citation of Merit Award for James Reddick

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Recognize James Reddick's 2018 Citizen Citation of Merit Award.

Report

Issue:

Whether to recognize James Reddick's 2018 Citizen Citation of Merit Award.

Staff Contact:

Paul Simmons, Director, Parks, Arts and Recreation, 360.753.8462

Presenter(s):

Paul Simmons, Director

Background and Analysis:

The Citation of Merit Award recognizes individuals and organizations for their significant contributions to the field of parks and recreation. The Citation of Merit Award includes four award categories: Citizen, Legislative, Organization, and Professional.

Our very own James Reddick was recognized with the 2018 Citizen Citation of Merit. Below is an excerpt from his nomination:

"In 1995, James Reddick created the Parks, Arts, Recreation and Culture (PARC) Foundation of Thurston County. His vision was to preserve vital green spaces, expand and support art and artists in our community, ensure all children have free access to recreational opportunities, and expand the rich cultural diversity that is valued in Thurston County.

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

Over the last 23 years, the PARC Foundation has been instrumental in raising over \$600,000 to support parks, arts, and recreation throughout Thurston County. This impressive accomplishment occurred through the relentless pursuit of grants and philanthropic donations; and hosting a variety of community events that served as fundraisers.

As a result of this work, local agencies have provided hundreds of recreation scholarships to individuals with disabilities and low-income families. Partnerships with the former Olympia-based business Alpine Experience, resulted in over \$50,000 to support youth and outdoor activities. The PARC foundation has played a key role in developing a partnership with REI that has resulted in \$83,000 over six years to support Olympia trail development and volunteerism. James has also come to the rescue of programs that have suffered dramatic budget reductions such as the Tenino Quarry Pool and Thurston County Specialized Recreation.

On behalf of all the local Parks & Recreation Departments, we are thrilled to recognize James for all that he has accomplished on our behalf.”

Neighborhood/Community Interests (if known):

N/A

Options:

N/A

Financial Impact:

N/A

Attachments:

None



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

City Council

Approval of August 14, 2018 Study Session Meeting Minutes

Agenda Date: 8/21/2018
Agenda Item Number: 4.A
File Number: 18-0800

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

Title

Approval of August 14, 2018 Study Session Meeting Minutes



Meeting Minutes - Draft

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, August 14, 2018

5:30 PM

Council Chambers

Study Session

1. ROLL CALL

Present: 7 - Mayor Cheryl Selby, Mayor Pro Tem Nathaniel Jones, Councilmember Jessica Bateman, Councilmember Jim Cooper, Councilmember Clark Gilman, Councilmember Lisa Parshley and Councilmember Renata Rollins

2. BUSINESS ITEM

2.A [18-0754](#) Missing Middle Housing Code Amendments Briefing

Mayor Selby thanked everyone for their participation in the Missing Middle process. She noted these are not an easy decisions under consideration.

Deputy Director of Community Planning and Development Leonard Bauer gave an overview of Missing Middle housing. He shared a definition of Missing Middle housing and the types of homes that definition includes; accessory dwelling units, co-housing, cottage housing, Manufactured/Modular homes, townhouses, duplexes.

Mr. Bauer shared why Missing Middle housing is being considered, noting these types of housing meet goals of State Growth Management Act and Olympia Comprehensive Plan for providing a variety of types and densities of housing, and providing housing at all levels of affordability.

Mr. Bauer reviewed demographics regarding households in Olympia. According to the American Community Survey update of US Census data, Olympia has shifted to become 52% renter occupied households, up from 50.5% from 2010 data, 48% in 1990.

Mr. Bauer noted as the Comprehensive Plan is carried out, there is a need to balance and align these and other goals and policies, e.g. transportation corridors, urban/neighborhood villages, neighborhood centers, economic development, utilities, and Capital Facilities Plan. The emphasis is to allow more types of housing rather than prevent them - currently low-density neighborhood zoning allows some Missing Middle housing types and disallows others. Allowing more types of housing should also increase the variety of costs to rent or purchase.

Mr. Bauer shared a zoning map and where areas are already zoned to encourage higher

density residential housing consistent with the Comprehensive Plan. He noted the plan also calls for distributing a variety of housing types in low-density areas.

Mr. Bauer shared an overview of the Missing Middle review process which began near the end of 2016. The work group was charged with reviewing Olympia's codes, standards, policies and fees for their impacts on the physical and financial feasibility of building Missing Middle infill housing in areas designated in the Comprehensive Plan for low-density residential housing.

The Missing Middle recommendations were analyzed using a set of three criteria; affordability, variety of housing types and ability to accommodate future growth.

The City is required under the Growth Management Act for housing to serve all parts of the income spectrum. Missing Middle housing has the potential to help at the lower end of market rate, which is approximately \$50,000 - \$80,000 income range for family of four, or \$30,000 - \$50,000 for an individual.

Mr. Bauer noted 14 issue papers were completed and discussed by the work group. He shared the extensive public process and outreach that has occurred.

Mr. Bauer shared the draft recommendations beginning with which regulations are not being recommended for changes. These include neighborhood scale and character; building orientation and entries; building modulation/articulation; window patterns; location; design; garage design and placement; materials and colors; accessory dwelling unit building design and entries; site design for cottage housing; permitted heights, setbacks, lot coverages; zoning district density limits and stormwater, infrastructure, tree protection requirements.

Mr. Bauer reviewed the current housing types permitted and the recommendations to expand the use of some types of housing. He shared the proposed changes to the current requirements for accessory dwelling units; duplex, triplex, fourplex, cottage housing, courtyard apartments, townhouses, single occupancy housing and tiny houses.

Mr. Bauer shared a recommendation to conduct a study of City impact fees and sewer hook-up fees. He also shared proposed parking requirements.

Councilmembers asked clarifying questions throughout the presentation. Planner Joyce Phillips, Planning Commission Chair Rad Cunningham and Planning Commissioner Candi Millar were also present to answer questions.

The study session was completed.

3. ADJOURNMENT

The meeting adjourned at 7:33 p.m.



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

City Council
Bills and Payroll Certification

Agenda Date: 8/21/2018
Agenda Item Number: 4.B
File Number: 18-0801

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

Title
Bills and Payroll Certification

CITY OF OLYMPIA
EXPENDITURE SUMMARY

"I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN, THAT ANY ADVANCE PAYMENT IS DUE AND PAYABLE PURSUANT TO A CONTRACT OR IS AVAILABLE AS AN OPTION FOR FULL OR PARTIAL FULFILLMENT OF A CONTRACTUAL OBLIGATION, AND THAT THE CLAIMS ARE JUST, DUE AND UNPAID OBLIGATIONS AGAINST THE CITY OF OLYMPIA, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIMS", AND,

"I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT CLAIMS FOR EMPLOYEE AND OFFICER EXPENSES ARE JUST, DUE AND UNPAID OBLIGATIONS AGAINST THE CITY OF OLYMPIA, AND THAT I AM AUTHORIZED TO CERTIFY SAID CLAIMS".

FOR PERIOD 7/16/2018 7/28/2018
 FOR A/P ACH PAYMENTS and A/P CHECKS NUMBERED 3703606 THROUGH 3703928
 FOR OTHER ELECTRONIC PAYMENTS DATED _____ THROUGH _____

INCLUSIVE IN THE AMOUNT TOTALING

DATED 8-8-18 ADMINISTRATIVE SERVICES DIRECTOR


TOTAL APPROVED FOR PAYMENT

FUND		
\$254,996.01	001	GENERAL FUND
\$0.00	002	SHOP FACILITIES
\$26,977.96	003	REVOLVING ACCOUNT FUND
\$0.00	004	URBAN ARTERIAL FUND
\$509.40	006	Development Fee Revenue
\$1,518.04	007	Parking Fund
\$1,375.39	014	LEOFF 1 OPEB Trust Fund
\$0.00	21	Washington Center Endow
\$0.00	025	WASHINGTON CENTER
\$9,216.31	026	MUNICIPAL ARTS FUND
\$4,202.00	029	EQUIP & FACIL REPLACE RES
\$546.30	107	HUD
\$0.00	108	HUD
\$0.00	127	IMPACT FEES
\$0.00	130	SEPA MITIGATION FUND
\$0.00	132	LODGING TAX FUND
\$0.00	133	ARTS AND CONFERENCE FUND
\$0.00	134	PARKS AND REC SIDEWALK UT TAX
\$5,164.56	135	PARKING BUSINESS IMP AREA
\$0.00	136	FARMERS MRKT REPAIR/REPLC
\$0.00	137	CHILDREN'S HANDS ON MUSEUM
\$0.00	138	TRANS BENEFIT DISTRICT
\$0.00	141	Oly Metro Park District
\$0.00	208	LID OBLIGATION CONTROL
\$0.00	216	4th/5th AVE PW TRST
\$0.00	223	LTGO BOND FUND '06-PARKS
\$0.00	224	UTGO BOND FUND 2009 FIRE
\$0.00	225	CITY HALL DEBT FUND
\$0.00	226	2010 LTGO BOND-STREETPROJ
\$0.00	227	LOCAL DEBT FUND
\$0.00	228	2010B LTGO BONDS-HOCM
\$0.00	230	LTGO Band Fund 2016
\$25,816.51	317	CIP
\$0.00	322	4/5th AVE CORRIDOR/BRIDGE
\$0.00	323	CIP CONSTR FUND - PARKS
\$0.00	324	FIRE STATION 4 CONSTRUCT
\$0.00	325	CITY HALL CONST
\$0.00	326	TRANSPORTATION CONST
\$0.00	329	GO BOND PROJECT FUND
\$494.40	331	FIRE EQUIPMENT REPLACEMENT FUND
\$87,423.65	401	WATER
\$19,776.77	402	SEWER
\$4,284.17	403	SOLID WASTE
\$11,225.22	404	STORM AND SURFACE WATER
\$0.00	418	Stormwater Debt Service Fund
\$27,293.40	434	STORM AND SURFACE WATER CIP
\$11,823.75	461	WATER CIP FUND
\$13,147.70	462	SEWER CIP FUND
\$69,960.02	501	EQUIPMENT RENTAL
\$128,900.76	502	C. R. EQUIPMENT RENTAL
\$250.00	503	UNEMPLOYMENT COMPENSATION
\$0.00	504	INS TRUST FUND
\$7,953.70	505	WORKERS COMPENSATION
\$0.00	604	FIREMEN'S PENSION FUND
\$0.00	605	CUSTOMERS WATER RESERVE
\$0.00	621	WASHINGTON CENTER ENDOW
\$0.00	631	PUBLIC FACILITIES
\$0.00	682	LAW ENFORCEMENT RECORD MGNTSYS
\$0.00	701	PARKS-NEIGHBORHOOD
\$0.00	702	PARKS-COMMUNITY
\$0.00	703	PARKS-OPEN SPACE
\$0.00	707	PARKS-SPECIAL USE
\$0.00	711	TRANSPORTATION
\$0.00	720	SCHOOLS
\$712,856.02		GRAND TOTAL FOR WEEK



CITY OF OLYMPIA
EXPENDITURE SUMMARY

"I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN, THAT ANY ADVANCE PAYMENT IS DUE AND PAYABLE PURSUANT TO A CONTRACT OR IS AVAILABLE AS AN OPTION FOR FULL OR PARTIAL FULFILLMENT OF A CONTRACTUAL OBLIGATION, AND THAT THE CLAIMS ARE JUST, DUE AND UNPAID OBLIGATIONS AGAINST THE CITY OF OLYMPIA, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIMS", AND,

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FOR PERIOD 7/29/2018 8/4/2018
 FOR A/P ACH PAYMENTS and A/P CHECKS NUMBERED 3703929 THROUGH 3704212
 FOR OTHER ELECTRONIC PAYMENTS DATED 6/1/2018 THROUGH 6/30/2018

INCLUSIVE IN THE AMOUNT TOTALING

DATED

ADMINISTRATIVE SERVICES DIRECTOR

8-7-18

Robert L. Sullivan

TOTAL APPROVED FOR PAYMENT

FUND		
\$1,250,423.29	001	GENERAL FUND
\$0.00	002	SHOP FACILITIES
\$63,235.90	003	REVOLVING ACCOUNT FUND
\$0.00	004	URBAN ARTERIAL FUND
\$317.00	006	Development Fee Revenue
\$10,906.09	007	Parking Fund
\$25,185.45	014	LEOFF 1 OPEB Trust Fund
\$0.00	21	Washington Center Endow
\$0.00	025	WASHINGTON CENTER
\$2,024.99	026	MUNICIPAL ARTS FUND
\$3,750.60	029	EQUIP & FACIL REPLACE RES
\$0.00	107	HUD
\$0.00	108	HUD
\$0.00	127	IMPACT FEES
\$0.00	130	SEPA MITIGATION FUND
\$0.00	132	LODGING TAX FUND
\$0.00	133	ARTS AND CONFERENCE FUND
\$0.00	134	PARKS AND REC SIDEWALK UT TAX
\$4,988.64	135	PARKING BUSINESS IMP AREA
\$0.00	136	FARMERS MRKT REPAIR/REPLC
\$0.00	137	CHILDREN'S HANDS ON MUSEUM
\$0.00	138	TRANS BENEFIT DISTRICT
\$0.00	141	Oly Metro Park District
\$0.00	208	LID OBLIGATION CONTROL
\$0.00	216	4th/5th AVE PW TRST
\$0.00	223	LTGO BOND FUND '06-PARKS
\$0.00	224	UTGO BOND FUND 2009 FIRE
\$0.00	225	CITY HALL DEBT FUND
\$0.00	226	2010 LTGO BOND-STREETPROJ
\$0.00	227	LOCAL DEBT FUND
\$0.00	228	2010B LTGO BONDS-HOCM
\$0.00	230	LTGO Band Fund 2016
\$3,776.42	317	CIP
\$0.00	322	4/5th AVE CORRIDOR/BRIDGE
\$0.00	323	CIP CONSTR FUND - PARKS
\$0.00	324	FIRE STATION 4 CONSTRUCT
\$0.00	325	CITY HALL CONST
\$0.00	326	TRANSPORTATION CONST
\$0.00	329	GO BOND PROJECT FUND
\$1,122.31	331	FIRE EQUIPMENT REPLACEMENT FUND
\$65,390.28	401	WATER
\$42,285.67	402	SEWER
\$98,207.99	403	SOLID WASTE
\$11,664.35	404	STORM AND SURFACE WATER
\$0.00	418	Stormwater Debt Service Fund
\$15,091.00	434	STORM AND SURFACE WATER CIP
\$120,809.52	461	WATER CIP FUND
\$0.00	462	SEWER CIP FUND
\$7,393.81	501	EQUIPMENT RENTAL
\$539.06	502	C. R. EQUIPMENT RENTAL
\$0.00	503	UNEMPLOYMENT COMPENSATION
\$2,471.26	504	INS TRUST FUND
\$782,832.13	505	WORKERS COMPENSATION
\$0.00	604	FIREMEN'S PENSION FUND
\$0.00	605	CUSTOMERS WATER RESERVE
\$0.00	621	WASHINGTON CENTER ENDOW
\$0.00	631	PUBLIC FACILITIES
\$0.00	682	LAW ENFORCEMENT RECORD MGNTSYS
\$0.00	701	PARKS-NEIGHBORHOOD
\$0.00	702	PARKS-COMMUNITY
\$0.00	703	PARKS-OPEN SPACE
\$0.00	707	PARKS-SPECIAL USE
\$0.00	711	TRANSPORTATION
\$196,161.04	720	SCHOOLS
\$2,708,576.80		GRAND TOTAL FOR WEEK



CITY OF OLYMPIA
EXPENDITURE SUMMARY

"I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN, THAT ANY ADVANCE PAYMENT IS DUE AND PAYABLE PURSUANT TO A CONTRACT OR IS AVAILABLE AS AN OPTION FOR FULL OR PARTIAL FULFILLMENT OF A CONTRACTUAL OBLIGATION, AND THAT THE CLAIMS ARE JUST, DUE AND UNPAID OBLIGATIONS AGAINST THE CITY OF OLYMPIA, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIMS", AND,

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FOR PERIOD	<u>8/5/2018</u>		<u>8/11/2018</u>
FOR A/P ACH PAYMENTS and A/P CHECKS NUMBERED	<u>3704213</u>	THROUGH	<u>3704469</u>
FOR OTHER ELECTRONIC PAYMENTS DATED	<u>7/1/2018</u>	THROUGH	<u>7/31/2018</u>

INCLUSIVE IN THE AMOUNT TOTALING

DATED

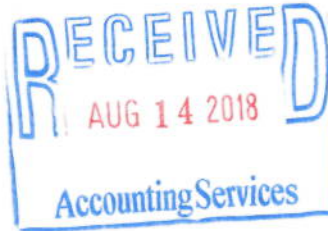
8.14.18

ADMINISTRATIVE SERVICES DIRECTOR

Debbie L. Sullivan

TOTAL APPROVED FOR PAYMENT

FUND		
\$936,486.19	001	GENERAL FUND
\$0.00	002	SHOP FACILITIES
\$28,337.72	003	REVOLVING ACCOUNT FUND
\$0.00	004	URBAN ARTERIAL FUND
\$68,567.33	006	Development Fee Revenue
\$3,607.08	007	Parking Fund
\$0.00	014	LEOFF 1 OPEB Trust Fund
\$5,825.67	21	Washington Center Endow
\$35,577.49	025	WASHINGTON CENTER
\$882.50	026	MUNICIPAL ARTS FUND
\$2,872.23	029	EQUIP & FACIL REPLACE RES
\$0.00	107	HUD
\$0.00	108	HUD
\$0.00	127	IMPACT FEES
\$0.00	130	SEPA MITIGATION FUND
\$0.00	132	LODGING TAX FUND
\$0.00	133	ARTS AND CONFERENCE FUND
\$0.00	134	PARKS AND REC SIDEWALK UT TAX
\$414.95	135	PARKING BUSINESS IMP AREA
\$0.00	136	FARMERS MRKT REPAIR/REPLC
\$0.00	137	CHILDREN'S HANDS ON MUSEUM
\$0.00	138	TRANS BENEFIT DISTRICT
\$0.00	141	Oly Metro Park District
\$0.00	208	LID OBLIGATION CONTROL
\$0.00	216	4th/5th AVE PW TRST
\$0.00	223	LTGO BOND FUND '06-PARKS
\$0.00	224	UTGO BOND FUND 2009 FIRE
\$0.00	225	CITY HALL DEBT FUND
\$0.00	226	2010 LTGO BOND-STREETPROJ
\$0.00	227	LOCAL DEBT FUND
\$0.00	228	2010B LTGO BONDS-HOCM
\$0.00	230	LTGO Band Fund 2016
\$243,488.75	317	CIP
\$0.00	322	4/5th AVE CORRIDOR/BRIDGE
\$0.00	323	CIP CONSTR FUND - PARKS
\$0.00	324	FIRE STATION 4 CONSTRUCT
\$0.00	325	CITY HALL CONST
\$0.00	326	TRANSPORTATION CONST
\$0.00	329	GO BOND PROJECT FUND
\$2,666.96	331	FIRE EQUIPMENT REPLACEMENT FUND
\$92,654.77	401	WATER
\$1,081,156.16	402	SEWER
\$49,684.59	403	SOLID WASTE
\$14,990.39	404	STORM AND SURFACE WATER
\$0.00	418	Stormwater Debt Service Fund
\$0.00	434	STORM AND SURFACE WATER CIP
\$216,054.76	461	WATER CIP FUND
\$27.23	462	SEWER CIP FUND
\$18,788.30	501	EQUIPMENT RENTAL
\$152,940.13	502	C. R. EQUIPMENT RENTAL
\$0.00	503	UNEMPLOYMENT COMPENSATION
\$391.10	504	INS TRUST FUND
\$58,517.15	505	WORKERS COMPENSATION
\$0.00	604	FIREMEN'S PENSION FUND
\$0.00	605	CUSTOMERS WATER RESERVE
\$0.00	621	WASHINGTON CENTER ENDOW
\$0.00	631	PUBLIC FACILITIES
\$794.36	682	LAW ENFORCEMENT RECORD MGNTSYS
\$0.00	701	PARKS-NEIGHBORHOOD
\$0.00	702	PARKS-COMMUNITY
\$0.00	703	PARKS-OPEN SPACE
\$0.00	707	PARKS-SPECIAL USE
\$0.00	711	TRANSPORTATION
\$21,373.15	720	SCHOOLS
<hr/>		
\$3,036,098.96	GRAND TOTAL FOR WEEK	



**CITY OF OLYMPIA
PAYROLL CERTIFICATION**

The Administrative Services Director of the City of Olympia, Washington, hereby certifies that the payroll gross earnings, benefits, and LEOFF I post-retirement insurance benefits for the pay cycle ending **6/30/2018** have been examined and are approved as recommended for payment.

Employees Gross Pay:	<u>\$ 2,271,789.42</u>
Fire Pension Gross Pay:	<u>\$ 29,511.15</u>
Employer Share of Benefits:	<u>\$ 743,925.81</u>
Employer Share of LEOFF I Police Post-Retirement Benefits:	<u>\$ 38,091.46</u>
Employer Share of LEOFF I Fire Post-Retirement Benefits:	<u>\$ 7,895.06</u>
TOTAL	<u><u>\$ 3,091,212.90</u></u>

Payroll Check Numbers	<u>91458</u>	<u>91458</u>	Manual Checks
And	<u>91459</u>	<u>91464</u>	Fire Pension Checks
And	<u>91465</u>	<u>91465</u>	Manual Checks
And	<u>91466</u>	<u>91534</u>	Semi Payroll Checks

and Direct Deposit transmission.

7-12-18
DATE


ADMINISTRATIVE SERVICES DIRECTOR

**CITY OF OLYMPIA
PAYROLL CERTIFICATION**

The Administrative Services Director of the City of Olympia, Washington, hereby certifies that the payroll gross earnings, benefits, and LEOFF I post-retirement insurance benefits for the pay cycle ending **7/15/2018** have been examined and are approved as recommended for payment.

Employees Gross Pay:	<u>\$ 2,331,014.37</u>
Fire Pension Gross Pay:	_____
Employer Share of Benefits:	<u>\$ 787,935.96</u>
Employer Share of LEOFF I Police Post-Retirement Benefits:	_____
Employer Share of LEOFF I Fire Post-Retirement Benefits:	_____
TOTAL	<u><u>\$ 3,118,950.33</u></u>

Payroll Check Numbers	<u>91535</u>	<u>91535</u>	Manual Checks
And	_____	_____	Fire Pension Checks
And	_____	_____	Manual Checks
And	<u>91536</u>	<u>91583</u>	Semi Payroll Checks

and Direct Deposit transmission.

7-18-18
DATE


ADMINISTRATIVE SERVICES DIRECTOR

**CITY OF OLYMPIA
PAYROLL CERTIFICATION**

The Administrative Services Director of the City of Olympia, Washington, hereby certifies that the payroll gross earnings, benefits, and LEOFF I post-retirement insurance benefits for the pay cycle ending **7/31/2018** have been examined and are approved as recommended for payment.

Employees Gross Pay:	<u>\$ 2,253,370.27</u>
Fire Pension Gross Pay:	<u>\$ 30,049.07</u>
Employer Share of Benefits:	<u>\$ 738,888.14</u>
Employer Share of LEOFF I Police Post-Retirement Benefits:	<u>\$ 40,587.35</u>
Employer Share of LEOFF I Fire Post-Retirement Benefits:	<u>\$ 24,872.51</u>
TOTAL	<u><u>\$ 3,087,767.34</u></u>

Payroll Check Numbers	_____	_____	Manual Checks
And	<u>91584</u>	<u>91589</u>	Fire Pension Checks
And	_____	_____	Manual Checks
And	<u>91590</u>	<u>91633</u>	Semi Payroll Checks

and Direct Deposit transmission.

8-6-18
DATE


ADMINISTRATIVE SERVICES DIRECTOR



City Council

Approval of the Grants to Arts Organizations Program

Agenda Date: 8/21/2018
Agenda Item Number: 4.C
File Number: 18-0742

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

Title

Approval of the Grants to Arts Organizations Program

Recommended Action

Committee Recommendation:

The General Government Committee reviewed and recommended the approval of the Grants to Arts Organizations Program at its June 21, 2018, meeting.

City Manager Recommendation:

Move to approve the Grants to Arts Organizations Program.

Report

Issue:

Whether to authorize staff to proceed with the Grants to Arts Organizations program.

Staff Contact:

Stephanie Johnson, Arts Program Manager, 360.709.2678

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

The intent of the Grants to Arts Organizations (GAO) program is to provide equitable access to the arts for all Olympians. The program goal is to fund projects that expand citizen involvement; engage underserved populations; and, promote the interests of the broader Olympia community, as realized through the Olympia Comprehensive Plan. Development of this program was approved with the Arts Commission 2018 Work Plan.

- GAO helps provide more arts experiences for the community with less staff time.
- Arts staff have capacity to manage GAO
- Arts staff has consulted with the legal department to minimize their time on the project.
- There is already a GAO model in the sponsorship of Music in the Park, managed by the ODA.

Arts staff has been facilitating that contract for years.

- The matching grant guidelines and application are based on those developed for the existing City Neighborhood Matching Grant Program.

The Arts Commission and staff believe this program is supported by six goals and policies in the Comprehensive Plan and several Action Plan Goals:

GR8: Arts in Olympia are supported.

PR8.3 - Encourage broad arts participation in the community.

PR8.5 - Provide opportunities that highlight the talent of visual, literary and performing artists.

PR8.8 - Create a range of opportunities for the public to interact with art; from small workshops to large community events.

PE10.1 - Continue to provide programs and services that support visual and performing arts activities in Olympia.

PE10.3 - Support local art galleries, museums, arts and entertainment facilities, live music venues, arts organizations and businesses.

Downtown Action Area - Engaging Arts & Entertainment Experiences

Economy Action Area - A Thriving Arts and Entertainment Industry

The General Government Committee reviewed the attached Grants to Arts Organizations policy and application on June 21, 2018. The Committee recommended the Grants to Arts Organizations program to City Council for approval with the addition of a question to the application clarifying how the proposal will reach underserved communities.

Neighborhood/Community Interests (if known):

This item was added to the Arts Commission's Work Plan after hearing from a community arts organization that such a program could help them make art more accessible to the community.

Options:

Move to approve the Grants to Arts Organizations Program

Move to approve the Grants to Arts Organizations Program as modified by the City Council.

Do not approve the Grants to Arts Organizations Program.

Financial Impact:

Up to \$20,000 annually from the Municipal Art Fund

Attachments:

Policy

Guidelines

Application

Municipal Art Plan Funding Table
Arts Commission Work Plan

City of Olympia Arts Program Policy

Grants to Arts Organizations

BACKGROUND: Development of a Grants to Arts Organizations (GAO) program was a task in the 2017 Arts Commission work plan.

PURPOSE: To provide equitable access to the arts for all Olympia residents and visitors. The program goal is to fund projects that expand citizen involvement; engage underserved populations; and, promote the interests of the broader Olympia community, as realized through the Olympia Comprehensive Plan (GR8, PR8.3, PR8.5, PR8.8, PE10.1, PE10.3).

AUTHORITY: Policy of the Olympia Arts Commission, Olympia Parks, Arts & Recreation, and the Olympia City Council.

1.0 Policy:

1.1 The Olympia Arts Commission is responsible for providing recommendations for proposed grants to arts organizations to the Olympia City Council. The Olympia Arts Commission, using an inclusive selection process, will evaluate the applicants according to stated criteria.

2.0 Application Criteria

2.1 To apply for GAO support, an organization must have its primary location in Olympia and also have:

- a mission and programs centered on arts in Olympia;
- a minimum two-year history of continuous operation serving Olympia residents.
- a not-for-profit business structure 501(c)3; and
- at least one ongoing arts program open to the public in Olympia.

2.2 Submissions require proof of 501(c)3 status, a synopsis of the organization's mission and history, a project proposal and budget.

2.3 Funding requests should not exceed 50% of total project expenses. Most projects must be completed by the end of the year (12 months from contract signature). Sculptural projects proposed to be placed in the public Right of Way may have a longer period for completion.

- 2.4 GAO funds must be used to support a project which is accessible to and provides public benefit to Olympia residents and visitors. This can be one of the organization's core programs and services; or a new program or project.

3.0 Selection Process:

- 3.1 A review committee composed of City staff, at least one Arts Commission member, and one Citizen at Large (could be a Councilmember) will review applications. The committee's recommendations will go to the Arts Commission for review and City Council for approval.
- 3.2 The committee recommends to the full Arts Commission a slate of projects up to \$20,000.
- 3.3 Grant recipients will submit a report on their project within 2 months of project completion. This allows staff to share success stories with the City Council, staff and other Olympia residents. Highlights should include: 1) Project description; 2) Process photos; 3) Number of participants; 4) Observations or stories of interest; and 5) Financial project summary.

4.0 Selection Criteria: The following is the committee criteria by which to make funding recommendations:

4.1 Minimum Requirements

All applications will be reviewed to determine that they meet the minimum requirements of the program. These are:

1. Project has lasting and/or direct benefit to the Olympia residents and visitors; and
2. Project is accessible to the public.

4.2 Evaluation Criteria

In addition to meeting the minimum project requirements, project proposals which demonstrate the following will be given first priority by the review committee:

Arts Organization:

- Community Involvement. Does the applicant demonstrate a history of involvement and activity within the community?
- Organizational Strength. Does the prior work of the Arts Organization exhibit the capacity to complete the proposed project?
- Potential for Engagement. Does the prior work of the Arts Organization demonstrate their ability to engage Olympia's citizens in meaningful ways to expand involvement in the arts?

Does the Project Proposal:

- Contribute to broad distribution of arts experiences throughout Olympia. Commissioners will consider the relative representation of art among City neighborhoods, and seek to distribute public art broadly throughout the community.
- Provide for diverse forms of art within the community. A wide range of style, media, subjects and viewpoints will offer perspective and interest for everyone.
- Bring new ideas, innovation, or thinking to the community.
- Contribute to a balanced offering of arts experiences within the Olympia community?

5.0 Administration

- 5.1 Each selected Arts Organization will enter into an agreement with the City, as an independent contractor.
- 5.2 Arts staff are responsible for making payments based on delivery of services agreed to by the Arts Organizations.
- 5.3 The City reserves the right to cancel or discontinue the Grants to Arts Organizations, with or without cause and with or without notice to the Arts Organizations or public.



2018 Grants to Arts Organizations – Application Guidelines

Overview

In 2018, the City is offering up to \$20,000 for projects in the Grants to Arts Organizations (GAO) program.

Purpose of the Program

The GAO Program funds projects that provide equitable access to the arts for all Olympians. The program goal is to expand citizen involvement with the arts, engage underserved populations, and promote the interests of the broader Olympia community.

The mission of the Olympia Arts Commission is to help enrich the lives of the people of the region by making visual, performing and literary arts vital elements in the life of our community.

Each year the City requests project proposals from registered non-profit arts organizations with a minimum two-year history of serving Olympia to be funded on a 50/50 matching basis. The following information is provided to explain the program and to assist arts leaders in submitting applications.

Project review and approval is based on community involvement, organizational strength, and (project) potential for engagement.

Funding Amounts

The GAO offers grants up to \$5,000. We expect to fund successful applicants for the full amount of the project on a 50/50 match basis. For example, a \$10,000 project would be considered for a \$5,000 grant.

Funding requests should not exceed 50% of total project expenses

Eligibility

To apply for GAO support, an organization must have its primary location in Olympia and meet all of the following:

- a mission and programs centered on arts in Olympia,
- a minimum two-year history of continuous operation serving Olympia residents,
- a not-for-profit business structure 501(c)3,
- at least one ongoing arts program open to the public in Olympia ,and
- a City of Olympia Business License

2018 Program Timeline

Following are the key dates in the 2018 GAO Program <correct dates for 2018>:

Release Request for Proposals: _____
 Workshop: _____
 Deadlines: _____
 Council Review & Approval: _____
 Contracts: _____

Completion Date: _____
Project Reports: _____

Types of Projects

This program seeks to fund projects that engage citizens through the arts. Most projects must be completed by the end of a year (12 months from contract signature). Sculptural projects proposed to be placed in the public Right of Way may have a longer period for completion.

GAO funds must be used to support a project that is accessible to and provides public benefit for Olympia residents and visitors. This can be one of your core programs and services; or a new program or project.

Project Examples Include:

- Performance
- Exhibits
- Educational opportunities (presentations/lectures, workshops, walking tours, training, etc.)
- Collaborations
- Research, planning, and/or analysis that can help strengthen Olympia's arts and cultural base
- Innovative production that cultivates the cultural community

Ineligible Projects Include:

- Events not accessible to the public;
- School, college and university departments or programs that are part of regular or extra-curricular school programs;
- Religious services, or events or presentations in which fundraising is the primary purpose;
- Fundraisers
- Lobbying efforts
- Elections work
- Personal Travel
- Loans

Project Review and Approval

A review committee composed of City staff, at least one Arts Commission member, and one Citizen at Large (could be a Councilmember) will review applications. The committee's recommendations will go to the City Council for review and approval.

Minimum Requirements

All applications will be reviewed to determine that they meet the minimum requirements of the program. These are:

1. Project benefits Olympia residents and visitors; and
2. Project is accessible to the public.

The City reserves the right not to select any proposal at all, and reserves the right to change the process or schedule upon public notice.

Evaluation Criteria

In addition to meeting the minimum project requirements, project proposals that demonstrate the following will be given first priority by the review committee:

1. Arts Organization:

- **Community Involvement.** Does the applicant demonstrate a history of involvement and activity within the community?
- **Organizational Strength.** Does the prior work of the Arts Organization exhibit the capacity to complete the proposed project?
- **Potential for Engagement.** Does the prior work of the Arts Organization demonstrate their ability to engage Olympia's citizens in meaningful ways to expand involvement in the arts?

