



City of Bellingham
City Council Regular Meeting Agenda
June 8, 2020, 7:00 PM

Mayor Seth Fleetwood

Contact: (360) 778-8200, ccmail@cob.org

Council Members Hannah Stone, Gene Knutson, Daniel Hammill, www.cob.org/council

Pinky Vargas, Lisa Anderson, Michael Lilliquist and
Hollie Huthman

Council members will participate in this meeting remotely through an online web-based meeting platform. Per Washington State Proclamation 20-28, in-person attendance at meetings is prohibited at this time.

Council meetings are streamed live via the City's website at meetings.cob.org and on the [City's YouTube channel](#). Meetings are broadcast in high definition on BTV on Comcast channel 321, and in standard definition on Comcast channel 10. Members of the public who do not have cable or Internet access may contact the City Council office to receive phone numbers in order to listen to the meeting via telephone.

Please note there will be no regular public comment period. Instead, people are respectfully asked and encouraged to send comments by email to ccmail@cob.org or by phone to (360) 778-8200. The City is currently working on bringing back the regular public comment period and appreciates the community's patience during this time.

Anyone wishing to comment during the **Public Hearing to Consider an Ordinance Extending the Current Moratorium on Change of Use for the Ten Mobile Home Parks in Bellingham** is invited to do so. Advanced testimony by mail, email, and telephone is accepted and strongly encouraged by sending comments to the Council Office, 210 Lottie Street, ccmail@cob.org, phone (360) 778-8200 or fax (360) 778-8101. Anyone wishing to testify live during the public hearing can do so by joining the remote meeting at the following link: <https://www.cob.org/ccph>. This link can be used before the meeting to pre-register or during the meeting to register and immediately join the meeting. Pre-registration is encouraged.

Those who would like to listen in by phone can do so using any of the following phone numbers:

- (253) 215-8782
- (346) 248-7799
- (669) 900-6833
- (301) 715-8592
- (312) 626-6799
- (929) 205-6099

Meeting ID: 913-1352-0251

Password: 9

The following items are heard in the Regular Meeting only:

Call to Order

Announcements & Upcoming Meetings:

Bellingham City Council meets all requirements of the State of Washington Open Meetings Act.

- 1. On June 22 and July 6, 2020 in the City Council Chambers (unless either meeting is held remotely), the City Council will consider taking the final action authorizing legal proceedings if necessary to acquire by condemnation certain real property interests for a roadway project. The public notice can be viewed on the [City's website](#).**

Pledge of Allegiance

Roll Call

Presentation

- | | | |
|--------------|---|-------------|
| 22593 | 1. Update on the COVID-19 Response | p. 7 |
|--------------|---|-------------|

Public Hearing

- | | | |
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| 22025 | 1. Public Hearing to Consider an Ordinance Extending the Current Moratorium on Change of Use for the Ten Mobile Home Parks in Bellingham | p. 8 |
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Mayor's Report

Standing time for briefings, updates and reports to Council by the Mayor, if needed.
Information only.

- | | | |
|--------------|--|--------------|
| 22645 | 1. Mayor's Reappointment of Stacey Sledge and Jim Haupt to the Tourism Commission (Information) | p. 21 |
|--------------|--|--------------|

The following are heard in both Committee sessions and Regular Meeting in order below:

Council Standing Committee Meetings:

Open to the public to attend. Note: there is generally no public comment period for Committee sessions. Standing Committee Members receive reports and information, ask questions and, when appropriate, vote on a recommended action for consideration by the full Council at the Regular Meeting. The notice of Committee Meetings identified below also serves as notice of Special Meetings of the City Council at the times identified as Council Members who are not members of the committee routinely attend and participate in the Committee Meetings. Committee Chairs give a report of the Committee Meeting at the Regular Meeting in the evening prior to deliberation and formal vote in the order shown below:

Committee Of The Whole 1:00 PM

Gene Knutson, Chair

Hannah Stone, Daniel Hammill, Pinky Vargas, Lisa Anderson, Michael Lilliquist,
Hollie Huthman

Please be advised that if the City Council is ahead of schedule, they may start with old/new business before the official Committee of the Whole meeting time.