2. Does the Project Proposal:

- **Contribute to broad distribution of arts experiences throughout Olympia.** Commissioners will consider the relative representation of art among City neighborhoods, and seek to distribute public art broadly throughout the community.
- **Provide for diverse forms of art within the community.** A wide range of style, media, subjects and viewpoints will offer perspective and interest for everyone.
- **Bring new ideas, innovation, or thinking to the community.**
- **Contribute to a balanced offering of arts experiences within the Olympia community?**

The Fine Print

1. **Total Combined Grants:** The City will accept grant proposals sponsored cooperatively by two or more registered non-profit arts organizations. Grant shall not exceed \$5000.
2. **Full or Partial Awards:** While the committee will strive to recommend the requested amount per project, they may also partially fund, at their discretion.
3. **Payments:** Grants will be paid upon the submission of bona fide invoices & receipts for approved work. Receipts will be reimbursed to the organization or member who made the purchase; invoices can be paid directly to the provider of the goods/service or paid as a reimbursement to the organization or member. Grant Expense Forms must be submitted directly by the organization, not via a third party.
4. **Carryover:** A carryover of grant funds to the following year may conditionally be approved one time only, in advance, at the City's discretion. Carryovers for more than one additional year will not be considered.
5. **Limitations:** Projects that require exceptional public process or changes to existing ordinances (such as zone changes and public hearings) will not be considered.
6. **Insurance:** Selected Arts Organizations must carry insurance to the City's specifications during the time span of the project.

Project Final Reports

Grant recipients will submit a report on their project within two months of project completion. This allows staff to share success stories with the City Council, staff and other Olympia residents. Highlights should

include: 1) Project description; 2) Process photos; 3) Number of participants; 4) Observations or stories of interest; and 5) Financial project summary. This information will be presented to the City Council in recognition of the work of your organization to strengthen the Olympia community.

Submission

Applications can be submitted in the following ways:

Email: sjohnson@ci.olympia.wa.us (Stephanie Johnson, Arts Program Manager)
US Mail: Olympia Parks, Arts & Recreation; PO Box 1967; Olympia, WA 98507
Hand Deliver: The Olympia Center; 222 Columbia St NW; Olympia, WA 98501

Questions? Stephanie Johnson, Arts Program Manager
sjohnson@ci.olympia.wa.us or 360.709.2678.

DRAFT



2018 Grants to Arts Organizations – Application

1. Applicant (Arts Organization):

2. Project Name:

3. Summarize Project in Approximately 100 Words

4. Total Amount of City Match Requested (in Dollars):

5. Total Amount of Arts Organization Match Proposed (in Dollars):

6. Name of Arts Organizations's Main Point of Contact for Matching Grant Project:

7. Arts Organization's Email Address:

8. Arts Organization's Phone Number:

9. Arts Organization's Mailing Address:

10. Eligibility – Does your Arts Organization possess:

Yes No

a mission and programs centered on arts in Olympia;

Describe: _____

a minimum two-year history of continuous operation serving Olympia residents.

Describe: _____

a not-for-profit business structure 501(c)3; and

Describe: _____

at least one ongoing arts program open to the public in Olympia.

Describe: _____

11. Please describe your Arts Organization's relationship to the greater community.

12. Please describe how this project plays to the strengths of your Arts Organization.

13. How does your Arts Organization's prior experience inform successful community engagement with your proposed project?

14. Please describe the location of your project in the area, and the reasoning behind that choice.

15. What art form(s) does your project utilize? Who is your audience? What do you intend to communicate?

16. How does this project expand or build upon the arts in our community?

17. Where does this project fit in to the range of art experiences in our community?

18. Please share in what ways this project will reach underserved communities.

19. Please summarize the public benefit of your proposed project.

19. Project Inclusiveness:

a. Will the project participation/utilization be open to everyone without discrimination based on age, sex, race, creed, color, national origin, sexual orientation, or the presence of any physical, mental, or sensory disability? Yes No

b. Will the project comply with American with Disabilities Act standards which provide for access to persons with disabilities? Yes No

20. Describe any other funding you have pursued for this project in addition to the Arts Organization's contributions and the City's matching grant. Please indicate whether the funding has been secured.

21. PROPOSED VOLUNTEER HOURS – Estimate of Volunteer Hours Per Project Task

Project Activity	Est. # Volunteers	Est. Duration of Task	Est. # Volunteer Hours by Task
Example: Arts Organization's Project Flyer distribution	5	5 hours	25
1)			
2)			
3)			
4)			
5)			
6)			

Please attach – Verification of Arts Organization's 501c3 status and Olympia Business License.

CALCULATING VALUE - Estimated In-Kind Volunteer Hours		
Total Estimated Number of Volunteer Hours	X \$26.72 per Hour	TOTAL IN-KIND DOLLAR VALUE

22. PROPOSED PROJECT BUDGET – All Amounts Reported in Dollars (EXAMPLES: Contracted Services; Rentals; Materials; Printing; Other)				
PROJECT ACTIVITY	Arts Organization Contribution (Cash)	Arts Organization Contribution (In-Kind)*	Requested City Matching Grant	TOTAL DOLLAR VALUE
1)				
2)				
3)				
4)				
5)				
6)				
7)				
TOTAL DOLLAR VALUE				

*Totals from previous page "VOLUNTEER HOURS – ESTIMATE TIME PER PROJECT TASK"

If this project is approved, the City of Olympia will enter into an agreement with the Arts Organization receiving the grant to ensure completion of the project as described in this application. The agreement will require that the grantee hold the City harmless from any and all claims emerging from the project and related activities.

The information in this application is true and complete to the best of my knowledge and has been provided for the purpose of obtaining financial assistance from the City for the project described.

Date: _____

Signature: _____

Printed Name: _____

RNA Name: _____

Instructions for Filling out the Form

1. **APPLICATION FORMATS** The City supplies the form in PDF and Word format. You can fill it out by hand or, if using the Word format, by typing your responses into the spaces provided.
2. **PROPOSED VOLUNTEER HOURS** This worksheet (Question 20) should present all the volunteer time listed by task that the Arts Organization will provide for the project. The details requested are intended to help the Arts Organization determine its work plan.
3. **PROPOSED PROJECT BUDGET** The Proposed Project Budget (Question 21) should provide the most accurate estimate of project costs listed by the intended sources – i.e. City matching funds; Arts Organization funds; Arts Organization volunteers. Once approved, the grant amount cannot be increased

PLEASE NOTE: Arts Organization contributions can be in the form of cash or in-kind value (volunteer time) that can be calculated the value of volunteer time, a worksheet has been provided at the end of Question 21. In line with the City of Olympia Parks, Arts & Recreation’s volunteer programs, the suggested in-kind value for matching grant program is the Washington State Volunteer Value reported by the Corporation for National & Community Service (http://www.volunteeringinamerica.gov/pressroom/value_states.cfm): \$26.72 per hour.

4. **ATTACHMENT FORMAT:** Please remember to include all attachments that are relevant to your project. Digital formats (such as PDF or JPEG files) are preferred when possible. If you submit your application in printed format, hard copy versions of photos, maps, and materials are fine. You can also submit your materials on a CD/DVD or flash drive; flash drives will be returned to the relevant RNA after application processing.
5. **QUESTIONS:** If you have any questions about the application form or the Grants to Arts Organizations program in general, please contact Stephanie Johnson, Arts Program Manager, at: sjohnso1@ci.olympia.wa.us or 360.709.2678.

Please submit your application by 5:00 p.m., Friday, _____ to Stephanie Johnson, Arts Program Manager using one of these methods:

By Email:	By Mail:	In Person:
sjohnso1@ci.olympia.wa.us	Parks, Arts & Recreation City of Olympia PO Box 1967 Olympia, WA 98507	Parks, Arts & Recreation The Olympia Center 222 Columbia St NW Olympia, WA 98501

FIVE YEAR MUNICIPAL ART PLAN

	2017 Actual	2018	2019	2020	2021	2022	Total
Projected Revenue							
Available balance	319,054	408,750	317,317	225,184	133,051	115,918	1,403,356
\$1 per capita	50,000	50,000	50,000	50,000	50,000	50,000	300,000
Capital projects 1% for art (received)	187,141						187,141
Revenue Total	556,195	458,750	367,317	275,184	183,051	165,918	1,890,497
Projects							
Traffic Box Wrap	3,615	11,000	11,000	11,000	11,000	11,000	47,615
Music Out Loud - Artwork	68,500						68,500
Music Out Loud - Performance		6,433	6,433	6,433	6,433	6,433	32,165
Percival Plinth Project	24,230	25,000	26,000	27,000	28,000	28,000	158,230
Olympia Art Crossings	50,000	75,000	75,000	75,000			275,000
City Hall Rotating Exhibit Support	100	2,500	1,200	1,200	1,200	1,200	6,200
Poet Laureate (biennial)	1,000	1,500	1,500	1,500	1,500	1,500	7,000
Washington Center Exhibition			1,000				
Grants to Arts Organizations		20,000	20,000	20,000	20,000	20,000	80,000
Expense Totals	147,445	141,433	142,133	142,133	68,133	68,133	674,710
Remaining Balance	408,750	317,317	225,184	133,051	114,918	97,785	1,215,787

ARTS COMMISSION - 2018 Work Plan

During 2018, the Arts Commission will hold full meetings on the second Thursday of each month. In addition to full committee meetings, project-specific subcommittees will meet the hour before each Commission meeting.

Section 1 - 2018 Policy and Program Recommendations to City Council

Consistent with past practice, committee recommendations are forwarded to the full Council as part of the report for relevant Council agenda items, often as an attached memo authored by the Chair or committee and/or an oral report by the Chair at a Council meeting. Staff estimates that there is sufficient professional and administrative staff time to accomplish the policy recommendation staff support to the committee in 2018.

Professional staff liaison for the Arts Commission is Stephanie Johnson.

Estimated Percent of Overall Committee Effort: 37%

Title Description	Committee Lead & Commitment	Staff Commitment	Schedule	Budget Implications	6 Month Check-In
	<i>Committee hours, not individuals.</i>	<i>Hours reflect working with the committee, not total project staff time.</i>	<i>Estimated completion.</i>		
1.1 2018 Municipal Art Plan to City Council Description: As part of the 2018 Work Plan process, recommend plan for 2018 dollar per capita funds and any potential capital projects where 1% funds might apply. Deliverable: Recommend 2018 Municipal Art Plan to City Council, along with 2018 Work Plan.	3 hours	3 hours	March	Municipal Art Fund	

<p>1.2 Apply for Creative District Designation</p> <p>Description: Apply for Creative District designation with ArtsWA in the first quarter of 2018. Deliverable: Complete application.</p>	4 hours	4 hours	April	TBD	
<p>1.3 Commission Retreat/Work Session</p> <p>Description: Spring retreat to orient new Commissioners, fall session to discuss new work plan. Deliverable: Complete the retreats</p>	8 hours	8 hours	May and October	None	
<p>1.4 ArCH</p> <p>Description: Participate in City efforts to improve the Arts, Cultures and Heritage profile in Olympia, including studio and artist-friendly spaces. Deliverable: ArCH is strengthened.</p>	4 hours	4 hours	Ongoing	TBD	
<p>1.5 Proposal for Arts Organizations Granting Program</p> <p>Description: Launch project Deliverable: Inaugural grant cycle.</p>	8 hours	8 hours	December	Municipal Art Fund	
<p>1.6 Support the Creative Sector</p> <p>Description: Continue to explore and support facilities and avenues where the Olympia arts community can come together; and where artists, and art organizations have access to safe and affordable spaces to pursue and share their work. Deliverable: Facilitate communication with the art community, local business, and the City.</p>	4 hours	4 hours	Ongoing	None	

SECTION 2.

2018 Arts Program Support

Arts Commission members provide valuable volunteer assistance to accomplish the City's annual arts program. Also, as programs are implemented and administrative procedures developed, staff often consults with Commissioners for their input and perspective. Input from the Commission is considered by staff in implementing the program or policy.

Unless noted under "Budget Implications," there is sufficient staff time/resource available in 2018 to accomplish or advance these items.

Estimated Percent of Overall Committee Effort: 63%

Title Description	Committee Lead and Commitment	Staff Commitment	Schedule	Budget Implications	6 Month Check-In
2.1 Arts Walk 56 & 57 Description: Provide ongoing input on policies, procedures, and marketing. Assist with map distribution. Deliverable: Engage artists and downtown community.	5 hours	5 hours	April 27 & 28 October 5 & 6 November: Poster Jury	None	
2.2 Music Out Loud Description: Honoring past musicians and celebrating today's music, this project pairs sidewalk mosaics in downtown Olympia with a summer series of music performances. Deliverable: Summer 2018 performance.	6 hours	6 hours	July, August September	Municipal Art Fund	
2.3 Public Art Assessment Description: Based on developed process for assessing City public art, periodically review the public art collection for vandalism, cleanliness and repair.	2 hours	2 hours	April	Public Art Maintenance Fund	

Deliverable: Assist staff in determining what artworks require repair, removal or conservation efforts.					
2.4 Arts & Heritage Day at the Capitol Description: Participate in Arts & Heritage Day at the Capitol. Deliverable: Set meetings and invite constituents of the 20th, 22nd, and 35th districts - participate in the day's events.	4-6 hours	4-6 hours	Annually in February	None	
2.5 Traffic Box Mural Wrap Public Art Project Description: Working in partnership with Public Works, 10 transit boxes across the city will be wrapped with artwork by local artists of all ages, printed on vinyl. Designs will be made available for online voting. Deliverable Project completion.	2 hours	2 hours	August	Municipal Art Fund	
2.6 Percival Plinth Project Description: Annual exhibition of sculpture on Percival Landing, as well as long-range vision for permanent installation of People's Choice purchases. Deliverable: Program plinths for art exhibitions.	4 hours	4 hours	September	Municipal Art Fund	
2.7 Poet Laureate Description: Assist as needed to support program. Recruit new Poet Laureate Fall 2018. Deliverable: Poet Laureate program is supported and successful.	6 hours	6 hours	Ongoing	Municipal Art Fund	
2.8 Implementation of Temporary Display	6 hours	6 hours	Ongoing	Municipal Art	

<p>of Art at City Hall & Programming</p> <p>Description: Develop policy, programming, schedule, selection process and criteria for loaned, rotating exhibitions and concurrent presentations at City Hall.</p> <p>Deliverable: Placement of temporary art in City Hall.</p>				Fund	
<p>2.9 Olympia Art Crossings</p> <p>Description: In coordination with the Planning Commission, develop program, including advanced placemaking elements.</p> <p>Deliverable: Arts Crossings Call for Art and first project completed.</p>	10 hours	10 hours	December	Municipal Art Fund	
<p>2.10 Public Art Retrospective</p> <p>Description: Partner with the Washington Center for the Performing Arts (WCPA) and other community arts organizations to showcase the work of the City’s Arts Program through an exhibition during Arts Walk.</p> <p>Deliverable: Plan for a month-long arts exhibition at WCPA in April 2019.</p>	4 hours	4 hours	October	Municipal Art Fund	



City Council

Approval of a Resolution Approving the Drinking Water State Revolving Fund (DWSRF) Loan for the Elliott Reservoir Seismic Upgrades

Agenda Date: 8/21/2018
Agenda Item Number: 4.D
File Number: 18-0726

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

Title

Approval of a Resolution Approving the Drinking Water State Revolving Fund (DWSRF) Loan for the Elliott Reservoir Seismic Upgrades

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the resolution approving the Drinking Water State Revolving Fund Loan for the Elliott Reservoir Seismic Upgrades and authorize the City Manager to sign the loan contract in the amount of \$1,515,000.

Report

Issue:

Whether to approve the Drinking Water State Revolving Fund Loan for the Elliott Reservoir Seismic Upgrades.

Staff Contact:

Tom Swartout, P.E., Water Resources Engineer, Public Works Water Resources, 360.753.8441

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

The Drinking Water State Revolving Fund (DWSRF) makes funds available to drinking water systems to pay for infrastructure improvements. The DWSRF program provides federal and state funds through low-interest construction loans to publicly owned (municipal) and privately owned drinking water systems. These loans help pay for capital improvements that protect public health and improve compliance with drinking water regulations.

The Department of Health (DOH) awarded the City a \$1,515,000 DWSRF construction loan for a capital facilities project that will provide seismic retrofits to the Elliott Reservoir. The project will

assess the current condition of the Elliott Reservoir, and design and construct retrofits to bring the reservoir up to standard seismic codes. This work will protect the City's drinking water supply by mitigating the risk of the collapse of the reservoir in an earthquake event.

Once Council has approved the loan, we will put out a Request for Proposals for an engineering design consultant. Design should start in fall of 2018, with construction beginning in summer of 2019.

Options:

1. Approve resolution authorizing the DWSRF Loan for the Elliott Reservoir Seismic Upgrades and authorize the City Manager to sign the loan contract in the amount of \$1,515,000.
 - Project proceeds as planned. The City protects the drinking water supply for West Olympia by mitigating risk from future seismic activity.
 - Olympia's Water System Plan is followed, ensuring the City meets drinking water requirements for the Westside.
2. Do not approve the resolution, reject the loan and direct staff to investigate other potential funding sources for the project.
 - Investigating other potential funding sources will delay construction.

Financial Impact:

Total cost for this project is approximately \$1.5 million dollars. Funding for this project is through the Drinking Water Utility, largely with a low-interest loan from the Washington Drinking Water State Revolving Fund. The loan amount is \$1,515,000, financed at a 1.5% interest rate over 20 years. Loan payments of approximately \$88,000 will be due annually on October 1; the Drinking Water Utility has the funds to make these payments for the duration of the loan period. With the loan, there are sufficient funds in the budget to complete this project.

Attachments:

Resolution
Contract

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING
A DRINKING WATER STATE REVOLVING FUND LOAN AGREEMENT BETWEEN THE CITY OF
OLYMPIA AND WASHINGTON STATE DEPARTMENT OF HEALTH FOR ELLIOTT RESERVOIR
SEISMIC UPGRADES**

WHEREAS, the Drinking Water State Revolving Fund (DWSRF) makes funds available to drinking water systems to pay for infrastructure improvements; and

WHEREAS, the DWSRF program provides federal and state funds through low-interest construction loans for municipal owned drinking water systems to help pay for capital improvements that protect public health and improve compliance with drinking water regulations; and

WHEREAS, the Department of Health (DOH) awarded the City a \$1,515,000 DWSRF construction loan for a capital facilities project that will provide seismic retrofits to the Elliott Reservoir; and

WHEREAS, this project will assess the current condition of the Elliott Reservoir and design and construct retrofits to bring the reservoir up to standard seismic codes, which will protect the City's drinking water supply by mitigating the risk of the collapse of the reservoir in an earthquake event; and

WHEREAS, the DWSRF construction loan will cover the cost of the project;

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

1. The Olympia City Council hereby approves the form of DWSRF Loan Agreement between the City of Olympia and Department of Health for Elliott Reservoir Seismic Upgrades 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 DWSRF Loan 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 Loan Agreement, or to correct any scrivener's errors.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2018.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

1. CONTRACT FACE SHEET

2016 Loan Number: DWL23454
Washington State Department of Health (DOH)
Drinking Water State Revolving Fund (DWSRF)
Municipal

1. Borrower City of Olympia		2. Borrower Doing Business As (optional)	
3. Borrower Type Construction Loan		4. Borrower's Statutory Authority	
5. Borrower Contract Manager Information Tim Richardson, P.E., Engineer and Planning Manager PO Box 1967, Olympia, WA 98507 360-753-8749 trichard@ci.olympia.wa.us		6. DOH Contract Manager Eloise Rudolph, DOH Contract Manager PO BOX 47822, Olympia, WA 98504 360-236-3124 Eloise.Rudolph@doh.wa.gov	
7. Project Name Elliott Reservoir Seismic Upgrades (project# 2016-023)			
8. Loan Amount \$1,515,000.00	9. Funding Source Federal: <input checked="" type="checkbox"/> State: <input checked="" type="checkbox"/> Other: <input type="checkbox"/>	10. Start Date Date of Last Signature	11. End Date October 1, 2038
12. Federal Funding Agency Environmental Protection Agency Catalogue of Federal Assistance (CFDA) Number 66.468			
13. Borrower Tax ID # 91-6001261	14. Borrower Statewide Vendor # 0008653	15. Borrower UBI # 342 000 433	16. Borrower DUNS # 075732198
17. Contract Purpose DOH and the party identified above as Borrower, hereafter referred to as BORROWER, have entered into this contract to fund the project identified above that furthers the goals and objectives of the DOH DWSRF Program. The project will be done by the BORROWER as described in the scope of work and this contract. The rights and obligations of the parties are governed by this contract and the following documents incorporated by reference: General Terms and Conditions including Declarations; Attachment I: Scope of Work (Project); Attachment II Attorney's Certification; Attachment III: Federal and State Requirements; Attachment IV: Disadvantaged Business Enterprise Requirements; Attachment V: Certification Regarding Debarment, Suspension, and Other Responsibility Matters; Attachment VI: DWSRF Eligible Project Costs; and Attachment VII: Labor Standard Provisions for Sub recipients that are Governmental Entities. By the signature below, the parties acknowledge and accept the terms of this contract.			
AUTHORIZED REPRESENTATIVE OF BORROWER		AUTHORIZED REPRESENTATIVE OF DOH	
Signature _____ Date _____		Department of Health _____ Date _____	
Print Name _____		Print Name _____	
Title _____		Title _____	
<p style="color: blue; font-weight: bold;">APPROVED BY LEGAL</p> <p style="font-size: 1.2em; color: blue;"><i>Mark Barker</i> 8/9/2018</p> <p style="color: blue; font-weight: bold;">CITY ATTORNEY</p>		<p style="font-weight: bold;">APPROVED AS TO FORM ONLY</p> <p>Mark Calkins, AAG Signature on File _____</p>	

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3. DECLARATIONS

3.1. BORROWER INFORMATION

Legal Name: City of Olympia
Loan Number: DWL23454
Award Year: 2016
State Wide Vendor Number: 0008653

3.2. PROJECT INFORMATION (PROJECT)

Project Title: Elliot Reservoir Seismic Upgrades
Project Location (City or County): Thurston County
Project State: Washington
Project Zip Code: 98507

Project Scope of Work (PROJECT): Attachment I, attached hereto and incorporated by reference.

3.3. CONTRACT COMMUNICATION

Communications regarding Contract performance is delegated by each party to its Contract Manager. Either party may change its Contract Manager by express notice to the other party. Either party may identify on an as needed basis an alternate Contract Manager to serve during the stated temporary absence of its primary Contract Manager. Notices between the parties regarding Contract performance must be provided by written communication to the other party's Contract Manager. Written communication includes email but not voice mail. Notices are presumed received by the other party's Contract Manager upon evidence of delivery between the hours of 8:00 am to 5:00 pm except for state holidays and weekends.

3.4. LOAN INFORMATION

Loan Amount: **\$1,515,000.00**
Loan Fee (Included in loan amount if applicable): **\$15,000.00**
Principal Loan Forgiveness %: **0%**
Loan Term: 20 years
Interest Rate: 1.5%
Payment Month(s): **October 1st Annually**
Earliest Date for Construction Reimbursement: One year nine months prior to contract execution
Time of Performance: **24 months from Contract start date (date of last signature) to Project Completion date.**

Notice to Proceed: 18 months from Contract start date (date of last signature)

3.5. FUNDING INFORMATION

Total Funds from BORROWER: To be determined
Source(s) of Funds from Borrower, with assigned amounts per source: To be determined
Total State Funds: To be determined
Total Amount of Federal Award (as applicable): To be determined
Total Amount of Loan: **\$1,515,000.00**
Federal Award Date: To be determined
Federal Award ID # (FAIN): To be determined
Amount of Federal Funds Obligated by this Action: To be determined

3.6. SPECIAL TERMS AND CONDITIONS

N/A

4. GENERAL TERMS AND CONDITIONS

DRINKING WATER STATE REVOLVING FUND (MUNICIPAL)

4.1. AUTHORITY

Acting under the authority of Section 1452 of the Safe Drinking Water Act (SDWA) Section 130, RCW 39.34, RCW 43.70.040, and RCW 70.119A.170 the Washington State Department of Health (DOH) has awarded BORROWER a Drinking Water State Revolving Fund Loan (LOAN) for the project identified in the Declarations (PROJECT). Under this CONTRACT, BORROWER is a sub-recipient of funds provided by the United States Environmental Protection Agency (EPA), CFDA Number 66.468, Safe Drinking Water State Revolving Fund.

In some CONTRACT attachments, DOH is referred to as "Lender" and BORROWER is referred to as "Contractor."

4.2. FULL AGREEMENT

This CONTRACT contains the full agreement of the parties. No other understandings, oral or otherwise, regarding the subject matter of this CONTRACT exists.

4.3. ORDER OF PRECEDENCE

In the event of an inconsistency in this CONTRACT, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: The order of precedence for terms and conditions under categories B and C is subject to the proviso that when a contract term or condition appears in more than one contract document, the more specific contract term or condition shall control if the different contract provisions cannot be harmonized.

- A. Applicable local, state, and federal statutes and regulations
- B. Contract amendments
- C. The Contract (in this order)
 - Declarations and Special Terms and Conditions
 - General Terms and Conditions
 - Attachments I – VII

4.4. LOAN AMOUNT

DOH, using funds from the Drinking Water Assistance Account, will loan BORROWER a sum not to exceed the amount shown as LOAN AMOUNT in the Declarations. The LOAN AMOUNT shall not exceed one hundred percent (100%) of the actual eligible PROJECT costs.

4.5. LOAN FEE

If DOH assessed a LOAN FEE, it is shown in the Declarations as LOAN FEE and included in the total LOAN AMOUNT. The fee (if applicable) is one percent (1%) of the loan request and will not be reduced, regardless of the final LOAN AMOUNT at PROJECT completion. If the LOAN FEE applies and the total LOAN AMOUNT is increased by amendment, DOH will assess an additional LOAN FEE equal to one percent (1%) of the additional LOAN AMOUNT. LOAN FEES are non-refundable.

4.6. LOAN TERM

Unless changed by an amendment, the LOAN TERM will not exceed the period of time shown in the Declarations. The repayment period for DOH subsidized loans is twenty-four (24) years from this CONTRACT's start date. The repayment period for non-DOH subsidized loans is twenty (20) years from this CONTRACT's start date.

4.7. INTEREST RATE

The interest rate is stated in the Declarations. Interest is per annum on the outstanding principal balance and starts to accrue from the date DOH releases LOAN FUNDS to BORROWER. If BORROWER completes the PROJECT within twenty-four (24) months of the CONTRACT start date, DOH will reduce the LOAN INTEREST to one percent

(1%) at PROJECT completion. The reduced interest rate will apply to the remaining payments beginning from the date DOH approves the BORROWER's Project Completion Report.

4.8. LOAN FORGIVENESS

If the LOAN qualifies for LOAN Forgiveness, the percent of the LOAN balance that DOH will forgive at PROJECT completion is stated in the Declarations. DOH calculates the amount forgiven when DOH approves the BORROWER's Project Completion Report. The amount forgiven will be based on either the LOAN AMOUNT or BORROWER's ELIGIBLE PROJECT COSTS, whichever is less, and accrued interest.

4.9. RELEASE OF LOAN FUNDS AND REQUIRED DOCUMENTATION

DOH will release LOAN funds to BORROWER to reimburse BORROWER for eligible PROJECT costs. To request reimbursement, BORROWER must submit a signed and completed invoice using a form provided by DOH. The invoice must reference the PROJECT activity performed, and include supporting documentation such as bills, invoices, receipts, and documentation of compliance with CONTRACT requirements as requested by DOH. The invoice must be signed by an official of BORROWER with authority to bind BORROWER.

Invoices must also include a report of the progress made since the last invoice, and the PROJECT status to date. DOH will not release funds until the PROJECT status report and documentation are approved by DOH. Approval will not be unreasonably withheld or delayed. After approving the invoice, documentation, and PROJECT status report, DOH will release funds to BORROWER within thirty (30) days, if BORROWER is not in alleged or actual breach of CONTRACT.

DOH will withhold ten percent (10%) of LOAN funds until DOH confirms that BORROWER has successfully completed all steps for PROJECT COMPLETION. The 10% holdback will be available to BORROWER as part of the last LOAN disbursement.

4.10. TIME OF PERFORMANCE

BORROWER will begin the activities in the PROJECT within thirty (30) calendar days of the CONTRACT start date. BORROWER will issue a 'Notice to Proceed', after the formal award of a construction contract, within eighteen (18) months of the CONTRACT start date.

BORROWER must reach PROJECT COMPLETION within the TIME OF PERFORMANCE. If there are extenuating circumstances, BORROWER may request, in writing, at least ninety (90) calendar days prior to the PROJECT COMPLETION that DOH extend the deadline for PROJECT COMPLETION. At its discretion, DOH may issue an extension. DOH's decision is final and not subject to the dispute clause.

If BORROWER does not meet the requirements of this section, it is a breach of CONTRACT, and DOH may terminate or suspend this CONTRACT.

4.11. PROJECT COMPLETION AMENDMENT AND THE PROJECT COMPLETION REPORT

The PROJECT Completion Amendment determines the final LOAN AMOUNT and LOAN TERM. When activities in the PROJECT are complete, BORROWER will start the process for the PROJECT Completion Amendment by sending DOH the PROJECT Completion Report. In the PROJECT Completion Report, BORROWER will provide the following information to DOH:

- A. A statement of the actual dollar amount spent, from all fund sources, to complete the PROJECT.
- B. A statement that all ELIGIBLE PROJECT COSTS have been incurred. Costs are incurred when goods and services are received and/or contracted work is performed.
- C. Evidence showing BORROWER'S compliance with financial the audit requirements of this CONTRACT.
- D. An invoice for the remaining ELIGIBLE PROJECT COSTS.
- E. Documentation of BORROWER's compliance with National Historic Preservation Act, 54 USC Subtitle III.

4.12. LOAN PAYMENTS

BORROWER must begin repaying the LOAN no later than one (1) year after the CONTRACT start date. Payments are due on the first day of the month(s) shown as the PAYMENT MONTH(S) in the Declarations. The first payment is only the interest accrued at that time. All other payments are principal and interest accrued up to the PAYMENT MONTH(S).

BORROWER can repay in full the LOAN balance, including fees and repayment of LOAN FUNDS for ineligible project costs (if any), at any time or make accelerated payments without penalty. The final payment must be on or before the end of the LOAN TERM.

4.13. LOAN DEFAULT

DOH must receive BORROWER'S payment within thirty (30) calendar days of the due date. Late payments are delinquent and assessed a monthly penalty on the first (1st) day past the due date. The penalty is one percent (1%) of the late payment amount per month. Penalty and fees accrue interest at the rate stated as LOAN INTEREST in the Declarations.

DOH may notify any other entity, creditors, or potential creditors of BORROWER's delinquency. BORROWER is responsible for all attorney fees and costs incurred by DOH in any action taken to enforce its rights under this section, including in any alternative dispute resolution proceeding.

4.14. LOAN SECURITY

LOAN Security is only required if identified in the Declarations. In its sole discretion and if allowed under the EPA regulations relevant to this Contract, DOH may subordinate its LOAN security to Borrower's obligations under existing or future bonds and notes. Nothing in this section releases BORROWER from the obligation to make LOAN PAYMENTS when due, and to adjust rates, fees, or surcharges as necessary to meet its obligations under this CONTRACT.

4.15. AMENDMENTS, MODIFICATIONS, ASSIGNMENTS, AND WAIVERS

Amendments, modifications, assignments, and waivers to any of the terms of this CONTRACT supersede, if applicable, those terms as found in the original CONTRACT, and are not binding unless they are in writing and signed by representatives authorized to bind each of the parties. Only the authorized representative or their designee has the express, implied, or apparent authority to alter, amend, assign, modify, or waive any terms of this CONTRACT.

Neither this CONTRACT nor any claim arising under it may be transferred or assigned by BORROWER without DOH's prior written consent. During the LOAN TERM, DOH must approve in advance, any change in ownership of the water system(s) improved with LOAN FUNDS. DOH may require the LOAN, including fees and ineligible project costs (if any), be paid in full as a condition of approval.

Nothing in this CONTRACT may be waived unless approved by DOH in writing. No waiver of any default or breach is implied from any failure to take action upon such default or breach if the default of breach persists or repeats. Waiver of any default or breach is not a waiver of any subsequent default or breach.

4.16. AMERICAN IRON AND STEEL

None of the LOAN funds can be used for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used are produced in the United States. "Iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

DOH may waive this requirement if:

- A. Compliance would be inconsistent with the public interest; or
- B. The particular iron and steel products are not produced in the United States in sufficient and reasonably available quantities and are not of a satisfactory quality; or

- C. Inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than twenty-five (25) percent; and
- D. The waiver is approved by the Environmental Protection Agency (EPA).

BORROWER must submit the waiver request to DOH, which will submit it to EPA. The full text of the American Iron and Steel requirements can be found in H.R. 3547, Consolidated Appropriations Act, 2014, P.L. 113-76, SEC. 436.

4.17. ATTORNEYS' FEES

Unless expressly stated under another section of the CONTRACT, each party agrees to bear its own attorneys' fees and costs for litigation or other action brought to enforce the contract terms.

4.18. BONUS AND COMMISSION PAYMENTS NOT ALLOWED

Funds provided under this CONTRACT cannot be used to pay any bonus or commission to gain approval of the loan application or any other approval under this CONTRACT. This section does not prohibit paying for bona fide technical consultants, managerial, or other such services, if payment is for ELIGIBLE PROJECT COSTS.

4.19. COMPLIANCE

BORROWER will comply with all applicable federal, state and local laws, requirements, and ordinances for the design, implementation, and administration of the PROJECT and this CONTRACT, including but not limited to those stated in the CONTRACT attachments. BORROWER will provide DOH with documentation of compliance, if requested.

In the event of BORROWER's alleged or actual noncompliance with any part of this CONTRACT, DOH may suspend all or part of the CONTRACT, withhold payments, or prohibit BORROWER from incurring additional obligations of LOAN FUNDS during the investigation and pending corrective action by BORROWER, or a decision by DOH to terminate the CONTRACT.

4.20. DISPUTES

Except as otherwise provided in this CONTRACT, when a dispute arises between the parties that cannot be solved by direct negotiation, either party may request a dispute hearing with the Director of the Office of Drinking Water (the Director), who may designate a neutral person to decide the dispute. The parties will be equally responsible for any reasonable costs and fees incurred by the neutral.

The party requesting a dispute hearing must:

- A. Be in writing;
- B. State the disputed issues;
- C. State the relative positions of the parties;
- D. State BORROWER's name, address, and the CONTRACT number;
- E. Provide contact information for the requester's representative, and,
- F. Be mailed to the other party's (respondent's) Contract Manager within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent must send a written answer within five (5) working days.

In the alternative, the parties can agree to submit a mutual request to the Director, which should include each party's response to the other party's characterization of the dispute.

The Director or designee will review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties. The decision on the dispute is non-binding and is not admissible in any succeeding judicial or quasi-judicial proceeding.

This non-binding dispute process must precede any action in a judicial or quasi-judicial tribunal. Nothing in this CONTRACT limits the parties from using any mutually acceptable alternate dispute resolution (ADR) method in addition to or instead of the dispute hearing procedure outlined above.

4.21. ELIGIBLE PROJECT COSTS

BORROWER will comply with Attachment VI: DWSRF Eligible Project Costs and is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

The purchase of any land necessary for the PROJECT must be included in the PROJECT and be documented with an appraisal or equivalent market evaluation, if approved by DOH, and a valid purchase and sale agreement.

Construction expenses incurred after the date shown as earliest date for construction reimbursement in the Declarations are eligible for reimbursement. Requests for reimbursements for costs related to construction activities will not be accepted until BORROWER has met the following conditions:

- A. Completed the State Environmental Review Process (SEPA Review under RCW 43.21C);
- B. Complied with all provisions of the National Historic Preservation Act, 54 USC Subtitle III;
- C. Complied with Prevailing Wage requirements;
- D. Received approval from DOH of the project report and related construction documents for all applicable activities described in the PROJECT; and
- E. Complied with any other LOAN conditions required by DOH.

BORROWER cannot use LOAN FUNDS for any expenses charged by BORROWER against any other contract, subcontract, or source of funds.

If DOH reimburses BORROWER for costs that are later determined by DOH to be ineligible, BORROWER must repay these funds to DOH no later than when the BORROWER returns the PROJECT Completion Amendment to DOH. Prior to final completion, DOH may withhold payment for such costs as allowed under Section 4.36 RECAPTURE. Repayment is subject to interest retroactive to the date of the applicable disbursement by DOH.

4.22. FALSE, INCORRECT, OR INCOMPLETE INFORMATION OR CLAIM

BORROWER warrants that they have not and will not submit to DOH any information that is materially false, incorrect, or incomplete. Providing false, fictitious, or misleading information with respect to the receipt and disbursements of LOAN funds is a basis for criminal, civil, or administrative fines and/or penalties. DOH may also pursue applicable remedies for violations by BORROWER of this section.

4.23. FINANCIAL AUDIT

DOH may require BORROWER to obtain an audit of this PROJECT conforming to Generally Accepted Accounting Principles (GAAP). BORROWER will maintain its records and accounts to facilitate the audit. BORROWER is responsible for correcting any audit findings. BORROWER is responsible for any audit findings incurred by its own organization and/or its subcontractors. DOH reserves the right to recover from BORROWER all disallowed costs and INELEGIBLE PROJECT COSTS resulting from the audit.

The audit must include a report on compliance, including an opinion (or disclaimer of opinion) about whether the BORROWER is in compliance with laws, regulations and requirements of this CONTRACT that could have a direct and material effect on DOH.

BORROWER must send a copy of any required audit per 2 CFR §200.512 to the DOH Contract Manager, no later than nine (9) months after the end of BORROWER's fiscal year(s). BORROWER must send any audit corrective action plan for audit findings and a copy of the management letter, within three (3) months of the audit report.

4.24. GOVERNING LAW AND VENUE

This CONTRACT shall be construed and interpreted according to the laws of the state of Washington, and the venue of any action brought under the CONTRACT will be in the Superior Court for Thurston County.

4.25. HISTORICAL AND CULTURAL REQUIREMENTS

BORROWER will not conduct or authorize destructive PROJECT planning activities before completing the requirements of the National Historic Preservation Act, 54 USC Subtitle III. BORROWER will not begin construction

activities, ground disturbance, or excavation of any sort, until BORROWER has complied with all requirements of the National Historic Preservation Act of 1966, as amended.

If historical or cultural artifacts are discovered during the PROJECT, BORROWER will immediately stop construction and implement reasonable measures to protect the discovery site from further disturbance, take reasonable steps to ensure confidentiality of the discovery site, restrict access to the site, and notify the concerned tribe's cultural staff or committee, Tribal Historical Preservation Officer (THPO), DOH Contract Manager, and the State's Historical Preservation Officer (SHPO) at the Washington State Department of Archaeology and Historic Preservation (DAHP). If human remains are uncovered, BORROWER will report the presence and location of the remains to the local coroner and law enforcement immediately, then contact the concerned tribe's cultural staff or committee, DOH Contract Manager, and DAHP.

BORROWER is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural sites and artifacts and will hold harmless the state of Washington and DOH in relation to any claim related to historical or cultural sites discovered, disturbed, or damaged as a result of BORROWER'S and BORROWER's subcontractors activities.

BORROWER will include the requirements of this section in all contracts for work or services related to the PROJECT. BORROWER will require that bid documents include an inadvertent discovery plan that meets the requirements of this section.

4.26. INDEMNIFICATION

BORROWER agrees to defend, indemnify, and hold harmless DOH and the state of Washington for claims arising out of or incident to BORROWER'S or any BORROWER'S subcontractor's performance or failure to perform the CONTRACT. BORROWER'S obligation to indemnify, defend, and hold harmless DOH and the state of Washington shall not be eliminated or reduced by any actual or alleged concurrent negligence of DOH or its agents, agencies, employees and officials. BORROWER'S obligation to indemnify, defend and hold harmless DOH and the state of Washington includes any claim by BORROWER'S agents, employees, officers, subcontractors or subcontractor employees.

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

4.27. INDUSTRIAL INSURANCE COVERAGE

BORROWER will comply with the applicable parts of Title 51 RCW, Industrial Insurance. If BORROWER fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as required by law, DOH may collect from BORROWER the full amount payable to the Industrial Insurance Accident Fund. DOH may deduct the amount owed by BORROWER to the accident fund from the amount payable to BORROWER by DOH under this CONTRACT, and transmit the deducted amount to the Washington State Department of Labor and Industries (L&I).

4.28. LITIGATION

BORROWER warrants that there is no threatened or pending litigation, investigation, or legal action before any court, arbitrator, or administrative agency that, if adversely determined against BORROWER, would have a materially adverse effect on BORROWER'S ability to repay the LOAN. BORROWER agrees to promptly notify DOH if any above-referenced actions become known to BORROWER during the pendency of the Contract.

4.29. NONDISCRIMINATION

BORROWER will not discriminate on the basis of race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability in the performance of this CONTRACT. BORROWER will comply with all federal and state nondiscrimination laws, including, but not limited to Chapter 49.60 RCW, Washington's Law Against Discrimination and 42 USC 12101 et seq., the Americans with Disabilities Act (ADA), and 40 CFR Part 33 Participation by Disadvantaged Business Enterprises in US EPA Programs. Failure by BORROWER to carry out these requirements is a material breach of this CONTRACT. BORROWER is required to include these non-discriminatory provisions in any contract with a subcontractor.

4.30. PREVAILING WAGE

BORROWER will assure that all contractors and subcontractors performing work funded through this CONTRACT comply with prevailing wage laws by paying the higher of state or federal prevailing wages. BORROWER is legally and financially responsible for compliance with the prevailing wage requirements. BORROWER should consult the United States Department of Labor and Washington State Department of Labor and Industries websites to determine the federal and State prevailing wages that must be paid.

4.31. PROCUREMENT

BORROWER will comply with all procurement requirements for subcontracting for the PROJECT and for obtaining PROJECT-related goods and services. BORROWER must maintain records to verify compliance with procurement requirements.

BORROWER must ensure that all contractors, subcontractors, engineers, vendors, and any other entity for work or services listed in the PROJECT will insert in full, in any contract, the labor standards provisions in Attachment VIII: Labor Standard Provisions for Subrecipients That Are Governmental Entities.

4.32. PROHIBITION STATEMENT

Per Section 106 of the federal Trafficking Victims Protection Act, BORROWER`s contractors, subcontractors, engineers, vendors, and any other entity performing work funded by this CONTRACT must comply with and include the following terms and conditions in all contracts for work or services for the PROJECT.

“All forms of trafficking in persons, illegal sex trade, or forced labor practices are prohibited in the performance of this award or subawards under the award, or in any manner during the period of time that the award is in effect. This prohibition applies to you as the recipient, your employees, subrecipients under this award, and subrecipients’ employees.”

4.33. PROJECT SIGNS

If BORROWER displays, during the TIME OF PERFORMANCE, any signs or markers identifying parties that are providing funds for the PROJECT, BORROWER must include the Washington State Department of Health Drinking Water State Revolving Fund and the Washington State Department of Health as participants in the PROJECT.

4.34. PUBLICITY

BORROWER agrees to get prior written consent from DOH’s Contract Manager before publishing or using any advertising or publicity materials that include Washington State or DOH’s name, or includes language that may reasonably infer or imply a connection with either one.

4.35. RATES AND RESERVES

BORROWER will maintain reserves at a minimum as required by the Water System Plan or Small Water System Management Plan. BORROWER will timely adopt rate increases and/or capital assessments for the system’s services to provide sufficient funds, along with other revenues of the system, to pay all operating expenses and debt repayments during the LOAN TERM.

4.36. RECAPTURE

DOH reserves the right to recapture from BORROWER sufficient funds to compensate DOH for BORROWER’s noncompliance with any part of this CONTRACT, in addition to any other remedies available under the CONTRACT, at law, or in equity. DOH may withhold LOAN FUNDS from BORROWER to recapture such funds.

4.37. RECORDKEEPING AND ACCESS TO RECORDS

DOH, its agents, and authorized officials of the state and federal governments will have full access and the right to examine, copy, excerpt, or transcribe, at no additional cost and at all reasonable times, any pertinent documents, papers, records, and books of BORROWER and of persons, firms, or organizations with which BORROWER may contract, involving transactions related to this CONTRACT. BORROWER agrees to keep complete records of its compliance with this CONTRACT for a period of six (6) years from the date that the debt to DOH is paid in full. This includes but is not limited to financial reports. If any litigation, claim or audit is started before the expiration of the six (6) year period, BORROWER must keep the records until all litigation, claims or audit findings involving the records have been resolved. These records retention requirements are in addition to the local government records

retention schedules applicable to the BORROWER.

4.38. REGISTRATION WITH THE SYSTEM FOR AWARD MANAGEMENT (SAM)

BORROWER must comply with 48 CFR 52.204-7 to register with the System for Awards Management (SAM.gov). BORROWER is responsible for the accuracy and completeness of its data in the SAM database and any liability resulting from the Government or DOH reliance on inaccurate or incomplete data in it. BORROWER must remain registered in the SAM database. BORROWER should annually review its information in SAM to ensure it is accurate and complete.

4.39. SEVERABILITY

If any part of this CONTRACT or part of any document incorporated by reference is found to be invalid, it will not affect the other parts of this CONTRACT that can be given effect without the invalid part.

4.40. SUBCONTRACTING

Prior to awarding contracts and/or subcontracts, BORROWER must verify that the complete names of both the selected contractor and the owner or president are not in the Federal Excluded Parties List System for Ineligible Professionals and Debarred Contractors (www.SAM.gov). BORROWER must provide the DOH Contract Manager with a screen printout documenting that neither the firm, the owner or the president are excluded.

BORROWER will ensure that every contract and subcontract awarded for the PROJECT after the CONTRACT start date will bind the parties to follow all applicable terms of this CONTRACT. BORROWER is responsible to DOH for noncompliance by its contractors and/or subcontractors. BORROWER's contracts or subcontracts do not release or reduce the BORROWER's liability to DOH for any breach in the performance of BORROWER's duties. BORROWER's contracts and subcontracts must include a term that the state of Washington and DOH are not liable for claims or damages arising from a contractor and/or subcontractor's performance or lack thereof.

4.41. SURVIVAL

The CONTRACT's terms, conditions, and warranties that by its sense and context are intended to survive the completion of the performance, cancellation or termination of this CONTRACT, shall so survive.

4.42. TERMINATION FOR CAUSE

If DOH concludes that BORROWER has failed to comply with the CONTRACT requirements or has otherwise breached one or more parts of the CONTRACT, DOH may, at its discretion, upon notice to BORROWER, terminate or suspend the CONTRACT and/or its attached agreements in whole or in part.

The notice will be in writing and state the reason(s) for termination or suspension, and the effective date. The effective date will be determined by DOH. The notice will allow BORROWER at least thirty (30) business days to cure the breach, if curable. If the breach is not cured or cannot be cured within thirty (30) business days, the outstanding balance of the LOAN, with any interest accrued and other costs as authorized by the CONTRACT shall be due and payable to DOH.

If DOH terminates this CONTRACT under this section, DOH is liable only for payment required under the terms of this CONTRACT for ELIGIBLE PROJECT COSTS incurred prior to the effective date of termination.

At DOH's discretion, the termination for cause may be deemed a termination for convenience if DOH determines that the default or failure to perform was outside BORROWER's control, fault or negligence. The rights and remedies of DOH provided in this CONTRACT are not exclusive and are in addition to any other rights and remedies provided by law. Nothing in this section affects BORROWER's obligations to immediately repay the unpaid balance of the LOAN as prescribed in the Washington Administrative Code (WAC) 246-296-150.

4.43. TERMINATION OR SUSPENSION FOR CONVENIENCE

If funding or appropriation from state, federal, or other sources is withdrawn, reduced, or limited in any way during the TIME OF PERFORMANCE, DOH may:

- A. Delay or suspend releasing LOAN FUNDS until funding or appropriation are available to DOH; or
- B. Amend the CONTRACT to reflect the new funding limitations and conditions; or
- C. Terminate the CONTRACT and/or its attached agreements, in whole or in part; or
- D. Suspend the CONTRACT and/or its attached agreements, in whole or in part.

If DOH terminates the CONTRACT and/or its attached agreements in whole or in part, under this section, DOH will notify BORROWER's representative in writing of the reason(s) for termination, and the effective date. The effective date will be determined by DOH.

DOH may choose to suspend this CONTRACT and/or its attached agreements in whole or in part, if DOH determines that the funding insufficiency will likely be resolved in time for BORROWER to resume activities prior to the end of the TIME OF PERFORMANCE. DOH will notify BORROWER's representative by facsimile or email of the reason(s) for suspension, and the effective date. DOH will determine the effective date. BORROWER must suspend performance on the effective date of the suspension. During the period of suspension each party must notify the other party's representative of any conditions that may reasonably affect its ability to resume performance.

During the suspension, when DOH determines that the funding insufficiency is resolved, DOH may notify BORROWER's representative of the proposed date to resume performance. BORROWER must respond to DOH's representative in writing, within five (5) business days of DOH sending notice, as to whether it can resume performance on that date or offer an alternative date to resume performance. If BORROWER cannot resume performance or the alternative date is not acceptable to DOH, the parties agree the CONTRACT will be deemed terminated for convenience, retroactive to the original date of suspension.

If DOH terminates or suspends this CONTRACT, DOH is liable only for payment required under the terms of this CONTRACT for eligible project costs incurred prior to the effective date of suspension or termination. Nothing in this section shall affect Contractor's obligations to repay the unpaid balance of the LOAN. Nothing in this section affects BORROWER's obligation to repay the LOAN, including fees and other expenses as allowed by the CONTRACT.

4.44. TERMINATION PROCEDURES

When BORROWER receives Notice of Termination or on the date a suspension is converted to a termination, except as otherwise directed by DOH, BORROWER will:

- A. Stop work under the CONTRACT on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities related to the CONTRACT;
- C. If expressly requested by DOH, assign to DOH any or all of the rights, title, and interest of BORROWER under the orders and subcontracts so terminated, in which case DOH has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts. Any attempt by BORROWER to settle such claims must have the prior written approval of DOH; and
- D. Preserve and transfer any materials, CONTRACT deliverables and/or DOH property in BORROWER's possession as directed by DOH.

Upon termination of this CONTRACT, DOH will pay BORROWER for amounts due under the CONTRACT prior to the date of termination unless such payment is precluded under any other provision of this CONTRACT. DOH may withhold any amount due as DOH reasonably determines is necessary to protect DOH against potential loss or liability resulting from the termination. DOH will pay any withheld amount to BORROWER if DOH later determines that loss or liability will not occur.

4.45. WORK HOURS AND SAFETY STANDARDS

If this CONTRACT exceeds \$100,000, BORROWER must comply with the applicable Contract Work Hours and Safety Standards Act (40 USC Chapter 37). 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.

ATTACHMENT I: SCOPE OF WORK (PROJECT)

Project Description:

The Elliott Reservoir is located at the NW corner of Elliott Avenue and Cooper Crest NW, in the City of Olympia's 298 Pressure Zone. The reservoir has a capacity of 2.0MG (Million Gallons) and was built in 1975. The reservoir is a circular, cast-in-place concrete structure with a post-tensioned wall and conventionally reinforced roof slab, floor slab, footings and columns. The original plans do not indicate any design roof live loads, seismic, or soil loading criteria. At the time the tank was designed, there were no American Water Works Association (AWWA) standards for designing this type of tank. The first edition of AWWA D110 was published in 1986.

A structural engineer performed thorough seismic evaluations based on current codes in 2001 and 2011 to assess the condition of the reservoir and recommend seismic upgrades. These recommendations included adding columns under the roof slab to reduce unsupported spans, and adding drilled-in dowel bars between the roof slab and wall to transfer all lateral loads of the roof slab into the wall. Additional recommendations included adding a positive load path for passive soil resistance at the toe of the embankment around the tank to eliminate over stress in the seismic cables; this work would consist of a soldier pile retaining wall with up to 8 feet of backfill. The wall lagging will be treated timber or concrete.

The interior columns were found to be compromised by continuing corrosion of the spiral ties; the spiral ties provide stability and confinement to the vertical reinforcement, and structural integrity of the concrete core to the column in a seismic event. In addition, this corrosion may be transmitted to the vertical bars, thus compromising the vertical load carrying capacity of the columns. The proposed repair of the columns is wrapping the lower 4 to 6 feet of all columns with Carbon Fiber Reinforced Plastic (CFRP), and wrapping the remaining portion of the columns with Glass Fiber Reinforced Plastic (GFRP). The CFRP would act to supplement up to 10% average loss of material of the existing spiral ties, depending on the level of deterioration when it is exposed. The GFRP would serve as damage protection for that portion of the column.

This work will require draining the reservoir and would be scheduled in the winter during low water demands. The City will develop contingency plan to deal with any unusual water demands during the time the reservoir is out of service.

The City will hire an engineering consultant to review the previous seismic upgrade recommendations and design the final seismic upgrades based on the most current seismic codes and methods.

Scope of Work:

Project to include seismic upgrades to the existing 2.0 MG Elliott Reservoir located at the NW corner of Elliott Avenue and Cooper Crest NW, in the City of Olympia's 298 Pressure Zone. Improvements may include, depending on structural analysis and final design:

- Adding columns under the roof slab to reduce unsupported spans, and adding drilled-in dowel bars between the roof slab and wall to transfer all lateral loads of the roof slab into the wall.
- Installation of a soldier pile retaining wall with up to 8 feet of backfill at the toe of the embankment around the tank to eliminate over stress in the seismic cables. The wall lagging will be treated timber or concrete.
- Repair of interior columns by wrapping the lower 4 to 6 feet of all columns with Carbon Fiber Reinforced Plastic (CFRP), and wrapping the remaining portion of the columns with Glass Fiber Reinforced Plastic (GFRP).

In addition to costs of construction, costs may include (but are not limited to): engineering, design, construction inspection, geotechnical and soils work, cultural and environmental review, permits, public involvement, preparation of bid documents, fees, taxes, legal, administrative, and audit.

Project Costs by Cost Category:

COST CATEGORY	CURRENT ESTIMATES
Engineering Report (Preliminary Engineering):	\$15,000.00
Environmental Review:	\$5,000.00
Historical Review/Cultural Review:	\$5,000.00
Land/ROW Acquisition:	\$
Permits:	\$5,000.00
Public Involvement/Information:	\$10,000.00
Bid Documents (Design Engineering):	\$320,400.00
Construction: Estimated Cost. Provide details on following pages.	\$950,000.00
DOH Review/Approval Fees:	\$6,000.00
Contingency: (10% min, 20% max):	\$95,000.00
Other: (Sales or Use Taxes):	\$83,600.00
Construction Engineering/Inspection:	\$
Insurance:	\$
Audit:	\$5,000.00
Legal:	\$
Service Meters:	\$
Other:	\$
Other:	\$
Other:	\$
TOTAL ESTIMATED PROJECT COSTS (before Loan Fee)	\$1,500,000.00
Loan Fee (1% of the DWSRF Loan Request)	\$15,000.00

ATTACHMENT II: ATTORNEY'S CERTIFICATION

DRINKING WATER STATE REVOLVING FUND (MUNICIPAL)

I, MARK BARBER, hereby certify:

I am an attorney at law admitted to practice in the state of Washington and the duly appointed attorney of BORROWER identified in the Declarations of the Contract identified above; and

I have also examined any and all documents and records, which are pertinent to the Contract, including the application requesting this financial assistance.

Based on the foregoing, it is my opinion that:

1. BORROWER is a public body, properly constituted and operating under the laws of the State of Washington, empowered to receive and expend federal, state and local funds, to contract with the state of Washington, and to receive and expend the funds involved to accomplish the objectives set forth in its application.
2. BORROWER is empowered to accept the Drinking Water State Revolving Fund financial assistance and to provide for repayment of the loan as set forth in the loan agreement.
3. There is currently no litigation in existence seeking to enjoin the commencement or completion of the above-described public facilities project or to enjoin BORROWER from repaying the Drinking Water State Revolving Fund loan extended by DOH with respect to such project. BORROWER is not a party to litigation, which will materially affect its ability to repay such loan on the terms contained in the loan agreement.
4. Assumption of this obligation would not exceed statutory and administrative rule debt limitations applicable to BORROWER.

Mark Barber
Signature of Attorney

8/9/2018
Date

MARK E. BARBER #8379
Name and BAR Number (WSBA No.)

601- 4th AVE E, OLYMPIA, WA 98501
Address

ATTACHMENT III: FEDERAL AND STATE REQUIREMENTS (NOT ALL INCLUSIVE)

1) Environmental and Cultural Authorities

- a) Archeological and Historic Preservation Act of 1974, Public Law 86-523 as amended
- b) Clean Air Act, Public Law 84-159 as amended
- c) Coastal Zone Management Act, Public Law 92-583 as amended
- d) Endangered Species Act, Public Law 93-205 as amended
- e) Environmental Justice, Executive Order 12898
- f) Floodplain Management, Executive Order 11988 as amended by Executive Order 12148
- g) Protection of Wetlands, Executive Order 11990
- h) Farmland Protection Policy Act, Public Law 97-98
- i) Fish and Wildlife Coordination Act, Public Law 85-624 as amended
- j) National Historic Preservation Act, 54 USC Subtitle III
- k) Safe Drinking Water Act, Public Law 93-523 as amended
- l) Wild and Scenic Rivers Act, Public Law 90-542 as amended
- m) Washington State Environmental Policy Act, Chapter 43.21C RCW
- n) Native American Graves Protection and Repatriation Act, Archaeological Resources Protection Act, Revised Code of Washington (RCW) 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and Washington Administrative Code (WAC) 25-48 regarding Archaeological Excavation and Removal Permits.

2) Economic and Miscellaneous Authorities

- a) Demonstration Cities and Metropolitan Development Act of 1996, Public Law 89-754 as amended, Executive Order 12372
- b) Procurement Prohibitions under Section 306 of the Clean air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans
- c) Uniform Relocation and Real Property Policies Act, Public Law 91-646 as amended
- d) Debarment and Suspension, Executive Order 12549
- e) H.R. 3547, Consolidated Appropriations Act, 2014.

3) Social Policy Authorities

- a) Age Discrimination Act of 1975, Public Law 94-135
- b) Title VI of the Civil Rights Act of 1964, Public Law 88-352
- c) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500 (the Clean Water Act)
- d) Section 504 of the Rehabilitation Act of 1973, Public Law 93-112 (including Executive Orders 11914 and 11250)
- e) Equal Employment Opportunity, Executive Order 11246
- f) Disadvantaged Business Enterprise, Public Law 101-549 (the Clean Air Act), and Public Law 102-389 (the Clean Water Act)
- g) Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Public Law 100-590
- h) Chapter 49.60 RCW, Washington's Law against Discrimination, and 42 USC 12101 et seq. the Americans with Disabilities Act (ADA).
- i) The Contract Work Hours and Safety Standards Act (40 USC 327-333)-Where applicable.
- j) The Genetic Information Nondiscrimination Act of 2008 (GINA), 42 USC s. 2000ff et seq.

4) State Laws

- a) Chapter 36.70A RCW, Growth Management Act
- b) Chapter 39.80 RCW, Contracts for Architectural and Engineering Services
- c) Chapter 39.12 RCW, Washington State Public Works Act
- d) Chapter 43.20 RCW, State Department of Health of Health
- e) Chapter 43.70 RCW, Department of Health
- f) Chapter 43.155 RCW, Public Works Project
- g) Chapter 70.116 RCW, Public Water Systems Coordination Act of 1977
- h) Chapter 70.119 RCW, Public Water Supply Systems Certification and Regulation of Operations
- i) Chapter 70.119A RCW, Public Water Systems, Penalties & Compliances
- j) Chapter 246-290 WAC, Group A Public Water Systems

- k) Chapter 246-291 WAC, Group B Public Water Systems
- l) Chapter 246-292 WAC, Waterworks Operator Certification Regulations
- m) Chapter 246-293 WAC, Water Systems Coordination Act
- n) Chapter 246-294 WAC, Drinking Water Operating Permits
- o) Chapter 246-295 WAC, Satellite System Management Agencies
- p) Chapter 246-296 WAC Drinking Water State Revolving Fund Loan Program
- q) Chapter 173-160 WAC, Minimum Standards for Construction & Maintenance of Wells
- r) Title 173 WAC, Department of Ecology Rules
- s) Title 40 Part 141 Code of Federal Regulations, Federal National Primary Drinking Water Regulations (Section Adopted by Reference)

ATTACHMENT IV: DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

GENERAL COMPLIANCE, 40 CFR, Part 33

BORROWER must comply with the requirements of Environmental Protection Agency's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under this Contract, contained in 40 CFR, Part 33. BORROWER will use the directory of certified firms available through the Washington State Office of Minority and Women's Business Enterprises to meet the requirements.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

The following are exemptions from the fair share objective Requirements:

- Grant and loan recipients receiving a total of \$250K or less in EPA financial assistance in a given fiscal year.
- Tribal recipients of Performance Partnership Eligible grants under 40 CFR Part 35, Subpart B.
 - There is a 3-year phase in period for the requirement to negotiate fair share goals for Tribal and Insular Area recipients.
- Recipients of Technical Assistance Grants.

The Fair Share Objectives or goals for the utilization of disadvantaged businesses negotiated with EPA by the WA Office of Minority Women Business are stated below.

Construction	10% MBE	6% WBE
Supplies	8% MBE	4% WBE
Equipment	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE

BORROWER must accept the fair share objectives/goals stated above and purchase the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as WA Office of Minority Women Business goals.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, BORROWER will make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply.

Records documenting compliance with the six good faith efforts shall be retained. The six good faith efforts shall include:

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

MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503

BORROWER is required to submit MBE/WBE participation reports to DOH, on a quarterly basis, beginning with the Federal fiscal year reporting period BORROWER receives the award and continuing until the project is completed.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

BORROWER agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BORROWER agrees to require all general contractors to provide forms: EPA Form 6100-2 DBE Subcontractor Participation Form and EPA Form 6100-3 DBE Subcontractor Performance Form to all its Disadvantaged Business Enterprise subcontractors, engineers, vendors, and any other entity for work or services listed in the PROJECT. These two (2) forms may be obtained from the EPA Office of Small Business Program's website on the internet at <http://www.epa.gov/osbp/grants.htm>.

BORROWER agrees to require all general contractors to complete and submit to BORROWER and Environmental Protection Agency EPA Form 6100-4 DBE Subcontractor Utilization Form beginning with the Federal fiscal year reporting period BORROWER receives the award and continuing until the project is completed. Only procurements with certified MBE/WBEs are counted toward a Contractor's MBE/WBE accomplishments.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

BORROWER is also required to create and maintain a bidders list if BORROWER of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

Section 33.501(b) of the rule is as follows:

A recipient of a Continuing Environmental Program Grant or other annual grant must create and maintain a bidders list. In addition, a recipient of an EPA financial assistance agreement to capitalize a revolving loan fund also must require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. The purpose of a bidders list is to provide the recipient and entities receiving identified loans who conduct competitive bidding with as accurate a database as possible about the universe of MBE/WBE and non-MBE/WBE prime and subcontractors. The list must include all firms that bid or quote on prime contracts or bid or quote on subcontracts under EPA assisted projects, including both MBE/WBEs.

The bidders list must be kept until the grant project period has expired and the recipient is no longer receiving EPA funding under the grant. For entities receiving identified loans, the bidders list must be kept until the project period for the identified loan has ended. The following information must be obtained from all prime and subcontractors:

- (1) Entity's name with point of contact;
- (2) Entity's mailing address, telephone number, and e-mail address;
- (3) The procurement on which the entity bid or quoted, and when; and
- (4) Entity's status as a MBE/WBE¹ or non-MBE/WBE.

The exemption found at § 33.501(c) is as follows:

A recipient of an EPA financial assistance agreement in the amount of \$250,000 or less for any single assistance agreement, or of more than one financial assistance agreement with a combined total of \$250,000 or less in any one fiscal year, is exempt from the paragraph (b) of this section requirement to create and maintain a bidders list. Also, a recipient under the CWSRF, DWSRF, or BCRLF Program is not required to apply the paragraph (b) of this section bidders list requirement of this subpart to an entity receiving an identified loan in an amount of \$250,000 or less, or to an entity receiving more than one identified loan with a combined total of \$250,000 or less in any one fiscal year. This exemption is limited to the paragraph (b) of this section bidders list requirements of this subpart.

¹ Qualified Women and Minority business enterprises may be found on the Internet at www.omwbe.wa.gov or by contacting the Washington State Office of Minority and Women's Enterprises at 360-704-1181.

ATTACHMENT V: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS



United States Environmental Protection Agency
Washington, DC 20460

EPA Project Control Number

The terms, "covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded", as used in this attachment, are defined in the rules implementing Executive Order 12549, including 13 CFR § 400.109. You may contact DOH for help getting a copy of these regulations.

BORROWER, defined as the primary participant and its principals, certifies by signing below that to the best of its knowledge and belief they:

- 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 (3) period preceding this CONTRACT, been convicted of or had a civil judgment against them for commission of 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 embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses described in this attachment; and,
- D. Have not within a three-year period (3) preceding the signing of this CONTRACT had one or more public transactions (federal, state, or local) terminated for cause or default.

Prior to awarding contracts for the PROJECT, BORROWER must verify that neither the contractor's business name(s) nor the names of its principals are in the Federal Excluded Parties List System for Ineligible Professionals and Debarred Contractors (www.SAM.gov). BORROWER must keep documentation in the PROJECT files and provide a copy to the DOH Contract Manager.

BORROWER will include the language below without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

The lower tier contractor certifies, by signing this CONTRACT that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

I understand that a false statement on this certification may be ground for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine or imprisonment for up to 5 years, or both.

Typed or Printed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

I am unable to certify to the above statements. My explanation is attached.

ATTACHMENT VI: DWSRF ELIGIBLE PROJECT COSTS

Must be directly attributable to the project.

1. The costs for complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
2. DWSRF loan fees.
3. The purchase of a portion of another system's capacity, if it is the most cost effective solution (limited to publicly owned (municipal) systems).
4. Construction of reservoirs (clear wells) that are part of the treatment process and are collocated with the treatment facility.
5. Construction of distribution reservoirs (finished water).
6. Cost associated with restructuring or consolidation of existing water systems by publicly owned water systems.
7. Main extensions to connect to safe and reliable sources of drinking water.
8. Cost associated with collecting and preparing environmental assessment documents to obtain local permits.
9. Direct labor including related employee benefits:
 - a. Salaries and wages (at actual or average rates) covering productive labor hours of employees of the borrower (excluding the administrative organization of the operating unit involved) for periods of time actively or incidentally engaged in pre-design engineering, design engineering, construction engineering, acquisition of rights of way, and the cleaning, sterilization or bacteriological testing of water system components prior to public use. The costs of services rendered by employees generally classified as administration/project management of the loan are considered a direct cost only when such employees are assigned the types of services described above and shall be limited to 3% or less of the project loan amount.
 - b. Employee benefits relating to labor are considered a direct cost of construction projects. The following items may be included as employee benefits:
 - F.I.C.A. (Social Security) –employer's share.
 - Retirement benefits.
 - Hospital, health, dental, and other welfare insurance.
 - Life insurance.
 - Industrial and medical insurance.
 - Vacation.
 - Holiday.
 - Sick leave.
 - Military leave and jury duty.

Employee benefits must be calculated as a percentage of direct labor dollars. The

- c. Other than work identified in Number 9.a, no costs associated with labor performed by the borrower's employees, including force account work, are eligible for financing assistance.
10. Contract engineering, planning, design, legal, and financial planning services. The Department of Health reserves the right to declare ineligible legal costs that are unreasonable and disproportionate to the project.
11. Contract construction work.
12. Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county-owned equipment, at the rental rates established by the local government's "equipment rental and revolving fund" following the methods prescribed by the division of municipal corporations. However, such costs must be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities with a population of eight thousand or less not using this type of fund are allowed the same rates as used by the State Department of Transportation.
13. Direct materials and supplies.
14. Other direct costs incurred for materials or services acquired for a specific project are eligible costs and may include, but are not limited to such items as:
 - a. Telephone charges.
 - b. Reproduction and photogrammetry costs.
 - c. Video and photography for project documentation.
 - d. Computer usage.
 - e. Printing and advertising.
15. Other project related costs include:
 - Competitive Bidding.
 - Audit.
 - Insurance.
 - Prevailing wages.
 - Attorney fees.
 - Environmental Review.
 - Archaeological Survey.

Water system plan costs are not eligible for reimbursement. Small water system management program and plan amendments costs are eligible for reimbursement.

Projects may be designed to accommodate reasonable growth. This is generally the 20-year projection included in the system's water system plan or small water system management program.

ATTACHMENT VII: LABOR STANDARD PROVISIONS FOR SUBRECIPIENTS THAT ARE GOVERNMENTAL ENTITIES

Wage Rate Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)

Preamble

With respect to the Clean Water and Safe Drinking Water State Revolving Funds, EPA provides capitalization grants to each state which in turn provides subgrants or loans to eligible entities within the state. Typically, the subrecipients are municipal or other local governmental entities that manage the funds. For these types of recipients, the provisions set forth under Roman Numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Occasionally, the subrecipient may be a private for profit or not for profit entity. For these types of recipients, the provisions set forth in Roman Numeral II, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section II-3(ii)(A), below and for compliance as described in Section II-5.

I. Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)

For Subrecipients That Are Governmental Entities:

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under the FY 2013 Continuing Resolution with respect to State recipients and subrecipients that are governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact Department of Health. If a State recipient needs guidance, they may obtain additional guidance from DOL's web site at <http://www.dol.gov/whd/>.

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the FY 2013 Continuing Resolution, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

- (i) While the solicitation remains open, the subrecipient shall monitor www.wdol.gov weekly to ensure that the wage determination contained in the solicitation remains current. The subrecipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the subrecipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.
- (ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c) (3) (iv). The subrecipient shall monitor www.wdol.gov on a weekly

basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2013 Continuing Resolution, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Borrower and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing

apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually

registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The Borrower must comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The Borrower and/or subcontractor must insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes will be resolved according to the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, Borrower certifies that neither it (nor he or she) nor any person or firm who has an interest in the Borrower's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

4. Contract Provision for Contracts in Excess of \$100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the

contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB.

Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the Department of Health and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/contacts/whd/america2.htm>.



City Council

Approval of a Resolution Approving the Drinking Water State Revolving Fund (DWSRF) Loan for the Fir Street Reservoirs 1 and 2 Seismic Upgrades

Agenda Date: 8/21/2018
Agenda Item Number: 4.E
File Number: 18-0727

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

Title

Approval of a Resolution Approving the Drinking Water State Revolving Fund (DWSRF) Loan for the Fir Street Reservoirs 1 and 2 Seismic Upgrades

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the resolution approving the Drinking Water State Revolving Fund Loan for the Fir Street Reservoirs #1 & #2 Seismic Upgrades and authorize the City Manager to sign the loan contract in the amount of \$1,515,000.

Report

Issue:

Whether to approve the Drinking Water State Revolving Fund Loan for the Fir Street Reservoirs #1 & #2 Seismic Upgrades.

Staff Contact:

Tom Swartout, P.E., Water Resources Engineer, Public Works Water Resources, 360.753.8441

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

The Drinking Water State Revolving Fund (DWSRF) makes funds available to drinking water systems to pay for infrastructure improvements. The DWSRF program provides federal and state funds through low-interest construction loans to publicly owned (municipal) and privately owned drinking water systems. These loans help pay for capital improvements that protect public health and improve compliance with drinking water regulations.

The Department of Health (DOH) awarded the City a \$1,515,000 DWSRF construction loan for a capital facilities project that will provide seismic retrofits to the Fir Street Reservoirs #1 & #2. The project will assess the current condition of the Fir Street Reservoirs, design and construct retrofits to bring the reservoirs up to current standard seismic codes, and rehabilitate the adjacent McCormick Valve House. This work will protect the City's drinking water supply by mitigating the risk of a collapse of the reservoirs in an earthquake event.

Once Council has approved the loan, we will put out a Request for Proposals for an engineering design consultant. Design should start in fall of 2018, with construction beginning in summer of 2019.

Options:

1. Approve the resolution authorizing the DWSRF Loan for the Fir Street Reservoirs #1 & #2 Seismic Upgrades and authorize the City Manager to sign the loan contract in the amount of \$1,515,000.
 - Project proceeds as planned. The City protects the drinking water supply by mitigating risk from future seismic activity.
 - Olympia's Water System Plan is followed, ensuring the City meets drinking water requirements.
2. Do not approve the resolution, reject the loan and direct staff to investigate other potential funding sources for the project.
 - Investigating other potential funding sources will delay construction.

Financial Impact:

Total cost for this project is approximately \$1.5 million dollars. Funding for this project is through the Drinking Water Utility, largely with a low-interest loan from the Washington Drinking Water State Revolving Fund. The loan amount is \$1,515,000, financed at a 1.5% interest rate over 20 years. Loan payments of approximately \$88,000 will be due annually on October 1; the Drinking Water Utility has the funds to make these payments for the duration of the loan period. With the loan, there are sufficient funds in the budget to complete this project.

Attachments:

Resolution
Contract

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING
A DRINKING WATER STATE REVOLVING FUND LOAN AGREEMENT BETWEEN THE CITY OF
OLYMPIA AND WASHINGTON STATE DEPARTMENT OF HEALTH FOR FIR STREET RESERVOIRS
#1 AND #2 SEISMIC UPGRADES**

WHEREAS, the Drinking Water State Revolving Fund (DWSRF) makes funds available to drinking water systems to pay for infrastructure improvements; and

WHEREAS, the DWSRF program provides federal and state funds through low-interest construction loans for municipal owned drinking water systems to help pay for capital improvements that protect public health and improve compliance with drinking water regulations; and

WHEREAS, the Department of Health (DOH) awarded the City a \$1,515,000 DWSRF construction loan for a capital facilities project that will provide seismic retrofits to the Fir Street Reservoirs #1 and #2; and

WHEREAS, this project will assess the current condition of the Fir Street Reservoirs, design and construct retrofits to bring the reservoir up to standard seismic codes, and rehabilitate the adjacent McCormick Valve House which will protect the City's drinking water supply by mitigating the risk of the collapse of the reservoir in an earthquake event; and

WHEREAS, the DWSRF construction loan will cover the cost of the project;

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

1. The Olympia City Council hereby approves the form of DWSRF Loan Agreement between the City of Olympia and Department of Health for Fir Street Reservoirs #1 and #2 Seismic Upgrades 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 DWSRF Loan 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 Loan Agreement, or to correct any scrivener's errors.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2018.

MAYOR

ATTEST:

CITY CLERK


APPROVED AS TO FORM:



CITY ATTORNEY

1. CONTRACT FACE SHEET

2016 Loan Number: DWL23455
Washington State Department of Health (DOH)
Drinking Water State Revolving Fund (DWSRF)
Municipal

1. Borrower City of Olympia		2. Borrower Doing Business As (optional)	
3. Borrower Type Construction Loan		4. Borrower's Statutory Authority	
5. Borrower Contract Manager Information Tim Richardson, P.E., Engineer and Planning Manager PO Box 1967, Olympia, WA 98507 360-753-8749 <u>trichard@ci.olympia.wa.gov</u>		6. DOH Contract Manager Eloise Rudolph, DOH Contract Manager PO BOX 47822, Olympia, WA 98504 360-236-3124 <u>Eloise.Rudolph@doh.wa.gov</u>	
7. Project Name Fir Street Reservoirs No. 1 & No. 2 Seismic Upgrades (project# 2016-024)			
8. Loan Amount \$1,515,000.00	9. Funding Source Federal: <input checked="" type="checkbox"/> State: <input checked="" type="checkbox"/> Other: <input type="checkbox"/>	10. Start Date Date of Last Signature	11. End Date October 1, 2038
12. Federal Funding Agency Environmental Protection Agency Catalogue of Federal Assistance (CFDA) Number 66.468			
13. Borrower Tax ID # 91-6001261	14. Borrower Statewide Vendor # 0008653	15. Borrower UBI # 342 000 433	16. Borrower DUNS # 075732198
17. Contract Purpose DOH and the party identified above as Borrower, hereafter referred to as BORROWER, have entered into this contract to fund the project identified above that furthers the goals and objectives of the DOH DWSRF Program. The project will be done by the BORROWER as described in the scope of work and this contract. The rights and obligations of the parties are governed by this contract and the following documents incorporated by reference: General Terms and Conditions including Declarations; Attachment I: Scope of Work (Project); Attachment II Attorney's Certification; Attachment III: Federal and State Requirements; Attachment IV: Disadvantaged Business Enterprise Requirements; Attachment V: Certification Regarding Debarment, Suspension, and Other Responsibility Matters; Attachment VI: DWSRF Eligible Project Costs; and Attachment VII: Labor Standard Provisions for Sub recipients that are Governmental Entities. By the signature below, the parties acknowledge and accept the terms of this contract.			
AUTHORIZED REPRESENTATIVE OF BORROWER _____ Signature Date _____ Print Name _____ Title		AUTHORIZED REPRESENTATIVE OF DOH _____ Department of Health Date _____ Print Name _____ Title	
 APPROVED BY LEGAL CITY ATTORNEY		APPROVED AS TO FORM ONLY Mark Calkins, AAG Signature on File	

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3. DECLARATIONS

3.1. BORROWER INFORMATION

Legal Name: City of Olympia
Loan Number: DWL23455
Award Year: 2016
State Wide Vendor Number: 0008653

3.2. PROJECT INFORMATION (PROJECT)

Project Title: Fir Street Reservoirs No. 1 & No. 2 Seismic Upgrades
Project Location (City or County): Thurston County
Project State: Washington
Project Zip Code: 98507

Project Scope of Work (PROJECT): Attachment I, attached hereto and incorporated by reference.

3.3. CONTRACT COMMUNICATION

Communications regarding Contract performance is delegated by each party to its Contract Manager. Either party may change its Contract Manager by express notice to the other party. Either party may identify on an as needed basis an alternate Contract Manager to serve during the stated temporary absence of its primary Contract Manager. Notices between the parties regarding Contract performance must be provided by written communication to the other party's Contract Manager. Written communication includes email but not voice mail. Notices are presumed received by the other party's Contract Manager upon evidence of delivery between the hours of 8:00 am to 5:00 pm except for state holidays and weekends.

3.4. LOAN INFORMATION

Loan Amount: **\$1,515,000.00**
Loan Fee (Included in loan amount if applicable): **\$15,000.00**
Principal Loan Forgiveness %: **0%**
Loan Term: **20 years**
Interest Rate: **1.5%**
Payment Month(s): **October 1st Annually**
Earliest Date for Construction Reimbursement: **One year nine months prior to contract execution**
Time of Performance: **24 months from Contract start date (date of last signature) to Project Completion date.**

Notice to Proceed: 18 months from Contract start date (date of last signature)

3.5. FUNDING INFORMATION

Total Funds from BORROWER: To be determined
Source(s) of Funds from Borrower, with assigned amounts per source: To be determined
Total State Funds: To be determined
Total Amount of Federal Award (as applicable): To be determined
Total Amount of Loan: **\$1,515,000.00**
Federal Award Date: To be determined
Federal Award ID # (FAIN): To be determined
Amount of Federal Funds Obligated by this Action: To be determined

3.6. SPECIAL TERMS AND CONDITIONS

N/A

4. GENERAL TERMS AND CONDITIONS

DRINKING WATER STATE REVOLVING FUND (MUNICIPAL)

4.1. AUTHORITY

Acting under the authority of Section 1452 of the Safe Drinking Water Act (SDWA) Section 130, RCW 39.34, RCW 43.70.040, and RCW 70.119A.170 the Washington State Department of Health (DOH) has awarded BORROWER a Drinking Water State Revolving Fund Loan (LOAN) for the project identified in the Declarations (PROJECT). Under this CONTRACT, BORROWER is a sub-recipient of funds provided by the United States Environmental Protection Agency (EPA), CFDA Number 66.468, Safe Drinking Water State Revolving Fund.

In some CONTRACT attachments, DOH is referred to as "Lender" and BORROWER is referred to as "Contractor."

4.2. FULL AGREEMENT

This CONTRACT contains the full agreement of the parties. No other understandings, oral or otherwise, regarding the subject matter of this CONTRACT exists.

4.3. ORDER OF PRECEDENCE

In the event of an inconsistency in this CONTRACT, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: The order of precedence for terms and conditions under categories B and C is subject to the proviso that when a contract term or condition appears in more than one contract document, the more specific contract term or condition shall control if the different contract provisions cannot be harmonized.

- A. Applicable local, state, and federal statutes and regulations
- B. Contract amendments
- C. The Contract (in this order)
 - Declarations and Special Terms and Conditions
 - General Terms and Conditions
 - Attachments I – VII

4.4. LOAN AMOUNT

DOH, using funds from the Drinking Water Assistance Account, will loan BORROWER a sum not to exceed the amount shown as LOAN AMOUNT in the Declarations. The LOAN AMOUNT shall not exceed one hundred percent (100%) of the actual eligible PROJECT costs.

4.5. LOAN FEE

If DOH assessed a LOAN FEE, it is shown in the Declarations as LOAN FEE and included in the total LOAN AMOUNT. The fee (if applicable) is one percent (1%) of the loan request and will not be reduced, regardless of the final LOAN AMOUNT at PROJECT completion. If the LOAN FEE applies and the total LOAN AMOUNT is increased by amendment, DOH will assess an additional LOAN FEE equal to one percent (1%) of the additional LOAN AMOUNT. LOAN FEES are non-refundable.

4.6. LOAN TERM

Unless changed by an amendment, the LOAN TERM will not exceed the period of time shown in the Declarations. The repayment period for DOH subsidized loans is twenty-four (24) years from this CONTRACT's start date. The repayment period for non-DOH subsidized loans is twenty (20) years from this CONTRACT's start date.

4.7. INTEREST RATE

The interest rate is stated in the Declarations. Interest is per annum on the outstanding principal balance and starts to accrue from the date DOH releases LOAN FUNDS to BORROWER. If BORROWER completes the PROJECT within twenty-four (24) months of the CONTRACT start date, DOH will reduce the LOAN INTEREST to one percent

(1%) at PROJECT completion. The reduced interest rate will apply to the remaining payments beginning from the date DOH approves the BORROWER's Project Completion Report.

4.8. LOAN FORGIVENESS

If the LOAN qualifies for LOAN Forgiveness, the percent of the LOAN balance that DOH will forgive at PROJECT completion is stated in the Declarations. DOH calculates the amount forgiven when DOH approves the BORROWER's Project Completion Report. The amount forgiven will be based on either the LOAN AMOUNT or BORROWER's ELIGIBLE PROJECT COSTS, whichever is less, and accrued interest.

4.9. RELEASE OF LOAN FUNDS AND REQUIRED DOCUMENTATION

DOH will release LOAN funds to BORROWER to reimburse BORROWER for eligible PROJECT costs. To request reimbursement, BORROWER must submit a signed and completed invoice using a form provided by DOH. The invoice must reference the PROJECT activity performed, and include supporting documentation such as bills, invoices, receipts, and documentation of compliance with CONTRACT requirements as requested by DOH. The invoice must be signed by an official of BORROWER with authority to bind BORROWER.

Invoices must also include a report of the progress made since the last invoice, and the PROJECT status to date. DOH will not release funds until the PROJECT status report and documentation are approved by DOH. Approval will not be unreasonably withheld or delayed. After approving the invoice, documentation, and PROJECT status report, DOH will release funds to BORROWER within thirty (30) days, if BORROWER is not in alleged or actual breach of CONTRACT.

DOH will withhold ten percent (10%) of LOAN funds until DOH confirms that BORROWER has successfully completed all steps for PROJECT COMPLETION. The 10% holdback will be available to BORROWER as part of the last LOAN disbursement.

4.10. TIME OF PERFORMANCE

BORROWER will begin the activities in the PROJECT within thirty (30) calendar days of the CONTRACT start date. BORROWER will issue a 'Notice to Proceed', after the formal award of a construction contract, within eighteen (18) months of the CONTRACT start date.

BORROWER must reach PROJECT COMPLETION within the TIME OF PERFORMANCE. If there are extenuating circumstances, BORROWER may request, in writing, at least ninety (90) calendar days prior to the PROJECT COMPLETION that DOH extend the deadline for PROJECT COMPLETION. At its discretion, DOH may issue an extension. DOH's decision is final and not subject to the dispute clause.

If BORROWER does not meet the requirements of this section, it is a breach of CONTRACT, and DOH may terminate or suspend this CONTRACT.

4.11. PROJECT COMPLETION AMENDMENT AND THE PROJECT COMPLETION REPORT

The PROJECT Completion Amendment determines the final LOAN AMOUNT and LOAN TERM. When activities in the PROJECT are complete, BORROWER will start the process for the PROJECT Completion Amendment by sending DOH the PROJECT Completion Report. In the PROJECT Completion Report, BORROWER will provide the following information to DOH:

- A. A statement of the actual dollar amount spent, from all fund sources, to complete the PROJECT.
- B. A statement that all ELIGIBLE PROJECT COSTS have been incurred. Costs are incurred when goods and services are received and/or contracted work is performed.
- C. Evidence showing BORROWER'S compliance with financial the audit requirements of this CONTRACT.
- D. An invoice for the remaining ELIGIBLE PROJECT COSTS.
- E. Documentation of BORROWER's compliance with National Historic Preservation Act, 54 USC Subtitle III.

4.12. LOAN PAYMENTS

BORROWER must begin repaying the LOAN no later than one (1) year after the CONTRACT start date. Payments are due on the first day of the month(s) shown as the PAYMENT MONTH(S) in the Declarations. The first payment is only the interest accrued at that time. All other payments are principal and interest accrued up to the PAYMENT MONTH(S).

BORROWER can repay in full the LOAN balance, including fees and repayment of LOAN FUNDS for ineligible project costs (if any), at any time or make accelerated payments without penalty. The final payment must be on or before the end of the LOAN TERM.

4.13. LOAN DEFAULT

DOH must receive BORROWER'S payment within thirty (30) calendar days of the due date. Late payments are delinquent and assessed a monthly penalty on the first (1st) day past the due date. The penalty is one percent (1%) of the late payment amount per month. Penalty and fees accrue interest at the rate stated as LOAN INTEREST in the Declarations.

DOH may notify any other entity, creditors, or potential creditors of BORROWER's delinquency. BORROWER is responsible for all attorney fees and costs incurred by DOH in any action taken to enforce its rights under this section, including in any alternative dispute resolution proceeding.

4.14. LOAN SECURITY

LOAN Security is only required if identified in the Declarations. In its sole discretion and if allowed under the EPA regulations relevant to this Contract, DOH may subordinate its LOAN security to Borrower's obligations under existing or future bonds and notes. Nothing in this section releases BORROWER from the obligation to make LOAN PAYMENTS when due, and to adjust rates, fees, or surcharges as necessary to meet its obligations under this CONTRACT.

4.15. AMENDMENTS, MODIFICATIONS, ASSIGNMENTS, AND WAIVERS

Amendments, modifications, assignments, and waivers to any of the terms of this CONTRACT supersede, if applicable, those terms as found in the original CONTRACT, and are not binding unless they are in writing and signed by representatives authorized to bind each of the parties. Only the authorized representative or their designee has the express, implied, or apparent authority to alter, amend, assign, modify, or waive any terms of this CONTRACT.

Neither this CONTRACT nor any claim arising under it may be transferred or assigned by BORROWER without DOH's prior written consent. During the LOAN TERM, DOH must approve in advance, any change in ownership of the water system(s) improved with LOAN FUNDS. DOH may require the LOAN, including fees and ineligible project costs (if any), be paid in full as a condition of approval.

Nothing in this CONTRACT may be waived unless approved by DOH in writing. No waiver of any default or breach is implied from any failure to take action upon such default or breach if the default of breach persists or repeats. Waiver of any default or breach is not a waiver of any subsequent default or breach.

4.16. AMERICAN IRON AND STEEL

None of the LOAN funds can be used for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used are produced in the United States. "Iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

DOH may waive this requirement if:

- A. Compliance would be inconsistent with the public interest; or
- B. The particular iron and steel products are not produced in the United States in sufficient and reasonably available quantities and are not of a satisfactory quality; or

- C. Inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than twenty-five (25) percent; and
- D. The waiver is approved by the Environmental Protection Agency (EPA).

BORROWER must submit the waiver request to DOH, which will submit it to EPA. The full text of the American Iron and Steel requirements can be found in H.R. 3547, Consolidated Appropriations Act, 2014, P.L. 113-76, SEC. 436.

4.17. ATTORNEYS' FEES

Unless expressly stated under another section of the CONTRACT, each party agrees to bear its own attorneys' fees and costs for litigation or other action brought to enforce the contract terms.

4.18. BONUS AND COMMISSION PAYMENTS NOT ALLOWED

Funds provided under this CONTRACT cannot be used to pay any bonus or commission to gain approval of the loan application or any other approval under this CONTRACT. This section does not prohibit paying for bona fide technical consultants, managerial, or other such services, if payment is for ELIGIBLE PROJECT COSTS.

4.19. COMPLIANCE

BORROWER will comply with all applicable federal, state and local laws, requirements, and ordinances for the design, implementation, and administration of the PROJECT and this CONTRACT, including but not limited to those stated in the CONTRACT attachments. BORROWER will provide DOH with documentation of compliance, if requested.

In the event of BORROWER's alleged or actual noncompliance with any part of this CONTRACT, DOH may suspend all or part of the CONTRACT, withhold payments, or prohibit BORROWER from incurring additional obligations of LOAN FUNDS during the investigation and pending corrective action by BORROWER, or a decision by DOH to terminate the CONTRACT.

4.20. DISPUTES

Except as otherwise provided in this CONTRACT, when a dispute arises between the parties that cannot be solved by direct negotiation, either party may request a dispute hearing with the Director of the Office of Drinking Water (the Director), who may designate a neutral person to decide the dispute. The parties will be equally responsible for any reasonable costs and fees incurred by the neutral.

The party requesting a dispute hearing must:

- A. Be in writing;
- B. State the disputed issues;
- C. State the relative positions of the parties;
- D. State BORROWER's name, address, and the CONTRACT number;
- E. Provide contact information for the requester's representative, and,
- F. Be mailed to the other party's (respondent's) Contract Manager within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent must send a written answer within five (5) working days.

In the alternative, the parties can agree to submit a mutual request to the Director, which should include each party's response to the other party's characterization of the dispute.

The Director or designee will review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties. The decision on the dispute is non-binding and is not admissible in any succeeding judicial or quasi-judicial proceeding.

This non-binding dispute process must precede any action in a judicial or quasi-judicial tribunal. Nothing in this CONTRACT limits the parties from using any mutually acceptable alternate dispute resolution (ADR) method in addition to or instead of the dispute hearing procedure outlined above.

4.21. ELIGIBLE PROJECT COSTS

BORROWER will comply with Attachment VI: DWSRF Eligible Project Costs and is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

The purchase of any land necessary for the PROJECT must be included in the PROJECT and be documented with an appraisal or equivalent market evaluation, if approved by DOH, and a valid purchase and sale agreement.

Construction expenses incurred after the date shown as earliest date for construction reimbursement in the Declarations are eligible for reimbursement. Requests for reimbursements for costs related to construction activities will not be accepted until BORROWER has met the following conditions:

- A. Completed the State Environmental Review Process (SEPA Review under RCW 43.21C);
- B. Complied with all provisions of the National Historic Preservation Act, 54 USC Subtitle III;
- C. Complied with Prevailing Wage requirements;
- D. Received approval from DOH of the project report and related construction documents for all applicable activities described in the PROJECT; and
- E. Complied with any other LOAN conditions required by DOH.

BORROWER cannot use LOAN FUNDS for any expenses charged by BORROWER against any other contract, subcontract, or source of funds.

If DOH reimburses BORROWER for costs that are later determined by DOH to be ineligible, BORROWER must repay these funds to DOH no later than when the BORROWER returns the PROJECT Completion Amendment to DOH. Prior to final completion, DOH may withhold payment for such costs as allowed under Section 4.36 RECAPTURE. Repayment is subject to interest retroactive to the date of the applicable disbursement by DOH.

4.22. FALSE, INCORRECT, OR INCOMPLETE INFORMATION OR CLAIM

BORROWER warrants that they have not and will not submit to DOH any information that is materially false, incorrect, or incomplete. Providing false, fictitious, or misleading information with respect to the receipt and disbursements of LOAN funds is a basis for criminal, civil, or administrative fines and/or penalties. DOH may also pursue applicable remedies for violations by BORROWER of this section.

4.23. FINANCIAL AUDIT

DOH may require BORROWER to obtain an audit of this PROJECT conforming to Generally Accepted Accounting Principles (GAAP). BORROWER will maintain its records and accounts to facilitate the audit. BORROWER is responsible for correcting any audit findings. BORROWER is responsible for any audit findings incurred by its own organization and/or its subcontractors. DOH reserves the right to recover from BORROWER all disallowed costs and INELEGIBLE PROJECT COSTS resulting from the audit.

The audit must include a report on compliance, including an opinion (or disclaimer of opinion) about whether the BORROWER is in compliance with laws, regulations and requirements of this CONTRACT that could have a direct and material effect on DOH.

BORROWER must send a copy of any required audit per 2 CFR §200.512 to the DOH Contract Manager, no later than nine (9) months after the end of BORROWER's fiscal year(s). BORROWER must send any audit corrective action plan for audit findings and a copy of the management letter, within three (3) months of the audit report.

4.24. GOVERNING LAW AND VENUE

This CONTRACT shall be construed and interpreted according to the laws of the state of Washington, and the venue of any action brought under the CONTRACT will be in the Superior Court for Thurston County.

4.25. HISTORICAL AND CULTURAL REQUIREMENTS

BORROWER will not conduct or authorize destructive PROJECT planning activities before completing the requirements of the National Historic Preservation Act, 54 USC Subtitle III. BORROWER will not begin construction

activities, ground disturbance, or excavation of any sort, until BORROWER has complied with all requirements of the National Historic Preservation Act of 1966, as amended.

If historical or cultural artifacts are discovered during the PROJECT, BORROWER will immediately stop construction and implement reasonable measures to protect the discovery site from further disturbance, take reasonable steps to ensure confidentiality of the discovery site, restrict access to the site, and notify the concerned tribe's cultural staff or committee, Tribal Historical Preservation Officer (THPO), DOH Contract Manager, and the State's Historical Preservation Officer (SHPO) at the Washington State Department of Archaeology and Historic Preservation (DAHP). If human remains are uncovered, BORROWER will report the presence and location of the remains to the local coroner and law enforcement immediately, then contact the concerned tribe's cultural staff or committee, DOH Contract Manager, and DAHP.

BORROWER is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural sites and artifacts and will hold harmless the state of Washington and DOH in relation to any claim related to historical or cultural sites discovered, disturbed, or damaged as a result of BORROWER'S and BORROWER's subcontractors activities.

BORROWER will include the requirements of this section in all contracts for work or services related to the PROJECT. BORROWER will require that bid documents include an inadvertent discovery plan that meets the requirements of this section.

4.26. INDEMNIFICATION

BORROWER agrees to defend, indemnify, and hold harmless DOH and the state of Washington for claims arising out of or incident to BORROWER'S or any BORROWER'S subcontractor's performance or failure to perform the CONTRACT. BORROWER'S obligation to indemnify, defend, and hold harmless DOH and the state of Washington shall not be eliminated or reduced by any actual or alleged concurrent negligence of DOH or its agents, agencies, employees and officials. BORROWER'S obligation to indemnify, defend and hold harmless DOH and the state of Washington includes any claim by BORROWER'S agents, employees, officers, subcontractors or subcontractor employees.

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

4.27. INDUSTRIAL INSURANCE COVERAGE

BORROWER will comply with the applicable parts of Title 51 RCW, Industrial Insurance. If BORROWER fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as required by law, DOH may collect from BORROWER the full amount payable to the Industrial Insurance Accident Fund. DOH may deduct the amount owed by BORROWER to the accident fund from the amount payable to BORROWER by DOH under this CONTRACT, and transmit the deducted amount to the Washington State Department of Labor and Industries (L&I).

4.28. LITIGATION

BORROWER warrants that there is no threatened or pending litigation, investigation, or legal action before any court, arbitrator, or administrative agency that, if adversely determined against BORROWER, would have a materially adverse effect on BORROWER's ability to repay the LOAN. BORROWER agrees to promptly notify DOH if any above-referenced actions become known to BORROWER during the pendency of the Contract.

4.29. NONDISCRIMINATION

BORROWER will not discriminate on the basis of race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability in the performance of this CONTRACT. BORROWER will comply with all federal and state nondiscrimination laws, including, but not limited to Chapter 49.60 RCW, Washington's Law Against Discrimination and 42 USC 12101 et seq., the Americans with Disabilities Act (ADA), and 40 CFR Part 33 Participation by Disadvantaged Business Enterprises in US EPA Programs . Failure by BORROWER to carry out these requirements is a material breach of this CONTRACT. BORROWER is required to include these non-discriminatory provisions in any contract with a subcontractor.

4.30. PREVAILING WAGE

BORROWER will assure that all contractors and subcontractors performing work funded through this CONTRACT comply with prevailing wage laws by paying the higher of state or federal prevailing wages. BORROWER is legally and financially responsible for compliance with the prevailing wage requirements. BORROWER should consult the United States Department of Labor and Washington State Department of Labor and Industries websites to determine the federal and State prevailing wages that must be paid.

4.31. PROCUREMENT

BORROWER will comply with all procurement requirements for subcontracting for the PROJECT and for obtaining PROJECT-related goods and services. BORROWER must maintain records to verify compliance with procurement requirements.

BORROWER must ensure that all contractors, subcontractors, engineers, vendors, and any other entity for work or services listed in the PROJECT will insert in full, in any contract, the labor standards provisions in Attachment VIII: Labor Standard Provisions for Subrecipients That Are Governmental Entities.

4.32. PROHIBITION STATEMENT

Per Section 106 of the federal Trafficking Victims Protection Act, BORROWER 's contractors, subcontractors, engineers, vendors, and any other entity performing work funded by this CONTRACT must comply with and include the following terms and conditions in all contracts for work or services for the PROJECT.

"All forms of trafficking in persons, illegal sex trade, or forced labor practices are prohibited in the performance of this award or subawards under the award, or in any manner during the period of time that the award is in effect. This prohibition applies to you as the recipient, your employees, subrecipients under this award, and subrecipients' employees."

4.33. PROJECT SIGNS

If BORROWER displays, during the TIME OF PERFORMANCE, any signs or markers identifying parties that are providing funds for the PROJECT, BORROWER must include the Washington State Department of Health Drinking Water State Revolving Fund and the Washington State Department of Health as participants in the PROJECT.

4.34. PUBLICITY

BORROWER agrees to get prior written consent from DOH's Contract Manager before publishing or using any advertising or publicity materials that include Washington State or DOH's name, or includes language that may reasonably infer or imply a connection with either one.

4.35. RATES AND RESERVES

BORROWER will maintain reserves at a minimum as required by the Water System Plan or Small Water System Management Plan. BORROWER will timely adopt rate increases and/or capital assessments for the system's services to provide sufficient funds, along with other revenues of the system, to pay all operating expenses and debt repayments during the LOAN TERM.

4.36. RECAPTURE

DOH reserves the right to recapture from BORROWER sufficient funds to compensate DOH for BORROWER's noncompliance with any part of this CONTRACT, in addition to any other remedies available under the CONTRACT, at law, or in equity. DOH may withhold LOAN FUNDS from BORROWER to recapture such funds.

4.37. RECORDKEEPING AND ACCESS TO RECORDS

DOH, its agents, and authorized officials of the state and federal governments will have full access and the right to examine, copy, excerpt, or transcribe, at no additional cost and at all reasonable times, any pertinent documents, papers, records, and books of BORROWER and of persons, firms, or organizations with which BORROWER may contract, involving transactions related to this CONTRACT. BORROWER agrees to keep complete records of its compliance with this CONTRACT for a period of six (6) years from the date that the debt to DOH is paid in full. This includes but is not limited to financial reports. If any litigation, claim or audit is started before the expiration of the six (6) year period, BORROWER must keep the records until all litigation, claims or audit findings involving the records have been resolved. These records retention requirements are in addition to the local government records

retention schedules applicable to the BORROWER.

4.38. REGISTRATION WITH THE SYSTEM FOR AWARD MANAGEMENT (SAM)

BORROWER must comply with 48 CFR 52.204-7 to register with the System for Awards Management (SAM.gov). BORROWER is responsible for the accuracy and completeness of its data in the SAM database and any liability resulting from the Government or DOH reliance on inaccurate or incomplete data in it. BORROWER must remain registered in the SAM database. BORROWER should annually review its information in SAM to ensure it is accurate and complete.

4.39. SEVERABILITY

If any part of this CONTRACT or part of any document incorporated by reference is found to be invalid, it will not affect the other parts of this CONTRACT that can be given effect without the invalid part.

4.40. SUBCONTRACTING

Prior to awarding contracts and/or subcontracts, BORROWER must verify that the complete names of both the selected contractor and the owner or president are not in the Federal Excluded Parties List System for Ineligible Professionals and Debarred Contractors (www.SAM.gov). BORROWER must provide the DOH Contract Manager with a screen printout documenting that neither the firm, the owner or the president are excluded.

BORROWER will ensure that every contract and subcontract awarded for the PROJECT after the CONTRACT start date will bind the parties to follow all applicable terms of this CONTRACT. BORROWER is responsible to DOH for noncompliance by its contractors and/or subcontractors. BORROWER's contracts or subcontracts do not release or reduce the BORROWER's liability to DOH for any breach in the performance of BORROWER's duties. BORROWER's contracts and subcontracts must include a term that the state of Washington and DOH are not liable for claims or damages arising from a contractor and/or subcontractor's performance or lack thereof.

4.41. SURVIVAL

The CONTRACT's terms, conditions, and warranties that by its sense and context are intended to survive the completion of the performance, cancellation or termination of this CONTRACT, shall so survive.

4.42. TERMINATION FOR CAUSE

If DOH concludes that BORROWER has failed to comply with the CONTRACT requirements or has otherwise breached one or more parts of the CONTRACT, DOH may, at its discretion, upon notice to BORROWER, terminate or suspend the CONTRACT and/or its attached agreements in whole or in part.

The notice will be in writing and state the reason(s) for termination or suspension, and the effective date. The effective date will be determined by DOH. The notice will allow BORROWER at least thirty (30) business days to cure the breach, if curable. If the breach is not cured or cannot be cured within thirty (30) business days, the outstanding balance of the LOAN, with any interest accrued and other costs as authorized by the CONTRACT shall be due and payable to DOH.

If DOH terminates this CONTRACT under this section, DOH is liable only for payment required under the terms of this CONTRACT for ELIGIBLE PROJECT COSTS incurred prior to the effective date of termination.

At DOH's discretion, the termination for cause may be deemed a termination for convenience if DOH determines that the default or failure to perform was outside BORROWER's control, fault or negligence. The rights and remedies of DOH provided in this CONTRACT are not exclusive and are in addition to any other rights and remedies provided by law. Nothing in this section affects BORROWER's obligations to immediately repay the unpaid balance of the LOAN as prescribed in the Washington Administrative Code (WAC) 246-296-150.

4.43. TERMINATION OR SUSPENSION FOR CONVENIENCE

If funding or appropriation from state, federal, or other sources is withdrawn, reduced, or limited in any way during the TIME OF PERFORMANCE, DOH may:

- A. Delay or suspend releasing LOAN FUNDS until funding or appropriation are available to DOH; or
- B. Amend the CONTRACT to reflect the new funding limitations and conditions; or
- C. Terminate the CONTRACT and/or its attached agreements, in whole or in part; or
- D. Suspend the CONTRACT and/or its attached agreements, in whole or in part.

If DOH terminates the CONTRACT and/or its attached agreements in whole or in part, under this section, DOH will notify BORROWER's representative in writing of the reason(s) for termination, and the effective date. The effective date will be determined by DOH.

DOH may choose to suspend this CONTRACT and/or its attached agreements in whole or in part, if DOH determines that the funding insufficiency will likely be resolved in time for BORROWER to resume activities prior to the end of the TIME OF PERFORMANCE. DOH will notify BORROWER's representative by facsimile or email of the reason(s) for suspension, and the effective date. DOH will determine the effective date. BORROWER must suspend performance on the effective date of the suspension. During the period of suspension each party must notify the other party's representative of any conditions that may reasonably affect its ability to resume performance.

During the suspension, when DOH determines that the funding insufficiency is resolved, DOH may notify BORROWER's representative of the proposed date to resume performance. BORROWER must respond to DOH's representative in writing, within five (5) business days of DOH sending notice, as to whether it can resume performance on that date or offer an alternative date to resume performance. If BORROWER cannot resume performance or the alternative date is not acceptable to DOH, the parties agree the CONTRACT will be deemed terminated for convenience, retroactive to the original date of suspension.

If DOH terminates or suspends this CONTRACT, DOH is liable only for payment required under the terms of this CONTRACT for eligible project costs incurred prior to the effective date of suspension or termination. Nothing in this section shall affect Contractor's obligations to repay the unpaid balance of the LOAN. Nothing in this section affects BORROWER's obligation to repay the LOAN, including fees and other expenses as allowed by the CONTRACT.

4.44. TERMINATION PROCEDURES

When BORROWER receives Notice of Termination or on the date a suspension is converted to a termination, except as otherwise directed by DOH, BORROWER will:

- A. Stop work under the CONTRACT on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities related to the CONTRACT;
- C. If expressly requested by DOH, assign to DOH any or all of the rights, title, and interest of BORROWER under the orders and subcontracts so terminated, in which case DOH has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts. Any attempt by BORROWER to settle such claims must have the prior written approval of DOH; and
- D. Preserve and transfer any materials, CONTRACT deliverables and/or DOH property in BORROWER's possession as directed by DOH.

Upon termination of this CONTRACT, DOH will pay BORROWER for amounts due under the CONTRACT prior to the date of termination unless such payment is precluded under any other provision of this CONTRACT. DOH may withhold any amount due as DOH reasonably determines is necessary to protect DOH against potential loss or liability resulting from the termination. DOH will pay any withheld amount to BORROWER if DOH later determines that loss or liability will not occur.

4.45. WORK HOURS AND SAFETY STANDARDS

If this CONTRACT exceeds \$100,000, BORROWER must comply with the applicable Contract Work Hours and Safety Standards Act (40 USC Chapter 37). 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.

ATTACHMENT I: SCOPE OF WORK (PROJECT)

Project Description:

The Fir Street Reservoirs No. 1 and No. 2 are located at the NW corner of Fir Street and 7th Avenue in the City of Olympia's in the 226 Pressure Zone. These concrete reservoirs are similar in construction and were constructed nearly side-by-side in the 1930s. Each reservoir provides a capacity of 2.5MG (Million Gallons). Both reservoirs received major renovations in 1975 and earthquake repairs in 2003. The repair work performed in in 2003 addressed damage caused by the 2001 Nisqually earthquake. Originally the reservoirs were constructed of cast in place concrete slabs on grade, lined with brick parapet. The 1975 renovations consisted of structural upgrades to the bottom and sloped sides of both tanks, as well as removal of the brick parapet. Additionally, precast concrete columns were added to support a new 4-inch thick post-tensioned concrete roof over precast-prestressed concrete double-tee beams. New perimeter walls and footings were also added on all four sides of each tank. Geomembrane slab liners were also anchored to the base and perimeter walls of each tank. Finally, a berm over the existing grade around the new perimeter walls was constructed to match the top of the roof slab.

A structural engineer performed thorough seismic evaluations in 2001 and 2011, using current codes and standards based on the USGS National Seismic Hazard Mapping Project, to assess the condition of the reservoirs and recommend seismic upgrades. Based on the inspection done in 2001 (after the Nisqually earthquake), and the subsequent repairs in 2003, the reservoirs were deemed to be structurally sound in resisting gravity loads but had deficiencies in resisting seismic forces. Recommendations for seismic upgrades included adding new seismic cables and roof chord reinforcing steel in perimeter walls on all four sides of each reservoir. These modifications are proposed to be constructed on the outside face of the perimeter walls to enhance accessibility and minimize disruption of materials inside the tanks. This work can be done without a disruption in service.

A collar will be added at the top of each column to repair cracking and spalling of concrete and eliminate bearing induced cracking. The lower portion of the columns are in good condition; however, these sections are to be wrapped in Glass Fiber Reinforced Plastic (GFRP) for damage protection. These column modifications will be performed in the winter during low water demands; this work will require draining each reservoir. Only one reservoir will be taken off-line at any given time to ensure continuity of service. The City will develop a contingency plan to deal with any unusual water demands during construction of these seismic upgrades.

The City will hire an engineering consultant to review the previous seismic upgrade recommendations and design the final seismic upgrades based on the most current seismic codes and methods.

Scope of Work:

Project to include seismic upgrades to the existing 2.5 MG Fir Street Reservoirs No. 1 and No. 2, located at the NW corner of Fir Street and 7th Avenue in the City of Olympia's in the 226 Pressure Zone. Improvements may include, depending on structural analysis and final design:

- Adding new seismic cables and roof chord reinforcing steel in perimeter walls on all four sides of each reservoir.
- A collar will be added at the top of each column to repair cracking and spalling of concrete and eliminate bearing induced cracking. The lower portions of the columns are to be wrapped in Glass Fiber Reinforced Plastic (GFRP) for damage protection.
- Replace pipes and valving within the McCormick valve house where the outlet piping from the Fir Street Reservoirs resides.

In addition to costs of construction, costs may include (but are not limited to): engineering, design, construction inspection, geotechnical and soils work, cultural and environmental review, permits, public involvement, preparation of bid documents, fees, taxes, legal, administrative, and audit.

Project Costs by Cost Category:

COST CATEGORY	CURRENT ESTIMATES
Engineering Report (Preliminary Engineering):	\$26,800.00
Environmental Review:	\$5,000.00
Historical Review/Cultural Review:	\$5,000.00
Land/ROW Acquisition:	\$
Permits:	\$5,000.00
Public Involvement/Information:	\$10,000.00
Bid Documents (Design Engineering):	\$368,000.00
Construction: Estimated Cost. Provide details on following pages.	\$900,000.00
DOH Review/Approval Fees:	\$6,000.00
Contingency: (10% min, 20% max):	\$90,000.00
Other: (Sales or Use Taxes):	\$79,200.00
Construction Engineering/Inspection:	\$
Insurance:	\$
Audit:	\$5,000.00
Legal:	\$
Service Meters:	\$
Other:	\$
Other:	\$
Other:	\$
TOTAL ESTIMATED PROJECT COSTS (before Loan Fee)	\$1,500,000.00
Loan Fee (1% of the DWSRF Loan Request)	\$15,000.00

ATTACHMENT II: ATTORNEY'S CERTIFICATION

DRINKING WATER STATE REVOLVING FUND (MUNICIPAL)

I, MARK BARBER, hereby certify:

I am an attorney at law admitted to practice in the state of Washington and the duly appointed attorney of BORROWER identified in the Declarations of the Contract identified above; and

I have also examined any and all documents and records, which are pertinent to the Contract, including the application requesting this financial assistance.

Based on the foregoing, it is my opinion that:

1. BORROWER is a public body, properly constituted and operating under the laws of the State of Washington, empowered to receive and expend federal, state and local funds, to contract with the state of Washington, and to receive and expend the funds involved to accomplish the objectives set forth in its application.
2. BORROWER is empowered to accept the Drinking Water State Revolving Fund financial assistance and to provide for repayment of the loan as set forth in the loan agreement.
3. There is currently no litigation in existence seeking to enjoin the commencement or completion of the above-described public facilities project or to enjoin BORROWER from repaying the Drinking Water State Revolving Fund loan extended by DOH with respect to such project. BORROWER is not a party to litigation, which will materially affect its ability to repay such loan on the terms contained in the loan agreement.
4. Assumption of this obligation would not exceed statutory and administrative rule debt limitations applicable to BORROWER.

Mark Barber
Signature of Attorney

8/9/2018
Date

MARK E. BARBER #8379
Name and BAR Number (WSBA No.)

601-4th AVE E, OLYMPIA, WA 98501
Address

ATTACHMENT III: FEDERAL AND STATE REQUIREMENTS (NOT ALL INCLUSIVE)

1) Environmental and Cultural Authorities

- a) Archeological and Historic Preservation Act of 1974, Public Law 86-523 as amended
- b) Clean Air Act, Public Law 84-159 as amended
- c) Coastal Zone Management Act, Public Law 92-583 as amended
- d) Endangered Species Act, Public Law 93-205 as amended
- e) Environmental Justice, Executive Order 12898
- f) Floodplain Management, Executive Order 11988 as amended by Executive Order 12148
- g) Protection of Wetlands, Executive Order 11990
- h) Farmland Protection Policy Act, Public Law 97-98
- i) Fish and Wildlife Coordination Act, Public Law 85-624 as amended
- j) National Historic Preservation Act, 54 USC Subtitle III
- k) Safe Drinking Water Act, Public Law 93-523 as amended
- l) Wild and Scenic Rivers Act, Public Law 90-542 as amended
- m) Washington State Environmental Policy Act, Chapter 43.21C RCW
- n) Native American Graves Protection and Repatriation Act, Archaeological Resources Protection Act, Revised Code of Washington (RCW) 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and Washington Administrative Code (WAC) 25-48 regarding Archaeological Excavation and Removal Permits.

2) Economic and Miscellaneous Authorities

- a) Demonstration Cities and Metropolitan Development Act of 1996, Public Law 89-754 as amended, Executive Order 12372
- b) Procurement Prohibitions under Section 306 of the Clean air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans
- c) Uniform Relocation and Real Property Policies Act, Public Law 91-646 as amended
- d) Debarment and Suspension, Executive Order 12549
- e) H.R. 3547, Consolidated Appropriations Act, 2014.

3) Social Policy Authorities

- a) Age Discrimination Act of 1975, Public Law 94-135
- b) Title VI of the Civil Rights Act of 1964, Public Law 88-352
- c) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500 (the Clean Water Act)
- d) Section 504 of the Rehabilitation Act of 1973, Public Law 93-112 (including Executive Orders 11914 and 11250)
- e) Equal Employment Opportunity, Executive Order 11246
- f) Disadvantaged Business Enterprise, Public Law 101-549 (the Clean Air Act), and Public Law 102-389 (the Clean Water Act)
- g) Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Public Law 100-590
- h) Chapter 49.60 RCW, Washington's Law against Discrimination, and 42 USC 12101 et seq. the Americans with Disabilities Act (ADA).
- i) The Contract Work Hours and Safety Standards Act (40 USC 327-333)-Where applicable.
- j) The Genetic Information Nondiscrimination Act of 2008 (GINA), 42 USC s. 2000ff et seq.

4) State Laws

- a) Chapter 36.70A RCW, Growth Management Act
- b) Chapter 39.80 RCW, Contracts for Architectural and Engineering Services
- c) Chapter 39.12 RCW, Washington State Public Works Act
- d) Chapter 43.20 RCW, State Department of Health of Health
- e) Chapter 43.70 RCW, Department of Health
- f) Chapter 43.155 RCW, Public Works Project
- g) Chapter 70.116 RCW, Public Water Systems Coordination Act of 1977
- h) Chapter 70.119 RCW, Public Water Supply Systems Certification and Regulation of Operations
- i) Chapter 70.119A RCW, Public Water Systems, Penalties & Compliances
- j) Chapter 246-290 WAC, Group A Public Water Systems

- k) Chapter 246-291 WAC, Group B Public Water Systems
- l) Chapter 246-292 WAC, Waterworks Operator Certification Regulations
- m) Chapter 246-293 WAC, Water Systems Coordination Act
- n) Chapter 246-294 WAC, Drinking Water Operating Permits
- o) Chapter 246-295 WAC, Satellite System Management Agencies
- p) Chapter 246-296 WAC Drinking Water State Revolving Fund Loan Program
- q) Chapter 173-160 WAC, Minimum Standards for Construction & Maintenance of Wells
- r) Title 173 WAC, Department of Ecology Rules
- s) Title 40 Part 141 Code of Federal Regulations, Federal National Primary Drinking Water Regulations (Section Adopted by Reference)

ATTACHMENT IV: DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

GENERAL COMPLIANCE, 40 CFR, Part 33

BORROWER must comply with the requirements of Environmental Protection Agency's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under this Contract, contained in 40 CFR, Part 33. BORROWER will use the directory of certified firms available through the Washington State Office of Minority and Women's Business Enterprises to meet the requirements.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

The following are exemptions from the fair share objective Requirements:

- Grant and loan recipients receiving a total of \$250K or less in EPA financial assistance in a given fiscal year.
- Tribal recipients of Performance Partnership Eligible grants under 40 CFR Part 35, Subpart B.
 - There is a 3-year phase in period for the requirement to negotiate fair share goals for Tribal and Insular Area recipients.
- Recipients of Technical Assistance Grants.

The Fair Share Objectives or goals for the utilization of disadvantaged businesses negotiated with EPA by the WA Office of Minority Women Business are stated below.

Construction	10% MBE	6% WBE
Supplies	8% MBE	4% WBE
Equipment	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE

BORROWER must accept the fair share objectives/goals stated above and purchase the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as WA Office of Minority Women Business goals.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, BORROWER will make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply.

Records documenting compliance with the six good faith efforts shall be retained. The six good faith efforts shall include:

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

MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503

BORROWER is required to submit MBE/WBE participation reports to DOH, on a quarterly basis, beginning with the Federal fiscal year reporting period BORROWER receives the award and continuing until the project is completed.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

BORROWER agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BORROWER agrees to require all general contractors to provide forms: EPA Form 6100-2 DBE Subcontractor Participation Form and EPA Form 6100-3 DBE Subcontractor Performance Form to all its Disadvantaged Business Enterprise subcontractors, engineers, vendors, and any other entity for work or services listed in the PROJECT. These two (2) forms may be obtained from the EPA Office of Small Business Program's website on the internet at <http://www.epa.gov/osbp/grants.htm>.

BORROWER agrees to require all general contractors to complete and submit to BORROWER and Environmental Protection Agency EPA Form 6100-4 DBE Subcontractor Utilization Form beginning with the Federal fiscal year reporting period BORROWER receives the award and continuing until the project is completed. Only procurements with certified MBE/WBEs are counted toward a Contractor's MBE/WBE accomplishments.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

BORROWER is also required to create and maintain a bidders list if BORROWER of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

Section 33.501(b) of the rule is as follows:

A recipient of a Continuing Environmental Program Grant or other annual grant must create and maintain a bidders list. In addition, a recipient of an EPA financial assistance agreement to capitalize a revolving loan fund also must require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. The purpose of a bidders list is to provide the recipient and entities receiving identified loans who conduct competitive bidding with as accurate a database as possible about the universe of MBE/WBE and non-MBE/WBE prime and subcontractors. The list must include all firms that bid or quote on prime contracts or bid or quote on subcontracts under EPA assisted projects, including both MBE/WBEs.

The bidders list must be kept until the grant project period has expired and the recipient is no longer receiving EPA funding under the grant. For entities receiving identified loans, the bidders list must be kept until the project period for the identified loan has ended. The following information must be obtained from all prime and subcontractors:

- (1) Entity's name with point of contact;
- (2) Entity's mailing address, telephone number, and e-mail address;
- (3) The procurement on which the entity bid or quoted, and when; and
- (4) Entity's status as a MBE/WBE¹ or non-MBE/WBE.

The exemption found at § 33.501(c) is as follows:

A recipient of an EPA financial assistance agreement in the amount of \$250,000 or less for any single assistance agreement, or of more than one financial assistance agreement with a combined total of \$250,000 or less in any one fiscal year, is exempt from the paragraph (b) of this section requirement to create and maintain a bidders list. Also, a recipient under the CWSRF, DWSRF, or BCRLF Program is not required to apply the paragraph (b) of this section bidders list requirement of this subpart to an entity receiving an identified loan in an amount of \$250,000 or less, or to an entity receiving more than one identified loan with a combined total of \$250,000 or less in any one fiscal year. This exemption is limited to the paragraph (b) of this section bidders list requirements of this subpart.

¹ Qualified Women and Minority business enterprises may be found on the Internet at www.omwbe.wa.gov or by contacting the Washington State Office of Minority and Women's Enterprises at 360-704-1181.

ATTACHMENT V: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS



EPA Project Control Number

The terms, "covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded", as used in this attachment, are defined in the rules implementing Executive Order 12549, including 13 CFR § 400.109. You may contact DOH for help getting a copy of these regulations.

BORROWER, defined as the primary participant and its principals, certifies by signing below that to the best of its knowledge and belief they:

- 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 (3) period preceding this CONTRACT, been convicted of or had a civil judgment against them for commission of 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 embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses described in this attachment; and,
- D. Have not within a three-year period (3) preceding the signing of this CONTRACT had one or more public transactions (federal, state, or local) terminated for cause or default.

Prior to awarding contracts for the PROJECT, BORROWER must verify that neither the contractor's business name(s) nor the names of its principals are in the Federal Excluded Parties List System for Ineligible Professionals and Debarred Contractors (www.SAM.gov). BORROWER must keep documentation in the PROJECT files and provide a copy to the DOH Contract Manager.

BORROWER will include the language below without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

The lower tier contractor certifies, by signing this CONTRACT that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

I understand that a false statement on this certification may be ground for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine or imprisonment for up to 5 years, or both.

Typed or Printed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

I am unable to certify to the above statements. My explanation is attached.

ATTACHMENT VI: DWSRF ELIGIBLE PROJECT COSTS

Must be directly attributable to the project.

1. The costs for complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
2. DWSRF loan fees.
3. The purchase of a portion of another system's capacity, if it is the most cost effective solution (limited to publicly owned (municipal) systems).
4. Construction of reservoirs (clear wells) that are part of the treatment process and are collocated with the treatment facility.
5. Construction of distribution reservoirs (finished water).
6. Cost associated with restructuring or consolidation of existing water systems by publicly owned water systems.
7. Main extensions to connect to safe and reliable sources of drinking water.
8. Cost associated with collecting and preparing environmental assessment documents to obtain local permits.
9. Direct labor including related employee benefits:
 - a. Salaries and wages (at actual or average rates) covering productive labor hours of employees of the borrower (excluding the administrative organization of the operating unit involved) for periods of time actively or incidentally engaged in pre-design engineering, design engineering, construction engineering, acquisition of rights of way, and the cleaning, sterilization or bacteriological testing of water system components prior to public use. The costs of services rendered by employees generally classified as administration/project management of the loan are considered a direct cost only when such employees are assigned the types of services described above and shall be limited to 3% or less of the project loan amount.
 - b. Employee benefits relating to labor are considered a direct cost of construction projects. The following items may be included as employee benefits:
 - F.I.C.A. (Social Security) –employer's share.
 - Retirement benefits.
 - Hospital, health, dental, and other welfare insurance.
 - Life insurance.
 - Industrial and medical insurance.
 - Vacation.
 - Holiday.
 - Sick leave.
 - Military leave and jury duty.

Employee benefits must be calculated as a percentage of direct labor dollars. The

computation of predetermined percentage rates to be applied to current labor costs must be based on the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

- c. Other than work identified in Number 9.a, no costs associated with labor performed by the borrower's employees, including force account work, are eligible for financing assistance.
10. Contract engineering, planning, design, legal, and financial planning services. The Department of Health reserves the right to declare ineligible legal costs that are unreasonable and disproportionate to the project.
 11. Contract construction work.
 12. Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county-owned equipment, at the rental rates established by the local government's "equipment rental and revolving fund" following the methods prescribed by the division of municipal corporations. However, such costs must be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities with a population of eight thousand or less not using this type of fund are allowed the same rates as used by the State Department of Transportation.
 13. Direct materials and supplies.
 14. Other direct costs incurred for materials or services acquired for a specific project are eligible costs and may include, but are not limited to such items as:
 - a. Telephone charges.
 - b. Reproduction and photogrammetry costs.
 - c. Video and photography for project documentation.
 - d. Computer usage.
 - e. Printing and advertising.
 15. Other project related costs include:
 - Competitive Bidding.
 - Audit.
 - Insurance.
 - Prevailing wages.
 - Attorney fees.
 - Environmental Review.
 - Archaeological Survey.

Water system plan costs are not eligible for reimbursement. Small water system management program and plan amendments costs are eligible for reimbursement.

Projects may be designed to accommodate reasonable growth. This is generally the 20-year projection included in the system's water system plan or small water system management program.

ATTACHMENT VII: LABOR STANDARD PROVISIONS FOR SUBRECIPIENTS THAT ARE GOVERNMENTAL ENTITIES

Wage Rate Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)

Preamble

With respect to the Clean Water and Safe Drinking Water State Revolving Funds, EPA provides capitalization grants to each state which in turn provides subgrants or loans to eligible entities within the state. Typically, the subrecipients are municipal or other local governmental entities that manage the funds. For these types of recipients, the provisions set forth under Roman Numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Occasionally, the subrecipient may be a private for profit or not for profit entity. For these types of recipients, the provisions set forth in Roman Numeral II, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section II-3(ii)(A), below and for compliance as described in Section II-5.

I. Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)

For Subrecipients That Are Governmental Entities:

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under the FY 2013 Continuing Resolution with respect to State recipients and subrecipients that are governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact Department of Health. If a State recipient needs guidance, they may obtain additional guidance from DOL's web site at <http://www.dol.gov/whd/>.

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the FY 2013 Continuing Resolution, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

- (i) While the solicitation remains open, the subrecipient shall monitor www.wdol.gov weekly to ensure that the wage determination contained in the solicitation remains current. The subrecipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the subrecipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.
- (ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c) (3) (iv). The subrecipient shall monitor www.wdol.gov on a weekly

basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2013 Continuing Resolution, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Borrower and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing

apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually

registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The Borrower must comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The Borrower and/or subcontractor must insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes will be resolved according to the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, Borrower certifies that neither it (nor he or she) nor any person or firm who has an interest in the Borrower's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

4. Contract Provision for Contracts in Excess of \$100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the

contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB.

Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the Department of Health and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/contacts/whd/america2.htm>.



City Council

Approval of a Resolution Regarding the Washington State Investment Board (WSIB) and Responsible Management of Public Trust Funds

Agenda Date: 8/21/2018
Agenda Item Number: 4.F
File Number: 18-0736

Type: resolution **Version:** 2 **Status:** Consent Calendar

Title

Approval of a Resolution Regarding the Washington State Investment Board (WSIB) and Responsible Management of Public Trust Funds

Recommended Action

Committee Recommendation:

The issue was presented to the Finance Committee on August 15, 2018, they unanimously recommend approval of the resolution.

City Manager Recommendation:

Move to approve the resolution for responsible management of public trust funds for action prior to the Washington State Investment Board's September 20, 2018, meeting.

Report

Issue:

Whether to approve the proposed resolution for responsible management of public trust funds.

Staff Contact:

Steve Hall, City Manager, 360.753.8447

Presenter(s):

Mayor Pro Tem Nathaniel Jones

Background and Analysis:

City employees and many residents depend upon the actions of the Washington State Investment Board (WSIB) to manage economic risk for pension funds and other public trust investments. In 2013, the City expressed concerns (via the attached letter) with WSIB investments in the fossil fuel industry and request disinvestment.

On July 17, 2018, Mayor Pro Tem Nathaniel Jones requested that action related to the WSIB be considered.

The Finance Committee met on August 15, 2018 and recommend approval of the resolution.

Neighborhood/Community Interests (if known):

Community members expressed interest in ensuring public dollars are spent in the best interest of the public.

Options:

1. Approve the resolution as proposed.
2. Approve resolution with revisions.
3. Recommend other means of addressing identified need.
4. Take no action.

Financial Impact:

Since 2013, funds managed by the WSIB have sustained substantial financial losses from fossil fuel investments.

Attachments:

Resolution
Mayor Pro Tem Jones's City Council Referral Request
2013 Letter to Washington State Investment Board

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA,
WASHINGTON, FOR RESPONSIBLE MANAGEMENT OF PUBLIC TRUST
FUNDS**

WHEREAS, it is the mission of the Washington State Investment Board (WSIB) to manage investments for retirement and public trust funds with the highest standard of professional conduct for the exclusive benefit of fund beneficiaries; and

WHEREAS, currently WSIB is managing more than \$129 billion for public employees, teachers, school employees, law enforcement officers, firefighters, and judges, as well as the Deferred Compensation Program and investments for 18 other public funds, including industrial insurance, colleges and universities, and developmental disability programs; and

WHEREAS, in October of 2013, the City of Olympia expressed concerns with the WSIB investments in companies and/or portfolios engaged with fossil fuel extraction, production, or transport and requested that the process of divestment from these holdings begin; and

WHEREAS, since 2013, public pension funds, including those managed by WSIB, have sustained substantial financial losses from fossil fuel investments, and future returns from this sector are not reasonably expected to better their past performance due to changes in risk, regulations, and attitudes towards the use of fossil fuels; and

WHEREAS, it is important for fiduciaries to consider the various ways to assess and mitigate the risks that different sectors and industries have from the impacts of climate change, the long-term transition to a less carbon-intensive economy, and the potential for fossil fuel reserves and companies to lose a substantial portion of their value; and

WHEREAS, the world economy is shifting toward less energy-intensive models of growth, fracking has driven down energy prices, and renewable energy and electric vehicles are gaining market share; and

WHEREAS, litigation on climate change is expanding and campaigns in opposition to fossil fuels have matured, which factors are now a material risk to the fossil fuel sector, calling into question the presence of holdings for fossil fuel and allied industries in the portfolio of the WSIB; and

WHEREAS, the investment risks of the WSIB affect the residents of the City of Olympia with outsized impact due to the disproportionate number of people in Olympia whose pensions and investments are managed by the WSIB;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. That the WSIB initiate a focused carbon footprint analysis for those equity assets within its portfolio, that it conduct an assessment of potential climate change impacts on risk and return characteristics of the portfolio, and that it review approaches for integrating climate change risks and opportunities into asset allocation, manager selection, and risk management.

Section 2. That the WSIB not modify its portfolio with new or expanded investments in fossil fuels or allied industries until such analyses are complete.

Section 3. That the WSIB prominently announce its risk analysis findings for those components of its portfolio that are exposed to climate change risk through association with the fossil fuel industry, and that such findings be incorporated in the WSIB's deliberations and decisions pertaining to funds management in order to protect the long-term interests of its beneficiaries and to determine the most efficacious way to safeguard its portfolio from the economic risks of climate change, thereby fulfilling the WSIB's fiduciary duty to beneficiaries.

Section 4. That these requests promptly be transmitted to the WSIB members and staff as an action of the City of Olympia.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2018.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY



Olympia City Council Referral Request

Tracking Number	2018-0026NJ
Date of Referral	July 17, 2018
Originator	MPT Jones
Referral To	Finance Committee
Request	Review proposed resolution for responsible management of public trust funds and provide full Council with a recommendation regarding action on this matter.
Relationship of Request to City or Proposed City Business/Services	<p>City employees and many residents depend upon the actions of the Washington State Investment Board (WSIB) to manage economic risk for pension funds and other public trust investments.</p> <p>In 2013, the City of Olympia expressed concerns with WSIB investments in the fossil fuel industry and requested disinvestment.</p> <p>Since 2013, funds managed by the Washington State Investment Board, have sustained substantial financial losses from fossil fuel investments.</p>
Connection to Comprehensive Plan	Economy: abundant local products and services; a thriving arts and entertainment industry; sustainable quality infrastructure; a stable thriving economy
Options	<ol style="list-style-type: none">1. Recommend resolution as proposed.2. Recommend resolution with revisions.3. Recommend other means of addressing identified need.4. Recommend no action.
Timing	The Committee is requested to bring forward recommendation in time for potential Council action before the WSIB's September 20, 2018 meeting.
Attachments	<ol style="list-style-type: none">1. Draft Resolution



October 14, 2013

Mr. Jim McIntire, Chair
Washington State Investment Board
P.O. Box 40916
Olympia, WA 98504-0916

Dear Chair McIntire,

We are writing to express our concern that the City of Olympia's contributions to the Commingled Trust Fund, managed by the Washington State Investment Board (WSIB), are being used to invest in companies and/or portfolios engaged with fossil fuel extraction, production, transport or other aspects of this environmentally damaging pursuit.

It has been brought to our attention by a local citizens group, the Olympia Chapter of FOR (Fellowship of Reconciliation) that the Commingled Trust Fund report for 2011 shows, among others, the following investments in fossil fuel companies: Exxon Mobile, \$231 million; BP Amoco, \$90 million; Canadian Oil Sands, \$61 million; Diamond Offshore Drilling, \$54 million; and Chesapeake Energy Corp., \$52 million. This information is distressing during a time when we are all working to reduce our carbon footprint and our dependence on fossil fuels.

We support the experts who agree that climate change is caused by humans burning fossil fuels and will continue to accelerate and intensify tragic climate disasters. The scientific consensus is clear; we cannot safely burn even half of the global fossil fuel reserves without dangerously warming the planet for several thousand years.

Therefore, it is our request that the WSIB stop investing the money Olympia contributes to the Commingled Trust Fund in fossil fuel companies, and further to be divested within five years from direct ownership of any commingled funds that include fossil fuel public equities and corporate bonds.

Furthermore, we support the actions of Seattle Mayor Mike McGinn as he has led the divestment campaign in Washington by directing the Seattle City Employees' Retirement Board to refrain from future investments in fossil fuel companies, and begin the process of divesting Seattle's pension portfolio from these companies. We request that the WSIB follow this example of leadership.

Respectfully,

Stephen H. Buxbaum, Mayor



City Council

Approval of a Recommendation to Add Temporary Staffing to Support the City's Homeless Response Work

Agenda Date: 8/21/2018
Agenda Item Number: 4.G
File Number: 18-0770

Type: recommendation **Version:** 2 **Status:** Consent Calendar

Title

Approval of a Recommendation to Add Temporary Staffing to Support the City's Homeless Response Work

Recommended Action

Committee Recommendation:

The issue was presented to the Finance Committee on August 15, 2018, they unanimously recommend approval to use \$35,000 of City Council Goal money to add temporary staffing to support the City's Homeless Response work.

City Manager Recommendation:

Move to approve the use of Council Goal money to add temporary staffing to support the City's homeless response work.

Report

Issue:

Whether to use Council Goal money to add temporary staffing to support the City's Homeless response work.

Staff Contact:

City Manager Steve Hall, 360.753.8244

Community Planning and Development Director Keith Stahley, 360.753.8227

Presenter(s):

Keith Stahley

Background and Analysis:

The City has adopted an aggressive strategy to do more to address the immediate public health crisis related to homelessness.

In May 2018, the City Council launched four short term initiatives to address immediate needs.

Developing a direct response to Homeless Services and affordable housing is a new line of work for the City. In April, the City realigned staffing to create an internal Housing Action Team to better align and coordinate the City's response to this emerging work.

In May, as part of a partnership with the Evergreen Christian Church, the City was able to fund and staff its first ever Homeless Response Coordinator. Other staff have also changed focus to assign larger portions of their time to this work.

Despite this internal realignment, staff resources are inadequate to properly handle the amount of coordination, public engagement, project planning and strategic thinking needed to address these new initiatives.

What is really needed, is a full time permanent staff person to augment this work. However, long-term funding has not been identified.

In the short term, staff is recommending temporary staffing (up to six months) using Council goal funds to support current work.

The issue was presented to the Finance Committee on August 15, 2018, they unanimously recommend approval to use \$35,000 of City Council Goal money to add temporary staffing to support the City's homeless response work.

Neighborhood/Community Interests (if known):

Responding to homeless needs in a strategic, well planned manner is a critical issue for the entire community.

Options:

1. Fund temporary staffing with Council Goal funds at \$35,000.
2. Consider other funds for permanent additional staffing (Home Fund, Policy Analyst Funding, etc.)
3. Do not recommend any additional staffing.

Financial Impact:

\$35,000 from Council Goal funds. This would deplete the remaining funds in that account, leaving a zero balance.

Attachments:

None



City Council

Approval of an Ordinance Appropriating Funds for Woodruff Sprayground, Park Land Acquisition and Percival Landing Bulkhead Replacement

Agenda Date: 8/21/2018
Agenda Item Number: 4.H
File Number: 18-0792

Type: ordinance **Version:** 1 **Status:** 1st Reading-Consent

Title

Approval of an Ordinance Appropriating Funds for Woodruff Sprayground, Park Land Acquisition and Percival Landing Bulkhead Replacement

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve an ordinance appropriating grant funds received for Woodruff Sprayground, Park Land Acquisition and Percival Landing Bulkhead Replacement on first reading and forward to second reading.

Report

Issue:

Whether to appropriate Washington State Recreation and Conservation Office (RCO) grant funds received for Woodruff Sprayground, Park Land Acquisition and Percival Landing Bulkhead Replacement.

Staff Contact:

Paul Simmons, Parks, Arts and Recreation Director, 360.753.8462

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

Appropriate \$1,681,098 for Kaiser Woods, LBA Woods and West Bay Woods acquisition projects

The Washington State Recreation and Conservation Office (RCO) awarded \$1.68 million in grant funding to reimburse a portion of the purchase costs for LBA Woods (Morse-Merryman/Trillium

parcel), Kaiser Woods, and West Bay Woods. These properties were originally purchased with Bond Anticipation Note (BAN) funds.

On May 22, the Council amended Ordinance 7012 to expand the authorized use of grant proceeds for properties purchased with Bond Anticipation Note (BAN) funds to include use for development projects. As a follow up to that action, the Parks Department will use the grant reimbursements to help fund several important park development projects: Percival Landing Bulkhead (\$480,000), Woodruff Park Sprayground (\$330,000), Grass Lake Nature Park Trail (\$737,000), and community park development (\$134,098).

Appropriate \$446,380 for Woodruff Sprayground

The Washington State Recreation and Conservation Office (RCO) awarded \$446,380 in grant funding to construct a sprayground at Woodruff Park. This project will begin in early 2019.

Appropriate \$225,000 Grant Reimbursements from the Voted Utility Tax fund for Percival Landing Bulkhead Replacement

In 2016, the City received a Department of Ecology Remedial Action Grant to reimburse part of the 2010 cleanup costs of the contaminated northern site of Percival Landing, which was under the Department of Ecology Voluntary Cleanup Program. These funds were initially placed in the Voted Utility Tax Fund, but were earmarked to help fund the next project at Percival Landing, which is the bulkhead replacement. This action will allow the project to begin in early 2019.

Neighborhood/Community Interests (if known):

All projects are included in the 2016 Parks, Arts and Recreation Plan, which was developed with significant public involvement.

Options:

1. Move to approve the ordinance appropriating funds for Woodruff Sprayground, Park Land Acquisition and Percival Landing Bulkhead Replacement.
2. Do not move to approve the ordinance appropriating funds for Woodruff Sprayground, Park Land Acquisition and Percival Landing Bulkhead Replacement. This will likely delay construction of the Woodruff Sprayground and Percival Landing Bulkhead Replacement projects.
3. Council to provide alternate direction.

Financial Impact:

Will allow the grant funds received to be appropriated for Park Land Acquisition, the Woodruff Sprayground, and Percival Landing Bulkhead Replacement development projects.

Attachments:

Ordinance

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO THE 2018 BUDGET AND APPROPRIATING \$446,380 FOR WOODRUFF SPRAYGROUND, \$1,681,098 FOR PARK LAND ACQUISITION, AND \$225,000 FOR THE PERCIVAL LANDING BULKHEAD.

WHEREAS, the Recreation and Conservation Office of the State of Washington is providing a grant of \$446,380.00 to the city of Olympia for construction of the Woodruff Sprayground; and

WHEREAS, the Recreation and Conservation Office of the State of Washington is providing grants of \$1,681,098.00 to the City of Olympia for reimbursement of land acquisition costs for Morse-Merryman LBA Woods, Kaiser Woods, and West Bay Woods parcels; and

WHEREAS, the Morse-Merryman LBA Woods, Kaiser Woods, and West Bay Woods projects will have excess funds; and

WHEREAS, several important development projects need additional funding, including Percival Landing Bulkhead Replacement, Grass Lake Nature Trail, Woodruff Sprayground and Community Park Design; and

WHEREAS, the Parks and Recreational Sidewalk, Utility Tax Fund has \$225,000.00 which can be applied to the Percival Landing Bulkhead project; and

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. That the following appropriations are hereby made:

CAPITAL IMPROVEMENTS FUND

Resources:	State of Washington, Recreation and Conservation Office grants	\$2,127,478
	Transfer in from Parks & Recreational Sidewalk, Utility Tax Fund	\$225,000
	TOTAL RESOURCES	\$2,352,478
Appropriations:	Park Land Acquisition	\$1,681,098
	Percival Landing Bulkhead project	\$225,000
	Woodruff Park Sprayground project	\$446,380
	TOTAL APPROPRIATIONS	\$2,352,478

PARKS AND RECREATIONAL SIDEWALK, UTILITY TAX FUND

Resources:	Voted Utility Tax Fund balance	\$225,000
	TOTAL RESOURCES	\$225,000
Appropriations:	Capital Improvement Program Fund – Percival Landing Bulkhead Replacement	\$225,000
	TOTAL APPROPRIATIONS	\$225,000

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 shall 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.

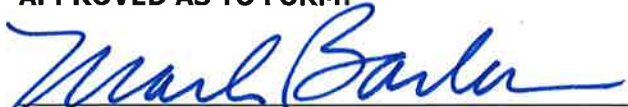
Section 5. Effective Date. This Ordinance shall take effect five days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



City Council

Approval to Amend Ordinance 7153 to Create a Capital Fund for Monies Collected from the Home Fund Sales Tax

Agenda Date: 8/21/2018
Agenda Item Number: 4.1
File Number: 18-0794

Type: ordinance **Version:** 1 **Status:** 1st Reading-Consent

Title

Approval to Amend Ordinance 7153 to Create a Capital Fund for Monies Collected from the Home Fund Sales Tax

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the ordinance amending Ordinance 7153 to create a capital fund for monies collected from the Home Fund Sales Tax.

Report

Issue:

Whether to amend Ordinance 7153 to create a capital fund for monies collected from the Home Fund Sales Tax.

Staff Contact:

Olivia Oudman, Senior Accountant, Administrative Services, 360.753.8435

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

On February 13, 2018, Olympia voters approved Proposition No. 1 to increase the sales tax by one-tenth of one percent as authorized by RCW 82.14.530. The use of the revenue collected was outlined in a voter fact sheet and stated by law in the RCW 82.14.530.

On April 17, 2018, City Council approved ordinance 7135 to create a separate fund for revenues received from the Home Fund sales tax. This ordinance allows all revenue to go into one account. Staff is requesting Council to amend ordinance 7135 to approve to establish a separate capital fund. This is based on the fact that 60% or more of all revenue collected will be used for capital, and the Governmental Accounting Standards Board (GASB) requires that monies collected for capital

purposes be segregated from monies collected for operating purposes.

If approved, revenues received from the Home Fund Sales Tax will be accounted for in both an operating fund and capital fund.

Neighborhood/Community Interests (if known):

Options:

1. Move to approve the ordinance amending Ordinance 7153 to create a capital fund for monies collected from the Home Fund Sales Tax
2. Do not approve the ordinance amending Ordinance 7153 to create a capital fund for monies collected from the Home Fund Sales Tax. The City would be at risk of a finding by the State Auditor due to the lack of separation and distinction between the authorized operating and capital nature of the monies collected.

Financial Impact:

NA

Attachments:

Ordinance

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, AMENDING SECTIONS 3.04.000 AND 3.04.142 OF THE OLYMPIA MUNICIPAL CODE, AND CREATING A NEW FUND TO BE KNOWN AS THE HOME FUND CAPITAL FUND (318) BY ADDING A NEW SECTION, 3.04.318 TO CHAPTER 3.04 OF THE OLYMPIA MUNICIPAL CODE.

WHEREAS, RCW 82.14.530 authorizes cities to submit to voters a proposition to increase sales and use tax by not more than one-tenth of one percent, to be used to construct affordable and supportive housing and for housing-related purposes, including mental and behavioral health-related facilities, and for costs of operations, maintenance, delivery and evaluation of mental health programs and services, or housing-related services as permitted by state law; and

WHEREAS, on February 13, 2018, voters of the City of Olympia approved Proposition No. 1 to increase the sales tax by one-tenth of one percent as authorized by RCW 82.14.530; and

WHEREAS, on April 17, 2018, the Olympia City Council added Section 3.04.142, to the Olympia Municipal Code, creating the Home Fund by passage of Ordinance No. 7135; and

WHEREAS, a minimum of sixty (60) percent of the monies collected under RCW 82.14.530 shall be used for the housing and housing-related purposes as defined in RCW 82.14.530(2)(a)(i), (ii), and (iii), and the remainder of the monies collected shall be used for the operation, delivery, or evaluation of mental and behavioral health treatment programs and services or housing-related services as required by RCW 82.14.530(2)(c); and

WHEREAS, the Olympia City Council desires a minimum of sixty (60) percent of monies collected under RCW 82.14.530 shall be used for the housing and housing-related purposes as defined in RCW 82.14.530(2)(a)(i), (ii), and (iii), and be accounted for in a capital fund, known as the Home Fund Capital Fund (318), to maintain separation and distinction between the housing and housing-related purposes as defined in RCW 82.14.530(2)(a)(i), (ii), (iii) and the mental, behavioral, or housing-related services as defined in RCW 82.14.530(2)(c). The remaining monies collected shall be used for operation, delivery, or evaluation of mental, behavioral, and/or housing-related services as defined in RCW 82.14.530(2)(c), shall be accounted for in a special revenue fund, known as the Home Fund (142); and

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 3.04.000. Olympia Municipal Code 3.04.000 is hereby amended to read as follows:

3.04.000 Chapter Contents

Sections:

- 3.04.001 General Fund – Current Operations.
- 3.04.003 Special Account Control Fund.
- 3.04.006 Development Fee Revenue Fund.
- 3.04.007 Parking Fund.
- 3.04.014 LEOFF 1 OPEB Trust Fund.
- 3.04.021 The Washington Center for the Performing Arts Endowment Fund.
- 3.04.025 The Washington Center for the Performing Arts Operations and Maintenance Fund.
- 3.04.026 Arts Fund.

- 3.04.029 Facilities Major Repairs Fund.
- 3.04.107 HUD Fund.
- 3.04.127 Impact Fee Fund.
- 3.04.130 SEPA Mitigation Fund.
- 3.04.132 Lodging Tax Fund.
- 3.04.134 Parks and Recreational Sidewalks Utility Tax Fund.
- 3.04.135 Parking Business Improvement Area Fund.
- 3.04.136 Farmers Market Major Repair and Replacement Fund.
- 3.04.137 Hands On Children's Museum Fund.
- 3.04.138 Transportation Benefit District Fund.
- 3.04.139 Grants Control Fund.
- 3.04.140 Real Estate Excise Tax Fund.
- 3.04.141 Olympia Metropolitan Park District Fund.
- 3.04.142 Home Fund.
- 3.04.200 Debt Service Funds.
- 3.04.317 Capital Improvement Fund.
- 3.01.318 Home Fund Capital Fund.
- 3.04.325 City Hall Construction Fund.
- 3.04.331 Fire Equipment Fund.
- 3.04.400 Waterworks Utility Funds.
- 3.04.403 Solid Waste (Garbage) Utility Fund.
- 3.04.404 Storm Drainage Utility Fund.
- 3.04.500 Equipment Rental Fund.
- 3.04.503 Unemployment Compensation Fund.
- 3.04.504 Insurance Trust Fund.
- 3.04.505 Workers Compensation Fund.
- 3.04.600 Fiduciary and Custodial Funds.

Section 2. Amendment of OMC 3.04.142. Olympia Municipal Code 3.04.142 is hereby amended to read as follows:

3.04.142 Home Fund

- A. Created. There is hereby created a fund to be known as the Home Fund.
- B. Sources. There shall be deposited in the Home Fund, sales and use tax authorized by RCW 82.14.530 and interest thereon, and other funds as determined by the City Council to support the purposes of the Home Fund.
- C. ~~Uses. Funds within the Home Fund shall be used for housing and housing-related services, including mental and behavioral health programs and facilities as required by RCW 82.14.530. A minimum of sixty (60) percent of the monies collected under RCW 82.14.530 shall be used for housing and housing-related purposes as defined in RCW 82.14.530(2)(a)(i), (ii) and (iii), and the remainder of the monies collected shall be used for~~

the operation, delivery, or evaluation of mental and behavioral health treatment programs and services as required by RCW 82.14.850(2)(c). A maximum of forty (40) percent of the monies collected under RCW 82.14.530 shall be used for the operation, delivery, or evaluation of mental and behavioral health treatment. Other funds deposited in the Home Fund shall be used for purposes similar in nature to the above, as determined by the City Council.

Section 3. Amendment of OMC 3.04. A NEW SECTION 3.04.318 is hereby added to the Olympia Municipal Code to read as follows:

3.04.318 Home Fund Capital Fund

A. Created. There is hereby created a fund to be known as the Home Fund Capital Fund.

B. Sources. There shall be deposited in the Home Fund Capital Fund sales and use tax authorized by RCW 82.14.530 and interest thereon, and other funds as determined by the City Council to support the purposes of the Home Fund Capital Fund.

C. Uses. A minimum of sixty (60) percent of the monies collected under RCW 82.14.530 shall be used for housing and housing-related purposes as defined in RCW 82.14.530(2)(a)(i), (ii), and (iii). Other funds deposited in the Home Fund Capital Fund shall be used for purposes similar in nature to the above, as determined by the City Council.

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/clerical 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 shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Mark Barber", written over a horizontal line.

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



City Council

Approval of a Resolution Authorizing the City Manager to Direct the City Attorney to Request Leave from the Washington State Supreme Court to File an *Amicus Curiae* Brief in the Case of *S. Michael Kunath, et al. v. City of Seattle, et al.*, in support of Seattle's Income Tax Ordinance

Agenda Date: 8/21/2018
Agenda Item Number: 4.J
File Number: 18-0818

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

Title

Approval of a Resolution Authorizing the City Manager to Direct the City Attorney to Request Leave from the Washington State Supreme Court to File an *Amicus Curiae* Brief in the Case of *S. Michael Kunath, et al. v. City of Seattle, et al.*, in support of Seattle's Income Tax Ordinance

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the Resolution authorizing the City Manager to direct the City Attorney to request leave from the Washington State Supreme Court to file an *Amicus Curiae* Brief in the case of *S. Michael Kunath, et al. v. City of Seattle, et al.*, in support of Seattle's income tax ordinance.

Report

Issue:

Whether the City Council should approve a Resolution authorizing the City Manager to direct the City Attorney to request leave from the Washington State Supreme Court to file an *Amicus Curiae* brief in the case of *S. Michael Kunath, et al. v. City of Seattle, et al.* in support of Seattle's income tax ordinance.

Staff Contact:

Mark Barber, City Attorney, 360.753.8338

Presenter(s):

None - Consent Calendar item.

Background and Analysis: The City of Seattle enacted an ordinance to adopt a gross income tax

on total personal income for individual taxpayers who report more than \$250,000 per year in total income, and \$500,000 per year in total income for married taxpayers filing jointly. Seattle's ordinance was challenged in King County Superior Court and was ruled invalid by the trial court. Seattle has petitioned the Washington State Supreme Court for direct review of the trial court's ruling. A majority of courts hold that a tax measured by personal income is an excise tax, not a property tax. Prior Washington case law to the contrary is based on premises and legal authorities that have been overturned. Further, the legislature has granted municipalities broad authority to impose taxes, including excise taxes, and RCW 35A.11.020 confers upon municipalities "all powers of taxation for local purposes" within the city's boundaries subject only to constitutional and statutory constraints.

Neighborhood/Community Interests (if known):

N/A

Options:

1. Approve the Resolution as proposed.
2. Approve Resolution with revisions.
3. Recommend other means of addressing identified need.
4. Take no action.

Financial Impact:

None

Attachments:

Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, AUTHORIZING THE CITY MANAGER TO DIRECT THE CITY ATTORNEY TO REQUEST LEAVE FROM THE WASHINGTON STATE SUPREME COURT TO FILE AN *AMICUS CURIAE* BRIEF IN THE CASE OF *S. MICHAEL KUNATH, ET AL. V. CITY OF SEATTLE, ET AL.*

WHEREAS, in 2015, The Institute on Taxation and Economic Policy found that Washington State has the most unfair tax system in all of the United States; and

WHEREAS, in the City of Olympia, the less money a resident earns, the greater share of their income must be paid in state and local taxes; and

WHEREAS, in 2016, a household within the City of Olympia earning \$25,000 annually paid about 12.9 percent of its income in state and local taxes, while a household earning \$250,000 annually paid 3.4 percent; and

WHEREAS, in November 2010, Olympia voters supported Initiative No. 1098, a state income tax proposal, which ultimately failed on the state-wide ballot; and

WHEREAS, Olympia's experience with a local income tax is complex, involving a 2016 local initiative that was opposed by the City Council and defeated at the ballot largely due to drafting errors in the initiative; and

WHEREAS, the City of Seattle passed an ordinance imposing a municipal tax on incomes above \$250,000 for individuals and above \$500,000 for married couples; and

WHEREAS, the King County Superior Court in November 2017 ruled against Seattle's ordinance; and

WHEREAS, the City of Seattle is appealing the King County Superior Court ruling and has petitioned for direct review by the Washington State Supreme Court; and

WHEREAS, greater fairness and equity in taxes will further the City of Olympia's objectives of economic stability by addressing the existing regressive public revenue structure; and

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City of Olympia recognizes the lack of fairness and equity in current state and local tax structures in the State of Washington and the negative impact of regressive taxation upon its citizens.

Section 2. That the City Manager is hereby authorized to direct the City Attorney to file a motion for leave to file an *amicus curiae* brief in support of the City of Seattle's income tax ordinance in the case of *S. Michael Kunath, et al. v. City of Seattle, et al.*, Supreme Court Cause No. 95295-7.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2018.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY



City Council

Approval of Percival Plinth Project Peoples' Choice Award 2018

Agenda Date: 8/21/2018
Agenda Item Number: 6.A
File Number: 18-0741

Type: decision **Version:** 2 **Status:** Other Business

Title

Approval of Percival Plinth Project Peoples' Choice Award 2018

Recommended Action

Committee Recommendation:

the Arts Commission recommends approval of the purchase of "Pig Listening in a Story Place" as recommended by public vote.

City Manager Recommendation:

Move to approve purchase of "Pig Listening in a Story Place" by Nancy-Thorne Chambers for the 2018 Percival Plinth Peoples' Choice Award, based on public vote

Report

Issue:

Whether to approve purchase of "Pig Listening in a Story Place" by Nancy-Thorne Chambers for the 2018 Percival Plinth Peoples Choice Award, based on public vote.

Staff Contact:

Angel Nava, Arts Program Specialist, Olympia Parks, Arts & Recreation, 360.753.8384

Presenter(s):

Angel Nava, Parks, Arts & Recreation
Stacy Hicks, Chair, Olympia Arts Commission

Background and Analysis:

On August 9, 2018, the Olympia Arts Commission reviewed the results of the 2018 Percival Plinth Peoples' Choice Award public vote, and moved to recommend the results to City Council for approval.

On March 6, 2018, City Council approved the sculptures recommended by the Arts Commission for the eighth year-long display of loaned sculpture for the Percival Plinth Project. Associated with this exhibition is the public vote known as the Peoples' Choice Award, by which one sculpture is selected for purchase by the City. The period of voting took place from June 22 (with a public kick-off) - July 31, 2018. All loaned sculptures will be returned in spring 2019 and the popularly selected piece will

be moved to City Hall for one year before being reinstalled in another Olympia location. This will leave all plinths cleared for another exhibition and competitive process.

Selected Sculpture

For the 2018 Percival Plinth People's Choice award 631 ballots were cast in the month of July. "Pig Listening in a Story Place" by Nancy-Thorne Chambers took the lead with 210 votes. Honorable mentions were "Pendant Mandala" by Ken Turner with 117 votes, and "Old Man of the Sea" by Sandra Hays with 101 votes.

Voters for "Pig Listening in a Story Place" spoke to it being "well-executed", and "expertly done", as well as appreciating its "whimsical" quality. More than a few recommended permanent placement near the library or a local playground where children and families gather.

All sculptures may be viewed at www.olympiawa.gov/plinth <<http://www.olympiawa.gov/plinth>>

Neighborhood/Community Interests (if known):

59 percent of votes were from Olympia residents and 32 percent from other parts of Washington State. 32 votes were from other US States. In total voters represented over 62 cities from around the world.

Options:

- 1) Approve purchase of "Pig Listening in a Story Place" as recommended by public vote.
- 2) Do not approve purchase of "Pig Listening in a Story Place" as recommended by public vote.
- 3) Provide staff guidance on a different recommendation.

Financial Impact:

Purchase price for the sculpture is \$10,000 (\$10,000 budgeted), from the Municipal Art Fund.

Attachments:

None



City Council

Approval of Call for Art for the Olympia Art Crossings Public Art Project

Agenda Date: 8/21/2018
Agenda Item Number: 6.B
File Number: 18-0743

Type: decision **Version:** 1 **Status:** Other Business

Title

Approval of Call for Art for the Olympia Art Crossings Public Art Project

Recommended Action

Committee Recommendation:

The General Government Committee reviewed and recommended approval of the Olympia Art Crossings Call for Art.

City Manager Recommendation:

Move to approve the first Call for Art within the Olympia Crossings Public Art Project (one of eight projects).

Report

Issue:

Whether to authorize staff to proceed with the first Call for Art within the Olympia Crossings Public Art Project (one of eight).

Staff Contact:

Stephanie Johnson, Arts Program Manager, 360.709.2678

Presenter(s):

Stephanie Johnson, Arts Commission Staff Liaison
Stacy Hicks, Chair, Olympia Arts Commission

Background and Analysis:

On October 24, 2017, City Council approved the public art plan **Olympia Crossings: An Art Plan for City Gateways**.

Since that time, staff and the Arts Commission have worked closely with NWONA (Northwest Olympia Neighborhood Association) to develop the Call for Art for the first Olympia Crossing on West Bay Drive at the base of the Woodard Avenue trail. NWONA was very involved with the Master Plan process, and NWONA President Kendra Sawyer is on the jury to recommend the artist for the project.

The General Government Committee reviewed this Call for Art on June 21, 2018, and recommended

it to City Council for approval.

As staff and the Arts Commission work through this initial project, the process and materials will become the template for all 8 projects. Some of the key elements include:

- Initial conversation with interested Neighborhood Association(s) to develop the Call for Art for that Crossing location
- Participation by a Neighborhood Association representative on the initial jury
- A two-part application process with an RFQ followed by finalist interviews
- Focus on local artists, with support provided by a pre-submission workshop and proposal review (with the selected artist) with the City's on-call landscape architect.

If this Call for Art is approved, the process for selecting an artist follows:

Artist Selection Schedule

Call for Art open
Workshop for interested applicants
Deadline for Entry
Jury Process
Arts Commission review
Finalist interviews
Arts Commission review
City Council approval

Neighborhood/Community Interests (if known):

NWONA and West Bay Neighborhood Association have been involved and/or informed in the Olympia Art Crossings Project since the Master Plan. Both associations have been invited to participate in the design process with the selected artist.

Options:

1. Move to approve the Olympia Art Crossings Call for Art.
2. Move to approve the Call for Art as modified by the City Council.
3. Do not approve the Call for Art.

Financial Impact:

\$50,000 for artwork design and fabrication and up to \$25,000 for installation from the Municipal Art Fund.

Attachments:

Call for Public Art: West Bay Drive Art Crossing
Olympia Crossings: An Art Plan for City Gateways
Funding table from the 2018 Municipal Art Plan

DRAFT

City of Olympia | Call for Public Art

West Bay Drive Art Crossing



Short Description

The City of Olympia is seeking an artist or artist team to develop site-specific artwork as part of the Olympia Art Crossings Project. Olympia Crossings: An Art Plan for City Gateways identifies eight locations for art, located along Civic Boulevards, based in neighborhoods but located at the primary thresholds approximately a mile from the center of downtown Olympia. The artist or artist team will be expected to develop an artwork in response to the neighborhood and community in which the artwork is located. A set of paired Markers are recommended at each site, scaled to be read at the scale of the boulevards. Placemaking is also required that is specific to the opportunities for each site, to enhance the pedestrian experience day and night. "Olympia Crossings" is the theme of the project and overarching concept. Artists are encouraged to contemplate and interpret this theme in the development of their artwork.

Primary Contact

Stephanie Johnson, Arts Program Manager

sjohnso1@ci.olympia.wa.us

360-709-2678

Budget

The total project budget for artwork is \$50,000. The allotted funds must cover all costs related to the supply of the work(s) of art including but not limited design, engineering, lighting fixture(s), fabrication, transportation and delivery, as well as insurance, artist's fee, applicable taxes and travel expenses associated with the project. The City is responsible for site preparation and installation.

Eligibility

This opportunity is available to artists with a strong connection to the city of Olympia, WA. Olympia-based artists and/or artist teams are strongly encouraged to apply. City of Olympia Staff, Commissioners, Panel Members, Project Personnel, and immediate family members of all of the above are not eligible to apply.

Deadline

Applications are due by Midnight, Monday, XXXXX (PDT).

General Description

Introduction

The City of Olympia has collaborated with the arts management team of Framework Cultural Placemaking and Perri Howard to identify sites, concepts, and opportunities for artwork integration at the Olympia gateways. The City of Olympia has identified opportunities for an artist or artist team to develop site-specific artwork for each gateway and provide the following benefits:

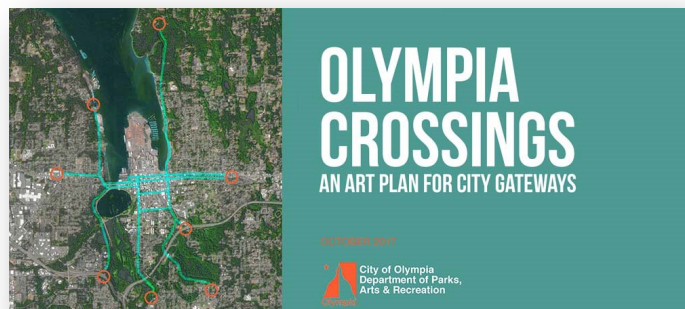
- A welcoming artwork that marks a threshold within or at the edge of the City of Olympia.
- Increased presence of arts and culture in Olympia's neighborhoods.
- Connections to nature, water, community assets, history and the place of Olympia as the State Capital
- A stronger sense of place and stronger relationship between adjacent neighborhoods.

West Bay description

The three Neighborhood Associations closest to the project area are West Bay Drive, Burbank/Eliot and Northwest (NWONA). Of the three, NWONA is the largest, geographically, and in community participation. Meetings range from 40-140 in attendance, and the neighbors greatly value their social network and connectedness. Neighbors appreciate their area's individuality - in the architecture (from Victorian to Mid-Century Modern), and quirkiness of activities (from sounds of the Artesian Rumble Arkestra rehearsals to singing bicyclists in top hat and tails). They appreciate the topography of their area, from forested ravines to the fact that there are no arterials running through their neighborhood, leaving a maze of roads and alleys for exploration. Finally, they appreciate the natural world that inundates their community: frog chorus, deer and squirrels, the heron rookery, views of the water, cedar and fruit trees. They take pride that their neighborhood is not fancy, shiny or glossy, but simple.

Research the Project

www.olympiawa.gov/artplan



From Olympia Crossings: An Art Plan for City Gateways

RECOMMENDATIONS

THEME

The overall theme is "Crossings," with the art based on ideas of connecting, weaving together people and places; boulevards and gateways; land and water across time and topography.

PLACE MARKERS

Art at each site will include a pair of sculptural Markers, scaled to the boulevard and the city. The pairing of the Markers should reflect the idea of crossing.

The Markers should be made of multiple pieces, representing the interplay and crossings between individual and the whole; the crossing of thread within the fabric.

PLACE MAKING

Art at each site will include treatment at the human scale that considers the ground plane and elements that capture the specific opportunities of the site, and support the identity and public life of the neighborhood.

GROUND PLANE

Each Crossing location should address the ground plane in a way specific to the site. The treatment of the ground plane should draw on the idea of the connection and crossing.

LANDSCAPE

Include landscape as an integral and supportive element to the art, specific to the site.

SAFETY

Art should be designed to avoid any safety problems for people near the art or for drivers.

DURABILITY

Art should be of lasting materials, and easy to maintain.

DAY & NIGHT

Each of the crossings should be lit, with consideration to appearance during daylight and after dark.

ARTIST SELECTION

Include artists with a strong connection to Olympia, and nurture skills through mentoring where needed.

INITIAL PROJECTS

Select the first projects for a high level of visibility and community support. Consider early place making at sites scheduled for later implementation.

GUIDING THE PROCESS

Use the art crossings design process as a way to build community and foster creativity.

Scope of Work

The selected artist or team will develop and create a new site-specific artwork in response to the West Bay Drive Crossing location, the adjacent neighborhoods, and in response to the theme "Olympia Crossings."

The artwork may include a variety of diverse media including light, wayfinding elements, artist made amenities, or sculptural forms. The artwork should have a strong ongoing physical presence within the designated site area. The artwork must be suitable for diverse audiences and be able to withstand wet seasonal weather conditions. Artists are required to follow best practices as defined in the [Materials and Fabrication Handbook](#) developed by ArtsWA.

The artist will consider "Olympia Crossings" as it relates to the local community, the rest of the gateway system, and surrounding area. The artist will design and fabricate the artwork on a mutually agreed timeline with the City.

SUBMISSION/SELECTION PROCCSS

Phase I—Submission of Application:

Selection Committee

Bob Droll, Landscape Architect

Diana Fairbanks, Olympia Arts Commission

Carole Richmond, Planning Commissioner

Kendra Sawyer, Neighborhood Representative

Mayor Cheryl Selby, Olympia

The panel reserves the right to select up to three artists or artist teams as finalists for this opportunity. The panel also reserves the right to not select any artists, if it so chooses.

Emerging artists or artists with little public art experience are encouraged to apply, indicating the support they would need to be able to create successful public art. The selected artist/team will have up to 4 hours consultation time to review their proposed concept plan with the City's on-call Landscape Architect.

Selection criteria

In addition to overall artistic excellence (artistic ability, originality, technical competency, material integrity, craftsmanship, uniqueness of vision) as represented in the applicant's digital work examples, the applicant's written materials will be used to judge the artist/team's ability to:

- Demonstrate interest in furthering artistic practice and creating permanent public artworks
- Think and work with durable materials, and in a scale that is appropriate to the site
- Create an artwork responsive to the site and community context, and that tells a story
- Ability to relate to multiple types of viewers, in different mode of transportation
- Demonstrated ability to complete projects of similar scale and context, or show ability to take on a large project by progression of completed work.
- Demonstrated ability to complete projects on time and on budget

Application Materials

Applicants may apply via US MAIL (postmarked XXX or earlier) or City FTP site.

US Mail, please upload all documents onto one CD, jump drive or other "disposable" media that need not be returned. Do not submit applications in individual binders or folders – staples or paper clips only. Please submit an original and five copies of all written materials collated in the exact order as listed below.

Send to: Stephanie Johnson
Olympia Parks, Arts & Recreation
222 Columbia St NW
Olympia, WA 98501

Digital packets may be downloaded to the City FTP site: <http://olympiawa.gov/ftp> Do not embed images in a Power Point, PDF, iPhoto or any other library files. "Recipient" is sjohnso1@ci.olympia.wa.us The written documents (Letter of Interest, Image List, Resume, and references) should be sent as .pdf files.

Letter of Interest (500 words or less)

Describe why this opportunity is of interest, general approach to concepts and designs for this Art Crossings project, and relevant skills brought to this project. Also describe your connection to Olympia.

If the applicant is applying as a team, one team member should self-identify as the lead artist and the Letter of Interest should include a brief description of how the team works together or general philosophical approach to the collaboration.

Digital Work Samples

Applicants may submit up to 8 images that clearly show past projects and work experience. Files should be prepared as .jpg files only and must be 1920 pixels on the longest side and 72 dpi. Files should be labeled "01OGP_last name, 02OGP_last name", etc.

Annotated Image List

This list of images may include the budget, location, client or commissioning agency, title, year, media, and a brief description (50 words or less) of the applicant's role in the project.

Resume

Applicants must include a resume, two pages maximum. If submitting as a team, the applicant should include resumes for all team members, two pages maximum for each team member.

References

Contact information for three professional references who are familiar with your work and technical abilities. Please do not include letters of recommendation. References will be contacted prior to the finalist interviews.

Do not submit specific proposals or additional information at this time.

The City intends to return all CDs in the condition received, if an SASE is provided, although it cannot assume responsibility for loss or damage.

Phase II—Finalist Interviews:

Each finalist will be interviewed by the same selection committee as in Phase I.

During finalist interviews, the work of the finalist will be to convince the selection committee that the artist/team possesses the knowledge skills and competencies necessary to realize the vision and objectives outlined in this prospectus, including but not limited to:

- Appropriateness of artist and their work to the opportunities of the site.
- Strong concept and design skills.
- Strong organizational and project management skills.

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources.

Artist Selection Schedule

Invitational Sent	TBD
Workshop for interested applicants	TBD
Deadline for Entry	TBD
Jury process	TBD
Arts Commission review	TBD
Finalist interviews	TBD
Arts Commission review	TBD
City Council approval	TBD

Contact Information

Questions?

Stephanie Johnson, Arts Program Manager
Olympia Parks, Arts & Recreation
sjohnson@ci.olympia.wa.us
360.709.2678

Legal Requirements

Applicants must have, or be willing to acquire an Olympia Business license, if selected. For more information, go to <http://olympiawa.gov/city-government/forms/busn-license-bo-tax/business-license.aspx>

The selected artist will be required to carry insurance. Specific coverages are included in the contract the selected artist will execute with the City.

The City reserves the right not to select any artist at all, and reserves the right to change the process or schedule upon public notice.

FIVE YEAR MUNICIPAL ART PLAN

	2017 Actual	2018	2019	2020	2021	2022	Total
Projected Revenue							
Available balance	319,054	408,750	317,317	225,184	133,051	115,918	1,403,356
\$1 per capita	50,000	50,000	50,000	50,000	50,000	50,000	300,000
Capital projects 1% for art (received)	187,141						187,141
Revenue Total	556,195	458,750	367,317	275,184	183,051	165,918	1,890,497
Projects							
Traffic Box Wrap	3,615	11,000	11,000	11,000	11,000	11,000	47,615
Music Out Loud - Artwork	68,500						68,500
Music Out Loud - Performance		6,433	6,433	6,433	6,433	6,433	32,165
Percival Plinth Project	24,230	25,000	26,000	27,000	28,000	28,000	158,230
Olympia Art Crossings	50,000	75,000	75,000	75,000			275,000
City Hall Rotating Exhibit Support	100	2,500	1,200	1,200	1,200	1,200	6,200
Poet Laureate (biennial)	1,000	1,500	1,500	1,500	1,500	1,500	7,000
Washington Center Exhibition			1,000				
Grants to Arts Organizations		20,000	20,000	20,000	20,000	20,000	80,000
Expense Totals	147,445	141,433	142,133	142,133	68,133	68,133	674,710
Remaining Balance	408,750	317,317	225,184	133,051	114,918	97,785	1,215,787



City Council

Approval of Resolution Authorizing the Purchase of Real Estate Owned by James L. Zahn and Sandra L. Zahn

Agenda Date: 8/21/2018
Agenda Item Number: 6.C
File Number: 18-0785

Type: resolution **Version:** 1 **Status:** Other Business

Title

Approval of Resolution Authorizing the Purchase of Real Estate Owned by James L. Zahn and Sandra L. Zahn

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve the resolution authorizing the City Manager to execute all documents necessary to acquire 83 acres of real estate from James L. Zahn and Sandra L. Zahn.

Report

Issue:

Whether to approve the purchase of real estate from James L. Zahn and Sandra L. Zahn for a future park site.

Staff Contact:

Jonathon Turlove, Associate Director, Parks, Arts and Recreation, 360.753.8068
Mark Barber, City Attorney, 360.753.8338

Presenter(s):

Jonathon Turlove, Associate Director, Parks, Arts and Recreation, 360.753.8068

Background and Analysis:

James L. Zahn and Sandra L. Zahn (Sellers) own a 83.01-acre property located at 3323 Yelm Highway SE, Assessor Parcel No. 09330005000, 09330005001, and 09330008002 (see attached Property Location Map).

Should the Council approve the purchase of the property, currently owned by the Zahn family and leased to Spooner Berry Farms, the 83 acres would be preserved for future public use as a community park. The community park could include an array of recreational amenities, including soccer fields. The purchase price is \$10.7 million. Staff has concluded negotiations with the Seller,

and has prepared the Real Estate Purchase and Sale Agreement attached to this staff report. The purchase price is \$10.7 million.

The community identified the acquisition of a large, community park site for soccer fields as a high priority in the 2010 and 2016 Parks, Arts and Recreation Plans. In the City's 2014 Community Park Suitability Assessment, the Yelm Highway parcel stood out as the preferred site to purchase for a new community park. The assessment identified and evaluated all the remaining undeveloped parcels large enough for a community park within the City and its Urban Growth Area.

There are no formal plans in place yet for the future park. Should the property be purchased, the City would begin a planning process in 2019 and would seek the community's input as part of the process. Park development would likely be done in phases, with the first phase tentatively scheduled for 2024.

A property the size of the proposed Yelm Highway site could accommodate a number of full-size soccer fields and associated support facilities. It could also have room for additional community park amenities: from community gardens and trails to sports fields and courts as an example.

For many years, the Zahn's have leased the property to Spooner Berry Farms who used this property as a U-Pick strawberry farm and berry stand. Spooner's operate multiple berry farms in the area. If the City purchases the property, the City would be interested developing a relationship with them and in continuing to lease to Spooner Farms prior to park development.

The proposed purchase would also move the City closer to the community's 2004 goal of increasing the City park system by 500 acres. Should this property be acquired, the City will have acquired 440 acres since 2004 towards the initial goal and would also be using funds raised from the Voted Utility Tax to pay for the acquisition.

Neighborhood/Community Interests (if known):

Park land acquisition has been a high priority in Olympia for many years as demonstrated by voter support of tax measures for park land acquisition. Acquisition of a large, community park site for soccer fields was identified as a high priority in the 2010 and 2016 Parks, Arts and Recreation Plans.

Options:

1. Approve the resolution authorizing the City Manager to execute all documents necessary to acquire 83 acres of real estate from James L. Zahn and Sandra L. Zahn.
2. Do not authorize the purchase of real estate from James L. Zahn and Sandra L. Zahn.
3. Direct staff to seek other options to satisfy the City's need for community park acreage.

Financial Impact:

The acquisition would be paid for in installments using utility tax funds dedicated for park land acquisition (both cash reserves and payments on a future bond sale). \$4 million would be paid in 2018, \$4 million in 2019, \$1 million in 2020, \$1 million in 2021, and \$700,000 in 2022.

Attachments:

Resolution
Purchase & Sale Agreement

Property Location Map

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON,
AUTHORIZING THE PURCHASE OF REAL ESTATE FOR THE CITY OF OLYMPIA OWNED BY
JAMES L. ZAHN AND SANDRA L. ZAHN**

WHEREAS, the City desires to expand its inventory of neighborhood and community park acreage; and

WHEREAS, James L. Zahn and Sandra L. Zahn, husband and wife, own real property located at 3323 Yelm Highway SE, Olympia, Washington, lying within the City's Urban Growth Area, consisting of 83 acres, more or less (the Zahn Property); and

WHEREAS, acquisition of a large, community park site for soccer fields was identified by the community as a high priority in the 2010 and 2016 Parks, Arts and Recreation Plans; and

WHEREAS, the City's 2014 Community Park Suitability Assessment identified the Zahn Property as the preferred site to purchase for a new community park; and

WHEREAS, the City and James L. Zahn and Sandra L. Zahn have negotiated terms and conditions for the City's purchase of the Zahn Property; and

WHEREAS, the Olympia City Council hereby accepts terms, among others, to purchase the Zahn Property for Ten Million Seven Hundred Thousand Dollars and No/100 Cents (\$10,700,000.00) U.S;

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

1. The Olympia City Council hereby accepts the terms and conditions negotiated with James L. Zahn and Sandra L. Zahn to purchase the real property located at 3323 Yelm Highway SE, Olympia, Washington, for community park acreage upon the agreed terms within the real estate purchase and sale agreement.
2. The City Manager is directed and authorized to execute all documents necessary to purchase the aforesaid real property from James L. Zahn and Sandra L. Zahn, upon the terms and conditions negotiated in the real estate purchase and sale agreement, and to make any minor modifications consistent with the intent of the agreement as may be necessary, or to correct any scrivener's errors.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of August 2018.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

REAL ESTATE PURCHASE AND SALE AGREEMENT

This REAL ESTATE PURCHASE AND SALE AGREEMENT ("Agreement") is between the City of Olympia, a municipality organized under the laws of the State of Washington ("Buyer"), and James L. Zahn and Sandra L. Zahn, husband and wife, ("Sellers"), jointly referred to as "the Parties." This Agreement shall not be effective until the "Effective Date" (as defined in Paragraph 17.16 below).

RECITALS

Sellers are the owners of certain real property located in Thurston County, Washington, consisting of approximately 83.01 acres, more or less, and more particularly described on **Exhibit "A"** (legal description) and shown on **Exhibit "B"** (general vicinity sketch) attached hereto and by this reference incorporated herein.

Buyer has determined that the Property is suitable for a public park for recreation and open space purposes for the citizens and residents of the City of Olympia.

The signatories to this Agreement acknowledge they are authorized to execute associated documents, to correct legal descriptions if need be, and to correct scrivener's errors and other errors or omissions that are otherwise in substantial conformance with this Agreement.

The Parties now enter into this Agreement to memorialize the terms and conditions under which Sellers will sell the Property to Buyer.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Property. Subject to the terms and conditions of this Agreement, Sellers agree to sell and convey to Buyer, and Buyer agrees to purchase from Sellers, the following:

1.1 Land. The approximately 83.01 acres, more or less, constituting the Property legally described on **Exhibit "A"** to this Agreement and generally shown on a sketch attached as **Exhibit "B"** to this Agreement.

1.2 Appurtenances. All rights, privileges, and easements appurtenant to the Property owned by Sellers, including without limitation any and all leases, subleases, easements, rights-of-way and other appurtenances, also including any dwellings, manufactured homes, buildings, structures or fixtures located upon and used in connection with the beneficial use and enjoyment of the Property (the "Appurtenances").

The Property and Appurtenances described in Paragraph 1 above are collectively referred to in this Agreement as the "Property."

2. Escrow. Within three (3) business days of the Effective Date of this Agreement, the Parties shall confirm that an escrow account is opened for the transaction contemplated by this Agreement with Thurston County Title Company (in such capacity, "Escrow Company"). Darla Wilkins or another designee of Escrow Company will serve as escrow agent for Closing of this Agreement ("Escrow Agent"). The Parties shall deliver a fully executed copy of this Agreement to Escrow Agent.

3. Purchase Price. The purchase price to be paid by Buyer to Sellers for the Property (the "Purchase Price") is TEN MILLION SEVEN HUNDRED THOUSAND DOLLARS and NO CENTS (\$10,700,000.00) U.S.

4. Payment of Purchase Price. On the Closing Date, Buyer shall deposit with Escrow Company the sum of FOUR MILLION DOLLARS and NO CENTS (\$4,000,000.00) to be credited against the Purchase Price upon Closing; and

4.1 First Installment. Buyer shall pay Sellers the sum of FOUR MILLION DOLLARS and NO CENTS (\$4,000,000.00) on or before July 31, 2019 (the "First Installment"); and

4.2 Second Installment. Buyer shall pay Sellers the sum of ONE MILLION DOLLARS and NO CENTS (\$1,000,000.00) on or before February 28, 2020 (the "Second Installment"); and

4.3 Third Installment. Buyer shall pay Sellers the sum of ONE MILLION DOLLARS and NO CENTS (\$1,000,000.00) on or before February 28, 2021 (the "Third Installment"); and

4.4 Fourth Installment. Buyer shall pay Sellers the final installment of SEVEN HUNDRED THOUSAND DOLLARS and NO CENTS (\$700,000.00) on or before February 28, 2022 (the "Fourth Installment").

On the Closing Date, Buyer shall deliver to Sellers a promissory note (the "Note") in the principal amount of SIX MILLION SEVEN HUNDRED THOUSAND DOLLARS and NO CENTS (\$6,700,000.00) representing Buyer's obligation to pay the First Installment, Second Installment, Third Installment, and Fourth Installment, together with a deed of trust on the Property to secure payment of the Note (the "Deed of Trust"). The Note shall be on form LPB 28A-05, shall be zero interest, and completed in accordance with and consistent with the terms set forth in this Agreement. The Deed of Trust shall be on form LPB 20-05 rev2/2008, completed in accordance and consistent with the terms set forth in this Agreement.

5. Closing Date. The Closing (the "Closing") of the purchase and sale of the Property under this Agreement shall be held at the offices of the Escrow Company, and shall occur on a date no later than thirty (30) business days after the waiver or expiration of the Feasibility Contingency in Paragraphs 7.4 and 7.5 of this Agreement (the "Closing Date"), unless an earlier or later time is agreed upon between the Parties. Closing shall occur when the Deed

(as hereinafter defined) to Buyer is executed and recorded, and the Purchase Price as described in Paragraph 4 is delivered to the Escrow Company for delivery to Sellers.

6. Title and Survey Matters.

6.1 Title Binder. Buyer shall order a preliminary commitment for an ALTA owner's standard coverage title insurance policy provided by Thurston County Title Insurance Company ("Title Company") describing the Property, showing all matters of record pertaining to the Property and listing Buyer as the prospective named insured. Following the mutual execution of this Agreement, Buyer shall obtain from Title Company a written supplemental report to such preliminary commitment in a form acceptable to Buyer, updating the preliminary commitment to the execution date of the Agreement. Such preliminary commitment, supplemental reports and true, correct and legible copies of all documents referred to in such preliminary commitment and supplemental reports as conditions or exceptions to title to the Property are collectively referred to herein as the "Title Binder."

6.2 Title Review. Within fourteen (14) business days after Buyer's receipt of the updated Title Binder, Buyer shall review the Title Binder and any surveys of the Property, and shall notify Sellers what exceptions to title, if any, affect the marketability or insurability of the title to the Property or which adversely affect the use of the Property (the "Title Review Period"). If no title matters appear in the updated Title Binder since the initial preliminary commitments, then the Parties shall proceed to Closing as set forth in this Agreement. If any title matters appear and Buyer objects to any of the same during the Title Review Period, then Sellers shall have ten (10) business days after receiving Buyer's objections to notify Buyer if Sellers will remove any of the exceptions objected to prior to the Closing Date or if Sellers elect not to remove such objected to exceptions. If Sellers shall fail to remove any such exceptions objected to by Buyer from title prior to the Closing Date, and Buyer is unwilling to take title subject thereto, Buyer may elect to either terminate this Agreement, or take title despite the existence of such exception. If Buyer elects to terminate, neither Buyer nor Sellers shall have any further liabilities, obligations or rights with regard to this Agreement which shall then become null and void and of no further force or effect. Sellers shall not be required to incur any expense in order to render their title marketable or to remove any matter disapproved by Buyer; provided that, Sellers shall not refuse to remove any disapproved item that involves only payment of a monetary obligation of Sellers' secured by a lien or other encumbrance on the Property.

6.3 Title Policy. At Closing, Sellers and Buyer shall cause Title Company to issue a standard ALTA owner's policy ("Title Policy") to Buyer, at Sellers' cost. The Title Policy shall (a) be satisfactory to Buyer, (b) be issued in the amount of the total Purchase Price and (c) insure fee simple, indefeasible title to the Property in Buyer. The Title Policy shall contain endorsements as Buyer may require; provided that Buyer shall be solely responsible for all additional costs and requirements to obtain such endorsements. Buyer's obligation to Close this transaction shall be contingent on Buyer's approval, in its sole and absolute discretion of the Title Policy required under this Paragraph 6.

7. Conditions and/or Contingencies to Buyer's Obligations.

7.1 Documents and Reports. Within fifteen (15) business days after the execution and delivery of this Agreement (the "Document Delivery Date"), Sellers shall deliver to Buyer copies of the documents and reports listed on attached **Exhibit "C"** to this Agreement and in Sellers' possession. Sellers shall certify to Buyer, as of the Document Delivery Date, as to any documents listed on **Exhibit "C"** not in Sellers' possession.

7.2 Inspection of the Property. Buyer shall have the right and permission from the date Sellers sign this Agreement through the Closing Date (or earlier termination of this Agreement) to enter upon the Property or any part thereof at all reasonable times and from time to time for the purpose, at Buyer's cost and expense, of making all tests and/or studies of the Property that Buyer may wish to undertake, including, without limitation, soils tests (including borings), toxic and hazardous waste studies, surveys, structural studies and review of zoning, fire, safety and other compliance matters; provided, however, Buyer shall indemnify and hold harmless Sellers from and against any mechanic's or other liens or claims that may be filed or asserted against the Property or Sellers as a direct result of any actions taken by Buyer in connection with the Property, including but not limited to permitting Sellers to review a written description of Buyer's proposed testing and work to ensure same is properly done and will not exacerbate any existing condition of contamination on the property. Buyer shall also provide Sellers with a copy of all soil or environmental test results for the property upon Sellers' request. Buyer shall reasonably restore the Property to its condition immediately prior to any invasive testing. The effect of the representations and warranties made by Sellers in this Agreement shall not be diminished or deemed to be waived by any inspections, tests or investigations made by Buyer or its agents.

7.3 Appraisal of the Property. Buyer shall have the right to obtain an appraisal. Buyer's appraiser may enter onto the property as is necessary to appraise the Property.

7.4 Approval of Property/Feasibility Contingency. Buyer's obligation to purchase the Property shall be subject to and contingent upon Buyer's approval, in its sole and absolute discretion, prior to the expiration of the Contingency Period, of all aspects of the Property, including, without limitation, the physical condition of the Property and documents delivered by Seller pursuant to Paragraph 7.1 above, or otherwise obtained by Buyer regarding the Property. Buyer's approval and obligation to purchase the Property under this paragraph shall be twenty-one (21) business days from the last date this Agreement was executed by a Party to sign same.

7.5 Contingency/Feasibility Period. As used herein, the term "Contingency or Feasibility Period" shall be twenty-one (21) business days from the last date this Agreement was executed by a Party to sign same.

7.6 Buyer's Right to Terminate. If Buyer's conditions set forth in Paragraph 7.4 above are not satisfied in Buyer's sole and absolute discretion, Buyer shall have the right to terminate this Agreement by sending written notice to Sellers and Escrow Agent (such notice referred to as a "Termination Notice") prior to the expiration of the

Contingency/Feasibility Period. If Buyer gives its Termination Notice to Sellers, this Agreement shall terminate and neither Buyer nor Sellers shall have any further liability to the other under this Agreement.

7.7 Additional Closing Conditions. Buyer's obligation to purchase the Property shall also be subject to the following conditions that must be satisfied as of Closing.

(i) Prior to Closing, all Contracts or Leases (whether written or oral), with respect to the Property shall be terminated in writing, except for any Assumed Contracts or Leases. Sellers shall provide Buyer, prior to Closing, with written termination agreements with respect to all Contracts or Leases, in a form acceptable to Buyer;

(ii) All representations and warranties of Sellers contained herein, to the best of Sellers' knowledge, shall be true, accurate and complete at the time of the Closing as if made again at such time;

(iii) Sellers shall have performed all obligations to be performed by them hereunder on or before Closing (or, if earlier, on or before the date set forth in this Agreement for such performance);

(iv) At Closing, title to the Property shall be in the condition required by Paragraph 6 of this Agreement and Escrow Agent shall deliver the Title Policy to Buyer; and

(v) At Closing, the physical condition of any buildings or structures, forest and ground cover shall be substantially the same as on the date hereof, ordinary wear and tear excepted.

If the conditions set forth in Paragraph 7 are not satisfied as of the Closing Date and Buyer does not waive the same, Buyer may terminate this Agreement by written notice given to Sellers, and thereafter Buyer shall have no further liability to Sellers under this Agreement.

7.8 As-is Condition. Buyer acknowledges the Property is sold in its "As-is where is" condition. Buyer hereby waives the right to any seller disclosure statement, which would otherwise be required under RCW Chapter 64.06. Further, in the event a seller's disclosure statement or any portion thereof is required under RCW Chapter 64.06 pursuant to RCW 64.06.040(3), Buyer hereby waives any right of rescission of this Agreement that Buyer might otherwise have under RCW Chapter 64.06.

8. Sellers' Representations and Warranties. Sellers hereby make the following representations and warranties, to the best of Sellers' knowledge, which representations and warranties shall be deemed made by Sellers to Buyer also as of the Closing Date:

8.1 Title. Sellers are the sole owners of the Property, except for reservations of record. At Closing, Sellers shall convey the entire fee simple estate and right, title and interest in and to the Property by statutory warranty deed to Buyer, free and clear of unapproved encumbrances of record.

8.2 Compliance with Law; Compliance with Property Restrictions. The Property complies in all material respects (both as to condition and use) with all applicable statutes, ordinances, codes, rules and regulations of any governmental authority having jurisdiction over the Property related to zoning, building, subdivision, and engineering.

8.3 Bankruptcy, etc. No bankruptcy, insolvency, rearrangement or similar action involving Sellers or the Property, whether voluntary or involuntary, is pending, threatened, by a third party, or contemplated by Sellers.

8.4 Taxes and Assessments. Other than amounts disclosed by the Title Binder, no other property taxes have been or will be assessed against the Property for the current tax year, and there are no general or special assessments or charges that have been levied, assessed or imposed on or against the Property.

8.5 Foreign Person. Sellers are not a foreign person and are a "United States Person" as such term is defined in Section 7701(a) (30) of the Internal Revenue Code of 1986, as amended (the "Code") and shall deliver to Buyer prior to the Closing an affidavit evidencing such fact and such other documents as may be required under the Code.

8.6 Mechanics' Liens. No labor, material or services have been furnished in, on or about the Property or any part thereof as a result of which any mechanics', laborer's or materialmen's liens or claims might arise.

8.7 Underground Storage Tanks. Sellers acknowledge a subterranean storage or underground storage tanks exist on the Property. To the best of Sellers' knowledge, the tank is not leaking.

8.8 Leases and Other Agreements. Sellers represent that there are no leases, occupancy agreements, service agreements, licenses, easements, or option agreements with regard to the Property, except those of record or disclosed pursuant to Paragraph 7.1.

8.9 Assumption of Liabilities. Buyer, by virtue of the purchase of the Property, will not be required to satisfy any obligation of Sellers arising prior to the Closing Date.

8.10 Defaults. Sellers are not in default and there has occurred no uncured event which, with notice, the passage of time or both would be a default, under any contract, agreement, lease, encumbrance, or instrument pertaining to the Property.

8.11 Utilities. The Property may or may not be served by water, storm and sanitary or septic sewer, electricity, and telephone supplied directly to the Property by facilities of public utilities. All such utilities are located within the boundaries of the Property or within lands dedicated to public use or within recorded easements for the same.

8.12 Public Improvements. Sellers have no knowledge of any federal, state, county, municipal or other governmental plans to change the road system in the vicinity of the Property.

8.13 Subdivision. The conveyance of the Property will not constitute a violation of any subdivision ordinance. The improvements on the Property comply in all material respects with all applicable subdivision ordinances and statutes.

8.14 Due Authority. Sellers and Buyer have all requisite power and authority to execute and deliver this Agreement and to carry out its obligations hereunder and the transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by Sellers and Buyer and constitute their legal, valid and binding obligation enforceable against Sellers and Buyer in accordance with its terms.

8.15 No Omissions. The copies of any documents furnished to Buyer in connection with this transaction are true and complete copies of the documents they purport to be and contain no untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained therein not misleading.

9. Covenants of Sellers. Sellers covenant and agree as follows:

9.1 Perform Obligations. From the date of this Agreement to the Closing Date, Sellers will perform any monetary and non-monetary obligations they have regarding the Property.

9.2 No Liens. From the date of this Agreement to the Closing Date, Sellers will not allow any lien to attach to the Property, nor will Sellers grant, create, or voluntarily allow the creating of, or amend, extend, modify or change, any easement, right-of-way, encumbrance, restriction, covenant, lease, license, option or other right affecting the Property or any part thereof without Buyer's written consent first having been obtained.

9.3 Provide Further Information. From the date of this Agreement to the Closing Date, Sellers will notify Buyer of each event of which Sellers become aware affecting the Property or any part thereof immediately upon learning of the occurrence of such event.

10. Closing.

10.1 Time and Place. Provided that all the contingencies set forth in this Agreement have been previously fulfilled, the Closing shall take place at the place and time determined as set forth in Paragraph 5 of this Agreement.

10.2 Documents to be Delivered by Sellers. For and in consideration of, and as a condition precedent to the payment to Sellers of the Purchase Price, Sellers shall obtain and deliver to Buyer at Closing the following documents (all of which shall be duly executed and acknowledged where required):

(i) Title Documents. Such other documents, including, without limitation, lien waivers, indemnity bonds, indemnification agreements, and certificates of good standing as shall be required by Buyer, or by the Title Company as a condition to its insuring Buyer's good and marketable fee simple title to the Property.

(ii) Authority. Such evidence as the Title Company shall require as to authority of Sellers to convey the Property to Buyer.

(iii) Surveys and Drawings. All surveys, site plans and plans and specifications relating to the Property as are in the possession or control of Sellers, if any.

(iv) Assignment. Sellers and Buyer agree any assignment of Buyer's rights under this Agreement shall be subject to Sellers' approval, which shall not be unreasonably withheld, conditioned or denied.

(v) Warranty Deed. A statutory warranty deed ("Deed") conveying to Buyer a good, marketable and indefeasible title in fee simple absolute to the Property in the form set forth in **Exhibit "D"** attached hereto.

10.3 Payment of Costs. At Closing, Sellers shall pay all charges for title insurance for a standard ALTA owner's title policy insuring Buyer's title, one-half of the escrow fee, the recording fees, the technology fee, and real property excise taxes. Buyer shall pay one-half of the escrow fee.

10.4 Taxes. Buyer is exempt from payment of real property excise taxes for the Property pursuant to WAC 458-61A-205(3).

10.5 Monetary Liens. Sellers shall pay or cause to be satisfied at or prior to Closing all monetary liens on or with respect to all or any portion of the Property, including, but not limited to, mortgages, deeds of trust, security agreements, assignments of leases, rents and/or easements, judgment liens, tax liens (other than those for taxes not yet due and payable) and financing statements, except where Sellers are exempt by statute or administrative rule or regulation.

10.6 Possession. Possession of the Property shall be delivered to Buyer at Closing. The Property, including without limitation the improvements and appurtenances, if any, shall be delivered to Buyer in good order.

10.7 Proration. All amounts required to be prorated hereunder as of Closing, shall be calculated as if Buyer were in possession of the Property as of the date of Closing.

10.8 Lease. A Lease Agreement ("Lease") shall be executed between Buyer as Landlord, and Sellers as Tenants, in the form set forth in **Exhibit "E"** attached hereto, and shall become effective upon conveyance of the Property to Buyer, and the Lease being fully executed by the Parties.

11. Environmental.

11.1 Hazardous Substances. Notwithstanding anything to the contrary in this Agreement or otherwise, the Parties agree that Sellers shall defend, indemnify, or hold Buyer harmless with respect to any loss, liability, claim, demand, damage, or expense of any kind, including attorneys' fees, costs, and expenses (collectively, "Loss") arising out of the past release or threatened release of Hazardous Substances on, under, above, or about the Property before Closing, except for the past release or threatened release of any Hazardous Substance on, under, above, or about the Property caused or contributed to by Buyer, or any employee, agent, or contractor of Buyer.

11.2 Definitions. The term "Hazardous Substance" includes without limitation (a) those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," "hazardous wastes," or "solid wastes" in any Environmental Law; (b) petroleum products and petroleum byproducts; (c) polychlorinated biphenyls; (d) chlorinated solvents; and (e) asbestos. The term "Environmental Law" includes any federal, state, municipal or local law, statute, ordinance, regulation, order or rule pertaining to health, industrial hygiene, environmental conditions, or hazardous substances.

12. Indemnification. Sellers shall pay, protect, pay the defense costs of, indemnify and hold Buyer and their successors and assigns harmless from and against any and all loss, liability, claim, damage and expense suffered or incurred by reason of (a) the breach of any representation, warranty or agreement of Sellers set forth in this Agreement, (b) the failure of Sellers to perform any obligation required by this Agreement to be performed by Sellers, (c) the ownership, maintenance, and/or operation of the Property by Sellers prior to the Closing not in conformance with this Agreement, or (d) any injuries to persons or property from any cause occasioned in whole or in part by any acts or omissions of the Sellers, their representatives, employees, contractors or suppliers that occurred before Closing; provided, however, that nothing in this Paragraph 12 applies to Losses arising out of the presence of Hazardous Substances on, under, above, or about the Property, including Hazardous Substances that migrate or migrated to or from the Property caused or contributed to by Buyer, or any employee, agent, or contractor of Buyer..

13. Condemnation. In the event of any commenced, to be commenced or consummated proceedings in eminent domain or condemnation (collectively "Condemnation") respecting the Property or any portion thereof, Buyer may elect, by written notice to Sellers, to terminate this Agreement and the escrow created pursuant hereto and be relieved of its obligation to purchase the Property. If Buyer terminates this Agreement neither Buyer nor Sellers shall have any further liability to the other hereunder. If Buyer fails to make such election prior to the Closing Date, this Agreement shall continue in effect, there shall be no reduction in the Purchase Price, and Sellers shall, prior to the Closing Date, assign to Buyer, by an assignment agreement in form and substance satisfactory to Buyer, Sellers' entire right, title and interest in and to any condemnation award or settlement made or to be made in connection with such Condemnation proceeding. Buyer shall have the right at all times to participate in all negotiations and dealings with the condemning authority and approve or disapprove any proposed settlement in respect to

such matter. Sellers shall forthwith notify Buyer in writing of any such Condemnation respecting the Property.

14. Casualty. If any fire, windstorm or casualty occurs and materially affects all or any portion of the Property on or after the date of this Agreement and prior to the Closing, Buyer may elect, by written notice to Sellers, to terminate this Agreement and the escrow created pursuant hereto and be relieved of its obligation to purchase the Property. If Buyer terminates this Agreement neither Buyer nor Sellers, have any further liability to the other hereunder. If Buyer fails to make such election prior to the Closing Date, this Agreement shall continue in effect, the Purchase Price shall be reduced by the amount of loss or damage occasioned by such casualty not covered by insurance, and Sellers shall, prior to the Closing Date, assign to Buyer, by an assignment agreement in form and substance satisfactory to Buyer, its entire right, title and interest in and to all insurance claims and proceeds to which Sellers may be entitled in connection with such casualty. Buyer shall have the right at all times to participate in all negotiations and other dealings with the insurance carrier providing such coverage and to approve or disapprove any proposed settlement in respect to such matter. Sellers shall forthwith notify Buyer in writing of any such casualty respecting the Property.

15. Notices. Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party (collectively, "Notices") shall be in writing and shall be validly given or made to another party if delivered either personally or by Federal Express, UPS, USPS or other overnight delivery service of recognized standing, or if deposited in the United States mail, certified, registered, or express mail with postage prepaid. If such Notice is personally delivered, it shall be conclusively deemed given at the time of such delivery. If such Notice is delivered by Federal Express or other overnight delivery service of recognized standing, it shall be deemed given twenty-four (24) hours after the deposit thereof with such delivery service. If such Notice is mailed as provided herein, such shall be deemed given forty-eight (48) hours after the deposit thereof in the United States mail. Each such Notice shall be deemed given only if properly addressed to the party to whom such notice is to be given as follows:

To Buyer: Steven R. Hall, City Manager
City of Olympia
601 4th Ave E
Olympia, WA 98501
Email: shall@ci.olympia.wa.us

With a copy to: Mark Barber, City Attorney
City of Olympia
601 4th Ave E
Olympia, WA 98501
Email: mbarber@ci.olympia.wa.us

To Sellers: James L. Zahn and Sandra L. Zahn
3325 Yelm Highway SE
Olympia, WA 98501
Email: jlzahn@comcast.net

With a copy to: Brent F. Dille
Dille Law, PLLC
2010 Caton Way SW, Ste 101
Olympia, WA 98502
Telephone: (360) 350-0270
Email: brent@dillelaw.com

Any party hereto may change its address for receiving notices as herein provided by a written notice given in the manner aforesaid to the other party hereto.

16. Event of Default. In the event of a default under this Agreement by Sellers (including a breach of any representation, warranty covenant set forth herein), Buyer shall be entitled, in addition to all other remedies, to seek monetary damages and specific performance of Sellers' obligations hereunder.

17. Miscellaneous.

17.1 Applicable Law. This Agreement shall in all respects, be governed by the laws of the State of Washington.

17.2 Further Assurances. Each of the Parties shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder, to carry out the intent of the Parties hereto.

17.3 Modification or Amendment, Waivers. No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by all of the Parties hereto. No waiver of any breach of any covenant or provision in this Agreement shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision in this Agreement. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

17.4 Successors and Assigns. All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the Parties hereto and their respective heirs, legal representatives, successors and assigns. Any assignment shall be subject to Sellers' approval, which shall not be unreasonably withheld, conditioned or denied. Buyer must notify and, if required, request approval by Sellers of any such assignment prior to the Closing. Any such assignee shall for all purposes be regarded as Buyer under this Agreement. No assignment shall be permitted by Sellers of the Lease referenced in Paragraph 10.8 above, and in **Exhibit "E."**

17.5 Entire Agreement and No Third Party Beneficiaries. This Agreement constitutes the entire understanding and agreement of the Parties with respect to its subject matter and any and all prior agreements, understandings or representations with respect to its subject matter are hereby canceled in their entirety and are of no further force or effect. The Parties do not intend to confer any benefit under this Agreement to any person, firm or corporation other than the Parties.

17.6 Attorneys' Fees. Should either party bring suit to enforce this Agreement, the prevailing party in such lawsuit shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection with such lawsuit.

17.7 Construction. Captions are solely for the convenience of the Parties and are not a part of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared it. If the date on which Buyer or Sellers are required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

17.8 Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

17.9 Survival. The covenants, agreements, obligations to indemnify, representations and warranties made in this Agreement shall survive the Closing unimpaired and shall not merge into the Deed and the recordation thereof.

17.10 Finders' or Brokers' Fees. Sellers represent and warrant that if they have engaged the services of any broker or finder to which a commission or other fee is due in connection with any of the transactions contemplated by this Agreement, that Sellers shall pay such fee in connection with the transactions contemplated by this Agreement. Sellers agree to indemnify, defend and hold harmless Buyer against any loss, liability, damage, cost, claim or expense, including interest, penalties and reasonable attorneys' fees that Buyer shall incur or suffer due to a breach by Sellers of the representation and warranty set forth above.

17.11 Time. Time is of the essence of every provision of this Agreement.

17.12 Risk of Loss. All of Sellers' personal property, of any kind or description whatsoever that is on the Property after Closing, shall be at Sellers' sole risk of loss, except such personal property used in connection with the Lease referenced in Paragraph 10.8 and in **Exhibit "E."**

17.13 Force Majeure. Performance by Sellers or Buyer of their obligations under this Agreement shall be extended by the period of delay caused by force majeure. Force

majeure is war, natural catastrophe, strikes, walkouts or other labor industrial disturbance, order of any government, court or regulatory body having jurisdiction, shortages, blockade, embargo, riot, civil disorder, or any similar cause beyond the reasonable control of the party who is obligated to render performance (but excluding financial inability to perform, however caused).

17.14 Recitals. The Recitals set forth above are incorporated by this reference into this Agreement and are made a part hereof.

17.15 Counterparts. This Agreement may be executed in a number of identical counterparts which, taken together, shall constitute collectively one Agreement; but in making proof of this Agreement, it shall not be 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, where permitted by law, shall be deemed to be an original signature for all purposes. All executed counterparts of this Agreement shall be deemed to be originals, but all such counterparts, when taken together, shall constitute one and the same Agreement.

17.16 Effective Date. The term “date of this Agreement” or “date hereof” or “Effective Date,” as used in this Agreement, shall mean the later of the following dates: (1) the date of Buyer’s signature on this Agreement; or (2) the date of Sellers’ signatures on this Agreement.

18. Expiration. This offer will expire if not executed by Sellers and Buyer on or before 5:00 p.m. on August 22, 2018.

[Signatures appear on the following page]

EXHIBIT "A"
LEGAL DESCRIPTION

Parcel B of Boundary Line Adjustment No. BLA-1644, as recorded February 28, 1995, under Auditor's File Nos. 9502280026 and 9502280027; excepting therefrom that portion conveyed to Thurston County, a municipal corporation, by instrument recorded January 23, 1995, under Auditor's File No. 9501230119. Also excepting that portion, if any, lying within Parcel A of Boundary Line Adjustment No. BLA-03-105181TC, as recorded September 12, 2003, under Auditor's File No. 3574063. Except manufactured home.

Together with Lot A of Boundary Line Adjustment No. BLA-03-10518TC as recorded September 12, 2003 under Auditor's File No. 3574062 and 3574063.

Situated in Thurston County, Washington.

[THIS LEGAL DESCRIPTION SHOULD BE REVISED TO INCLUDE THE MANUFACTURED HOME ON THE PREMISES. THIS STRUCTURE SHOULD NOT BE EXCEPTED.]

SELLERS:

JAMES L. ZAHN and SANDRA L. ZAHN,
and the marital composed thereof

James L. Zahn

James L. Zahn

Date: Aug 3, 2018

Sandra L. Zahn

Sandra L. Zahn

Date: August 3, 2018

BUYER:

CITY OF OLYMPIA, a Washington
municipal corporation

Steven R. Hall, City Manager

Date: _____

APPROVED AS TO FORM:

Mark Barber

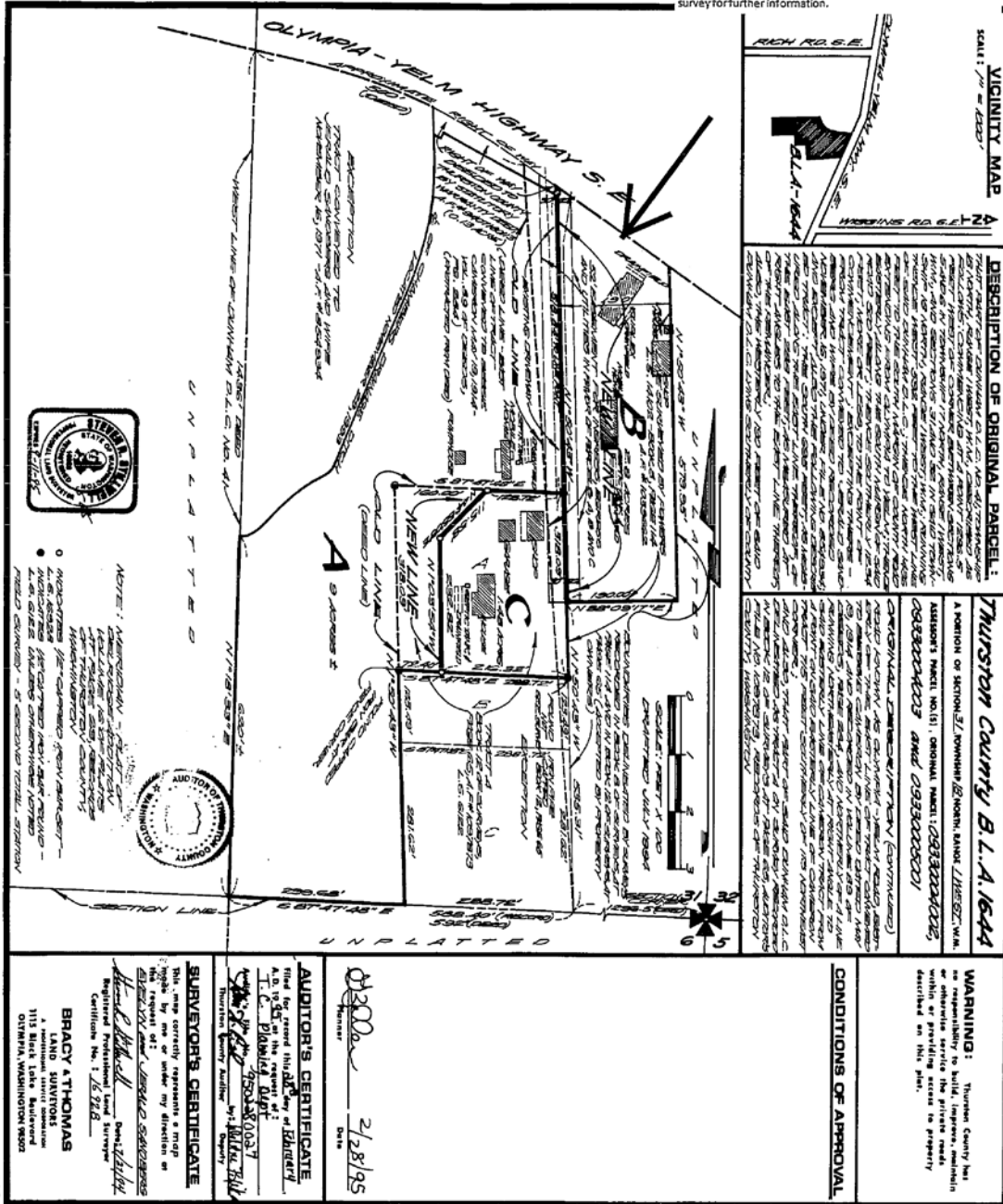
Mark Barber, City Attorney

Date: 8/3/2018

EXHIBIT "B" GENERAL VICINITY SKETCH

Vol. 237B Pg. 565

This sketch is provided, without charge, for your information. It is not intended to show all matters related to the property, including, but not limited to, area, dimensions, easements, encroachments, or locations of boundaries. It is not a part of, nor does it modify, the commitment or policy to which it is attached. The Company assumes NO LIABILITY for any matter related to this sketch, unless such coverage is specifically provided by the covered risks of policy. Reference should be made to an accurate survey for further information.



File # 3574063

BLA

WARNING: THURSTON COUNTY HAS NO RESPONSIBILITY TO BUILD, IMPROVE, MAINTAIN, OR REPAIR UTILITIES OR PRIVATE ROADS WITHIN OR ADJACENT TO THIS PLAT.

CERTIFICATION OF CONFORMANCE

THIS BOUNDARY LINE ADJUSTMENT IS FOUND TO BE IN ACCORDANCE WITH THE SURVEYING AND SUBDIVISION ORDINANCE (AS AMENDED).

DATE: 9/26/03

AUDITOR'S CERTIFICATE
FILED FOR RECORD THIS 13TH DAY OF Sept. 2003 AT THE REQUEST OF
I.C. DEN SERVICES
AUDITOR'S FILE NO. 3574063
DEPUTY COUNTY AUDITOR
Cheryl Chanon

ORIGINAL DESCRIPTIONS

PARCEL A: THURSTON COUNTY TRACT NO. 3333 VEM VEM RD. SEC. 31 T18N, R17W & SEC. 6, T17N, R17W, W.M. ORIGINAL TRACT ASSESSOR'S PARCEL NO(S): 09333008000, 09333008001, 09333008002 & 093330015001. PARCEL B: 3333 VEM VEM RD. SEC. 31 T18N, R17W & SEC. 6, T17N, R17W, W.M. ORIGINAL TRACT ASSESSOR'S PARCEL NO(S): 09333008000, 09333008001, 09333008002 & 093330015001. PARCEL C: 6666 PORTLAND ST. SEC. 31 T18N, R17W & SEC. 6, T17N, R17W, W.M. ORIGINAL TRACT ASSESSOR'S PARCEL NO(S): 09333008000, 09333008001, 09333008002 & 093330015001.

LINE TABLE

NO.	BEARING	DISTANCE
L1	S 89°47'26" E	18.50
L2	S 89°47'26" E	18.50
L3	S 89°47'26" E	18.50
L4	S 89°47'26" E	18.50
L5	S 89°47'26" E	18.50
L6	S 89°47'26" E	18.50
L7	S 89°47'26" E	18.50
L8	S 89°47'26" E	18.50
L9	S 89°47'26" E	18.50
L10	S 89°47'26" E	18.50
L11	S 89°47'26" E	18.50
L12	S 89°47'26" E	18.50
L13	S 89°47'26" E	18.50
L14	S 89°47'26" E	18.50
L15	S 89°47'26" E	18.50

PARCEL A: 8.67 ACRES
PARCEL B: 8.67 ACRES
PARCEL C: 8.67 ACRES

REFERENCED SURVEYS:
1) THE PLAT OF MARY SUMNER COUNTY CLUB DIVISION NO. 3115553, UNDER AUDITOR'S FILE NO. 3115553.
2) THE PLAT OF MARY SUMNER COUNTY CLUB DIVISION NO. 3115553, UNDER AUDITOR'S FILE NO. 3115553.
3) BOUNDARY LINE ADJUSTMENT NO. 3115553, UNDER AUDITOR'S FILE NO. 3115553.
4) THE PLAT OF MARY SUMNER COUNTY CLUB DIVISION NO. 3115553, UNDER AUDITOR'S FILE NO. 3115553.
5) BOUNDARY LINE ADJUSTMENT NO. 3115553, UNDER AUDITOR'S FILE NO. 3115553.

SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN ACCORDANCE WITH THE SURVEYING ACT AT THE REQUEST OF SCA CONSULTING GROUP IN JULY, 2003.

DATE: 9/26/03
FILE: 135761-2

BLA 3574063 File #

EXHIBIT “C”
DOCUMENTS AND REPORTS

1. Copies of all of leases, subleases or other occupancy agreements relating to the Property, including but not limited to any agricultural leases or agreements if any, with originals to be delivered at Closing.
2. Copies of all licenses, permits and approvals, if any, issued by governmental authorities for the use and occupancy of the Property or any facility or structure located thereon.
3. Any other information about the Property reasonably requested by Buyer if in the possession or control of Sellers.
4. Any service contracts or other similar agreements related to the Property.
5. Reports of environmental conditions related to the Property, if any.
6. Surveys, if any.
7. Soils reports, if any.

EXHIBIT "D"
FORM OF STATUTORY WARRANTY DEED

AFTER RECORDING MAIL TO:

City of Olympia
Attn: Legal Department
P.O. Box 1967
Olympia WA 98507-1967

Document Title:	Statutory Warranty Deed
Grantors:	James L. Zahn and Sandra L. Zahn, husband and wife
Grantee:	City of Olympia, a Washington municipal corporation
Abbreviated Legal Description:	Parcel B BLA-1644, together with Parcel A BLA-030105181
Assessor's Tax Parcel Number:	09330005001, 09330005000, 09330008002

The Grantors, **JAMES L. ZAHN AND SANDRA L. ZAHN, HUSBAND AND WIFE**, for and in consideration of the sum of TEN and NO/100---(\$10.00) Dollars, and other valuable considerations, in hand paid, hereby convey and warrant to the Grantee, **CITY OF OLYMPIA**, a Washington municipal corporation, the following described real estate and all rights thereto, situated in the City of Olympia, County of Thurston, in the State of Washington, including all after acquired title:

Parcel B of Boundary Line Adjustment No. BLA-1644, as recorded February 28, 1995, under Auditor's File Nos. 9502280026 and 9502280027; excepting therefrom that portion conveyed to Thurston County, a municipal corporation, by instrument recorded January 23, 1995, under Auditor's File No. 9501230119. Also excepting that portion, if any, lying within Parcel A of Boundary Line Adjustment No. BLA-03-105181TC, as recorded September 12, 2003, under Auditor's File No. 3574063. Except manufactured home.

Together with Lot A of Boundary Line Adjustment No. BLA-03-10518TC as recorded September 12, 2003 under Auditor's File No. 3574062 and 3574063.

Situated in Thurston County, Washington.

Subject to the matters set forth on Exhibit A attached hereto. [Permitted Exceptions to be attached]

DATED this ____ day of _____, 2018.

GRANTORS:

James L. Zahn, a married person

Sandra L. Zahn, a married person

STATE OF WASHINGTON)

) ss.

COUNTY OF THURSTON)

I certify that I know or have satisfactory evidence that **James L. Zahn** and **Sandra L. Zahn**, husband and wife, are the persons who appeared before me, and that said persons acknowledged that they signed this instrument, and on oath stated that they are authorized to execute this instrument, and acknowledged it as their free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____2018.

Signature

Name (typed or printed): _____

NOTARY PUBLIC in and for the State of
Washington

Residing at _____

My appointment expires: _____

EXHIBIT A
Permitted Exceptions

EXHIBIT "E"
LEASE AGREEMENT

This LEASE AGREEMENT ("Lease") is between the City of Olympia, a municipality organized under the laws of the State of Washington ("Lessor"), and James L. Zahn and Sandra L. Zahn, husband and wife, ("Lessees"), jointly referred to as "the Parties." This Lease shall not be effective until the "Effective Date" (as defined in Paragraph 13.15 below).

RECITALS

Lessor is the owner of a residential single-family dwelling commonly located at 3323 Yelm Hwy SE, Olympia, Washington 98501, in Thurston County, Washington, consisting of a single-family residence, garage, and shop, located and shown on Exhibit "A" (general vicinity sketch) attached hereto and by this reference incorporated herein.

Lessor acquired the Property for future use as a public park for recreation and open space purposes for the citizens and residents of the City of Olympia.

As part of Lessor's purchase of the Property from Lessees, Lessor agreed to permit Lessees to continue occupancy of the single-family residential dwelling and use of the associated adjacent outbuildings during their lifetimes, as more particularly described herein.

The Parties acknowledge that each has been represented by legal counsel of their choice in the negotiations and drafting of this Lease and that the Parties agree to exempt themselves from the provisions of the Residential Landlord-Tenant Act, Chapter RCW 59.18, specifically including, but not limited to the provisions of RCW 59.18.060, 59.18.100, 59.18.110, 59.18.120, 59.18.130, and 59.18.190, on the grounds that (1) the Lease and agreement herein does not appear in a standard form lease or rental agreement; (2) there is no substantial inequality in the bargaining position of the two parties; (3) the exemption does not violate the public policy of this state in favor of ensuring safe, and sanitary housing; and (4) that the attorney for the Lessees, as tenants, has approved in writing the exemption as complying with subsections (1) through (3) of RCW 59.18.360 and RCW 59.18.415.

The signatories to this Lease acknowledge they are authorized to execute associated documents, and to correct scrivener's errors and other errors or omissions that are otherwise in substantial conformance with this Lease.

The Parties now enter into this Lease to memorialize the terms and conditions under which Lessor will lease the residential dwelling to Lessees.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Leased Property. Lessor agrees to lease to Lessees the single-family residential dwelling commonly located at 3323 Yelm Hwy SE, Olympia, Washington 98501, in Thurston County, Washington, including the immediately adjacent garage, and shop, located as shown on Exhibit "A" (general vicinity sketch) attached hereto and by this reference incorporated herein. Lessor further agrees that Lessees are granted access to and from the Leased Property upon a private road commonly referred to as "Hampton Street," as to that portion lying upon Lessor's real property, and as it appears on Exhibit "A." The Leased Property described in this Paragraph 1 is collectively referred to in this Lease as the "Property."

2. Use and Occupancy. The Parties agree that Lessees shall use the Property herein as a single-family residence and for no other purpose or use.

3. Term. The term of this Lease shall be for the lifetime of James L. Zahn and Sandra L. Zahn, husband and wife, and shall continue for the lifetime of the survivor, subject to the terms herein. In the event Lessees, or any Lessee individually, cease to reside upon the Property for a period of more than six (6) months, the tenancy shall automatically terminate without further notice and the Lessees or individual Lessee, as the case may be, shall be required to vacate the property.

4. Acceptance of Property As Is. Lessees accept and acknowledge use and occupancy of the Property in its "as is" condition. This includes the existence, if any, of mold or lead based paint. The Parties agree Lessor will make no repairs or renovations to the Property at any time during Lessees' tenancy.

5. Maintenance and Repairs. Lessees shall be responsible for any and all repairs to the Property, including but not limited to appliances, water heater, laundry washer-dryer, furnace, air conditioning, electrical, plumbing, septic tank and septic field, roof, carpet, sinks, tubs, showers, kitchen appliances and fixtures, interior and exterior paint, flooring or walls, doors or windows, screens, or window coverings, landscaping or rodents or pest control.

6. Utilities. Lessees shall pay and be financially responsible for any and all utility services to the Property, including but not limited to electricity, natural gas, heating oil, telephone, water, sewer, storm water, garbage and recycling, cable television, wi-fi, or internet.

7. Insurance and Hold Harmless Agreement. Lessees shall defend, indemnify and hold Lessor, its agents, 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 Lessees under this Lease, except for injuries and damages caused by the sole negligence of Lessor.

7.1 Concurrent negligence. Should a court of competent jurisdiction determine that this Lease 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 Lessees and the Lessor, its officers, officials, agents, employees, and volunteers, the Lessees' liability, including the duty and cost to defend, hereunder shall be only

to the extent of Lessees' negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes Lessees' 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 Lease.

7.2 Insurance. Lessees shall procure and maintain for the duration of the Lease, insurance against claims for injuries to persons or damage or loss to property, which may arise from or in connection with this Lease, or acts of Lessees or their agents, representatives, or employees.

8. Acknowledgment and Acceptance. Lessees hereby acknowledge that Lessor purchased Lessees' property for use as a public park for recreational uses. Lessees also acknowledge that their lifetime Lease upon the dwelling commonly located at 3323 Yelm Hwy SE, Olympia, Washington, knowing that Lessor intends to install athletic fields and lights for athletic events and other related recreational facilities, and that such facilities will draw members of the public to areas adjacent to the Leased Property, and impacts to the Leased Property will include traffic, noise, and lighting, among others.

8.1 Rent. As a result of negotiations and mutual benefits and consideration exchanged between the Parties, it is agreed that the Lease to Lessees for their lifetime is without rental charge during Lessees' lifetimes as described herein, except as provided in Paragraph 8.2.

8.2 Taxes and assessments. In the event a leasehold tax is imposed upon Lessees' tenancy by the State of Washington during the term of this Lease, Lessees agree to pay said leasehold tax amount to the City of Olympia for payment to the state. Failure to pay any such leasehold tax when due shall be grounds for termination of Lessees' lifetime lease.

8.3 Mechanics' liens. In the event Lessees cause any labor, material or services to be furnished in, on or about the Leased Property, or any part thereof, Lessees hereby agree to pay, resolve, settle or compromise such liens or claims and to fully satisfy same so as to prevent or remove any liens against Lessor's Property. Lessees will not allow any lien to attach to the Leased Property. Lessees further agree to fully indemnify and hold harmless the Lessor from any and all claims of liens against the Leased Property incurred by Lessees, including any attorney's fees, costs or other litigation expenses incurred by Lessor in connection with such claims of lien.

8.4 Subleases and other agreements. Lessees shall not enter into any leases, subleases, licenses, easements, occupancy agreements, bed and breakfast, or short term stay arrangements with any person(s) or entities for profit or other charge or consideration upon the Leased Property. Lessees agree that the Leased Property shall be solely used as a single-family residence for Lessees during the term of this Lease.

8.5 Motor vehicle parking. Lessees covenant and agree that any motorized vehicle of any kind or nature, whether owned or operated by Lessees or their guests, shall be parked or stored upon the Leased Property.

8.6 Storage of personal property. Any personal property of Lessees shall be stored upon the Leased Property. Lessees shall not store Lessees' personal property upon any adjacent property owned by Lessor.

8.7 Due authority. Lessees and Lessor have all requisite power and authority to execute and deliver this Lease and to carry out its obligations hereunder and the transactions contemplated hereby. This Lease has been, and the documents contemplated hereby will be, duly executed and delivered by Lessor and Lessees and constitute their legal, valid and binding obligation enforceable against Lessor and Lessees in accordance with its terms.

9. Covenants of Lessees. Lessees covenant and agree as follows:

9.1 Perform obligations. From the effective date of this Lease, Lessees will perform any monetary and non-monetary obligations they have regarding the Leased Property.

9.2 No encumbrances. From the date of this Lease, Lessees will not grant, create, or voluntarily allow the creating of, or amend, extend, modify or change, any easement, right-of-way, encumbrance, restriction, covenant, lease, license, option or other right affecting the Leased Property or any part thereof.

9.3 Environmental. Lessees shall defend, indemnify, and hold Lessor harmless with respect to any loss, liability, claim, demand, damage, or expense of any kind, including attorneys' fees, costs, and expenses (collectively, "Loss") arising out of the release or threatened release of Hazardous Substances on, under, above, or about the Leased Property by Lessees, except for any release or threatened release of any Hazardous Substance on, under, above, or about the Leased Property caused or contributed by Lessor, or any employee, agent, or contractor of Lessor.

9.4 Definitions. The term "Hazardous Substance" includes without limitation (a) those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," "hazardous wastes," or "solid wastes" in any Environmental Law; (b) petroleum products and petroleum byproducts; (c) polychlorinated biphenyls; (d) chlorinated solvents; and (e) asbestos. The term "Environmental Law" includes any federal, state, municipal or local law, statute, ordinance, regulation, order or rule pertaining to health, industrial hygiene, environmental conditions, or hazardous substances.

9.5 Compliance with laws. Lessees covenant and agree to comply with any and all statutes, codes, regulations, covenants or laws that may affect the use and occupancy of the Leased Property. Violation of this covenant by Lessees shall be grounds for termination of this lifetime Lease.

9.6 Nuisance or waste. Lessees shall not permit any nuisance upon the Leased Property or permit any waste or destruction of the property.

9.7 Indemnification. Lessees shall pay, protect, pay the defense costs of, indemnify and hold Lessor and its successors and assigns harmless from and against any and all loss, liability, claim, damage and expense suffered or incurred by reason of (a) the breach of any representation, warranty or agreement of Lessees set forth in this Lease, (b) the failure of Lessees to perform any obligation required by this Lease to be performed by Lessees, (c) the maintenance, and/or operation of the Leased Property by Lessees not in conformance with this Lease, or (d) any injuries to persons or property from any cause occasioned in whole or in part by any acts or omissions of the Lessees, their representatives, agents, employees, contractors or suppliers.

9.8 Access to leased property. Lessees shall permit Lessor or its agents, employees, officials, officers or contractors to access the Property for the purpose of any environmental studies including, but not limited to Mazama pocket gophers, stream buffers, oak trees or other environmental studies or work for restoration purposes that is required by permitting agencies.

10. Casualty. If any fire, windstorm, earthquake, volcanic eruption or casualty occurs and materially affects all or any portion of the Leased Property on or after the date of this Lease, Lessor is under no duty or obligation to repair, replace or rebuild any structure, dwelling or outbuilding located upon the Leased Property.

11. Notices. Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party (collectively, "Notices") shall be in writing and shall be validly given or made to another party if delivered either personally or by Federal Express, UPS, USPS or other overnight delivery service of recognized standing, or if deposited in the United States mail, certified, registered, or express mail with postage prepaid. If such Notice is personally delivered, it shall be conclusively deemed given at the time of such delivery. If such Notice is delivered by Federal Express or other overnight delivery service of recognized standing, it shall be deemed given twenty-four (24) hours after the deposit thereof with such delivery service. If such Notice is mailed as provided herein, such shall be deemed given forty-eight (48) hours after the deposit thereof in the United States mail. Each such Notice shall be deemed given only if properly addressed to the party to whom such notice is to be given as follows:

To Lessor: Steven R. Hall, City Manager
City of Olympia
601 4th Ave E
Olympia, WA 98501
Email: shall@ci.olympia.wa.us

With a copy to: Mark Barber, City Attorney
City of Olympia
601 4th Ave E
Olympia, WA 98501
Email: mbarber@ci.olympia.wa.us

To Lessees: James L. Zahn and Sandra L. Zahn
3323 Yelm Highway SE
Olympia, WA 98501
Email: jlzahn@comcast.net

With a copy to: Brent F. Dille
Dille Law, PLLC
2010 Caton Way SW, Ste 101
Olympia, WA 98502
Telephone: (360) 350-0270
Email: brent@dillelaw.com

Any party hereto may change its address for receiving notices as herein provided by a written notice given in the manner aforesaid to the other party hereto.

12. Event of Default. In the event of a default under this Lease by Lessees (including a breach of any representation, warranty or covenant set forth herein), Lessor shall be entitled, in addition to all other remedies, to seek monetary damages and specific performance of Lessees' obligations hereunder or termination of this Lease.

13. Miscellaneous.

13.1 Applicable law. This Lease shall in all respects, shall be governed by the laws of the State of Washington.

13.2 Further assurances. Each of the Parties shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder, to carry out the intent of the Parties hereto.

13.3 Modification or amendment, waivers. No amendment, change or modification of this Lease shall be valid, unless in writing and signed by all of the Parties hereto. No waiver of any breach of any covenant or provision in this Lease shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision in this Lease. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

13.4 Successors and assigns. All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the Parties hereto and their respective heirs, legal representatives, successors and assigns, if applicable. No assignment shall be permitted by Lessees of this Lease.

13.5 Entire agreement and no third party beneficiaries. This Lease constitutes the entire understanding and agreement of the Parties with respect to its subject matter and any and all prior agreements, understandings or representations with respect to its subject matter are

hereby canceled in their entirety and are of no further force or effect. The Parties do not intend to confer any benefit under this Lease to any person, firm or corporation other than the immediate Parties.

13.6 Attorneys' fees. Should either party bring suit to enforce the terms of this Lease, the prevailing party in such lawsuit shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection with such lawsuit.

13.7 Construction. Captions are solely for the convenience of the Parties and are not a part of this Lease. This Lease shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared it.

13.8 Partial Invalidity. If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and each such term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

13.9 Survival. The covenants, agreements, obligations to indemnify, representations and warranties made in this Lease shall survive unimpaired. The Parties agree this Lease shall not be recorded, but a Memorandum of Lease may be recorded at the request of a party.

13.10 Time. Time is of the essence of every provision of this Lease.

13.11 Risk of loss. All of Lessees' personal property, of any kind or description whatsoever that is on the Leased Property shall be at Lessees' sole risk of loss. Lessor shall not insure Lessees' personal property of whatever kind or nature. Any such insurance must be obtained by Lessees.

13.12 Force majeure. Performance by Lessees or Lessor of their obligations under this Lease shall be extended by the period of delay caused by force majeure. Force majeure is war, natural catastrophe, strikes, walkouts or other labor industrial disturbance, order of any government, court or regulatory body having jurisdiction, shortages, blockade, embargo, riot, civil disorder, or any similar cause beyond the reasonable control of the party who is obligated to render performance (but excluding financial inability to perform, however caused).

13.13 Recitals. The Recitals set forth above are incorporated by this reference into this Lease and are made a part hereof.

13.14 Counterparts. This Lease may be executed in a number of identical counterparts which, taken together, shall constitute collectively one Lease; but in making proof of this Lease, it shall not be necessary to produce or account for more than one such counterpart. Additionally, (i) the signature pages taken from separate individually executed counterparts of this Lease may be combined to form multiple fully executed counterparts; and (ii) a facsimile

signature or an electronically scanned signature, where permitted by law, shall be deemed to be an original signature for all purposes. All executed counterparts of this Lease shall be deemed to be originals, but all such counterparts, when taken together, shall constitute one and the same Lease.

13.15 Effective Date. The term “date of this Lease” or “date hereof” or “Effective Date,” as used in this Lease, shall mean the later of the following dates: (1) the date of Lessor’s signature on this Lease; or (2) the date of Lessees’ signatures on this Lease; or the date of signatures of the attorneys for the Parties to this Lease.

[Signatures appear on the following page]

LESSEES:

JAMES L. ZAHN and SANDRA L. ZAHN,
and the marital composed thereof

James L. Zahn

Date: _____

Sandra L. Zahn

Date: _____

LESSOR:

CITY OF OLYMPIA, a Washington
municipal corporation

Steven R. Hall, City Manager

Date: _____

APPROVED AS TO FORM:

Mark Barber, City Attorney

Date: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I certify that I know or have satisfactory evidence that James L. Zahn and Sandra L. Zahn, husband and wife, are the persons who appeared before me, and that said persons acknowledged that they signed this instrument, and on oath stated that they are authorized to execute this instrument, and acknowledged it as their free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____ 2018.

Signature: _____
Name (typed or printed): _____
NOTARY PUBLIC in and for the State of Washington
Residing at _____
My appointment expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I certify that I know or have satisfactory evidence that Steven R. Hall, is the person who appeared before me, and as City Manager for the City of Olympia, Washington, on behalf of said municipal corporation and with authority to sign same, acknowledged that he signed this instrument, and on oath stated that he was authorized to execute this instrument, and acknowledged it as his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____ 2018.

Signature: _____
Name (typed or printed): _____
NOTARY PUBLIC in and for the State of Washington
Residing at _____
My appointment expires: _____

CERTIFICATION OF EXEMPTION

COMES NOW, BRENT F. DILLE, ATTORNEY FOR LESSEES and MARK BARBER, ATTORNEY FOR LESSOR, and hereby certify that they have reviewed the Lease above and that (1) the Lease and agreement herein does not appear in a standard form lease or rental agreement; (2) there is no substantial inequality in the bargaining position of the two parties to this Lease; (3) the exemption does not violate the public policy of this state in favor of ensuring safe, and sanitary housing; and (4) that the attorney for the Lessees, as tenants, has approved in writing the exemption as complying with subsections (1) through (3) of RCW 59.18.360 and RCW 59.18.415 and that this Lease is not subject to the Residential Landlord-Tenant Act in RCW Chapter 59.18.

Brent F. Dille, WSBA No. 25137
Attorney for Lessees, James L. Zahn and
Lessor

Mark Barber, WSBA No. 8379
City Attorney, City of Olympia,



Exhibit A: Lifetime Lease Area (Outlined in Yellow)



This map is intended for 11x17" portrait printing.

The City of Olympia is not responsible for the accuracy, completeness, reliability, or availability of the information for any particular purpose. The parcels, agricultural, utility, and otherwise depicted herein are based on aerial photography and other public data. It is recommended that recipient and/or user verify all information prior to use. The use of this data for purposes other than those for which they were intended may result in errors or misleading results. The recipient may not assert any proprietary rights in this information. The City of Olympia and its personnel neither accept nor assume liability or responsibility, or damages for any liability, including this information with respect to any profits, loss or damage or to any other consequences resulting therefrom.

ADDENDUM TO REAL ESTATE PURCHASE AND SALE AGREEMENT

1. The Parties amend Paragraph 15 Notices, page 11 of the Agreement, to read as follows:

To Sellers: James L. Zahn and Sandra L. Zahn
3323 Yelm Highway SE
Olympia, WA 98501
Email: jzahn@comcast.net

2. The Parties hereby amend Exhibit "A" Legal Description to remove reference excepting the manufactured home. The Parties also agree that the mobile (manufactured) home located upon the Sellers' real property is included in Buyer's purchase of Sellers' property. Sellers agree to provide Buyer with a Bill of Sale at time of escrow for the mobile (manufactured) home located upon the Sellers' real property.

SELLERS:



James L. Zahn

Date: Aug 10, 2018



Sandra L. Zahn

Date: August 10, 2018

BUYER:

Steven R. Hall, City Manager

Date: _____

Approved as to legal form:

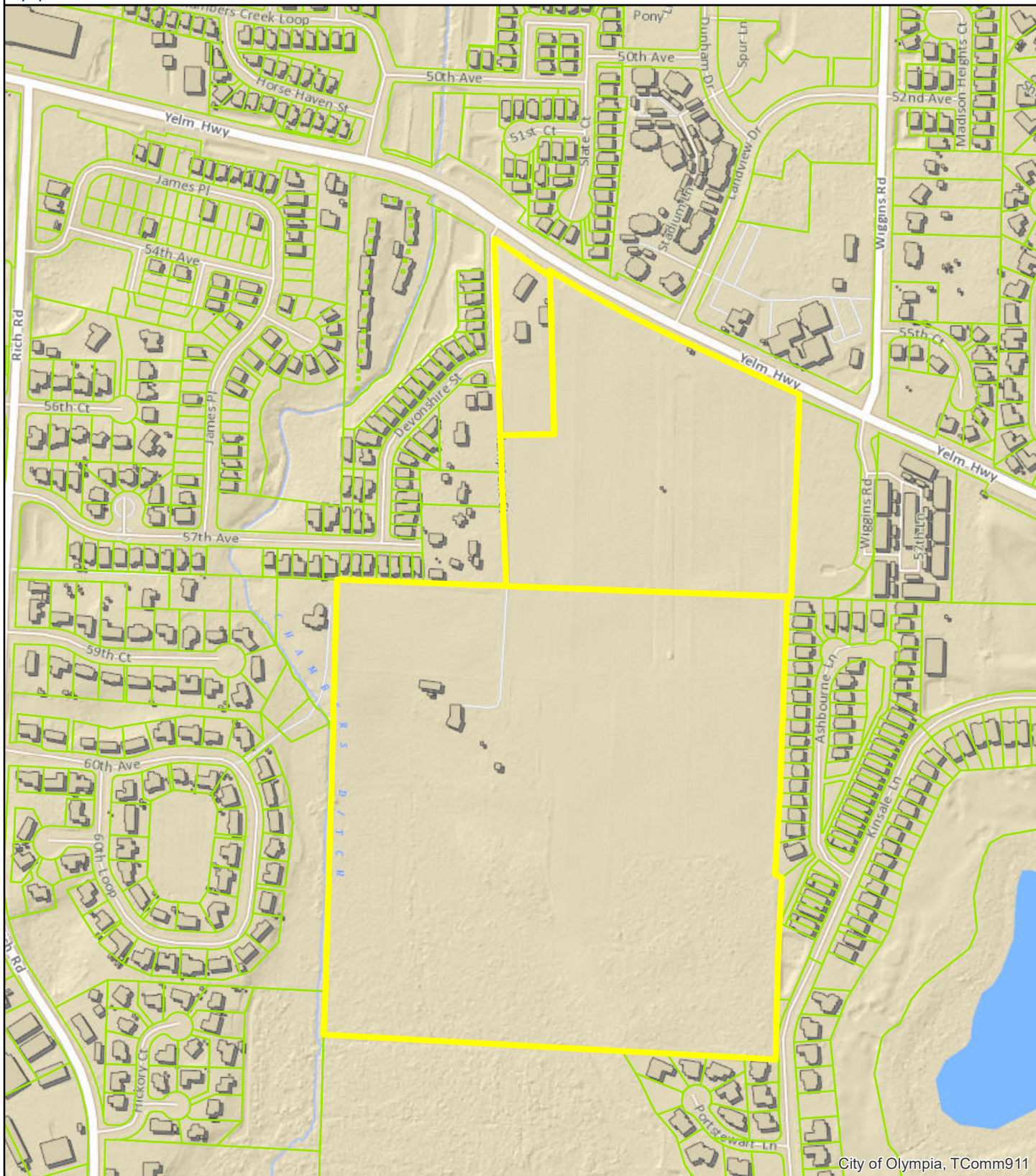


Mark Barber, City Attorney

Date: 8/13/2018



Zahn Parcel - Property Location Map



City of Olympia, TComm911

0 0.05 0.1 Miles 1 inch = 489 feet

Map printed 8/10/2018
For more information, please contact:
Jonathon Turlove, Associate Director
jturlove@ci.olympia.wa.us
(360) 753-8068

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.