22634	1.	Draft 2021-2026 Transportation Improvement Program (TIP)	p. 22
22646	2.	Proposed Emergency Ordinance to Temporarily Waive Certain Permitting Requirements for Short-Term Closures of Residential Streets to Facilitate Outdoor Exercise and Recreation During the COVID-19 Health Crisis	p. 62
22647	3.	Bid Award for the Library Central Branch Remodel & Renovation Project, Bid #28B-2020	p. 67
22648	4.	An Ordinance Increasing Appropriations and Transferring Funds to Fully Fund the Central Library Refurbishment	p. 72
22649	5.	Approval of an Interagency Agreement with the Department of Commerce for CARES Act Funding	p. 76
22650	6.	Resolution Approving an Interlocal Cost Sharing Agreement Between the City of Bellingham and Whatcom County Related to COVID-19	p. 97
22651	7.	An Ordinance Increasing Appropriations and Estimate Revenues in the General Fund for Relocation of the Drop-in Shelter	p. 109
22616	8.	Results of Filter 1 of the Climate Policy Approval Process	p. 113

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|--------------|------------|---|---------------|
| 22652 | 9. | Resolution Authorizing 2020 Housing and Urban Development (HUD) Annual Action Plan | p. 127 |
| | 10. | Approval of Minutes | |
| | 11. | Old/New Business | |

Consent Agenda

All matters listed on the Consent Agenda are considered routine and/or non-controversial items and may be approved in a single motion. A member of the Council may ask that an item be removed from the Consent Agenda and considered separately.

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|--------------|------------|---|---------------|
| 22653 | 1. | A Resolution Setting the Date and Time for a Public Hearing Before the Hearing Examiner for Consideration of a Street Vacation Petition for a Portion of Douglas Avenue in the Happy Valley Neighborhood | p. 182 |
| 22654 | 2. | Resolution Authorizing the City to Apply for and Enter into a Recreation and Conservation Office-Managed Grant for Funding the Little Squalicum Estuary Project (Grant 1 of 3) | p. 186 |
| 22655 | 3. | Resolution Authorizing the City to Apply for and Enter into a Recreation and Conservation Office-Managed Grant for Funding for the Little Squalicum Estuary Project (Grant 2 of 3) | p. 241 |
| 22656 | 4. | Resolution Authorizing the City to Apply for and Enter into a Recreation and Conservation Office-Managed Grant for Assisting with the Little Squalicum Estuary Project (Grant 3 of 3) | p. 296 |
| 22657 | 5. | Resolution Authorizing the City to Apply for and Enter into a Recreation and Conservation Office-Managed Grant for the Padden Creek at 30th Street Fish Passage Project | p. 351 |
| 22658 | 6. | Interlocal Jail Facility Use Agreement | p. 406 |
| 22642 | 7. | WSDOT Agreement for Contribution to the North End Regional Pond (NERP) | p. 410 |
| 22643 | 8. | Authorization of A/P Checks Issued May 1, 2020 | p. 429 |
| 22644 | 9. | Authorization of A/P Checks Issued May 8, 2020 | p. 430 |
| 22659 | 10. | Authorization of A/P Checks Issued May 15, 2020 | p. 431 |
| 22660 | 11. | Authorization of A/P Checks Issued May 22, 2020 | p. 432 |

22661	12.	Authorization of A/P Checks Issued May 29, 2020	p. 433
22662	13.	Authorization of Payroll Labor Cost Payments For the Period Dated April 16 - April 30	p. 434
22663	14.	Authorization of Payroll Labor Cost Payments For the Period Dated May 1 - May 15	p. 435

Final Consideration of Ordinances

22641	1.	An Ordinance Amending the 2019-2020 Biennial Budget Decreasing Appropriations in the General Fund	p. 436
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Adjournment

Agenda Information:

Council Committee and Regular Meeting agendas and agenda packets, which contain the supporting documentation for agenda items, are available to the public Wednesday afternoon prior to the meeting. They are posted at <https://meetings.cob.org/>. A hard copy of the agenda packet is available for review from the reference desk at the Central Library or the Finance office at City Hall.

Live Broadcast Information:

The Bellingham City Council Committee Meetings are broadcast live on BTV Bellingham at the times listed on the Agenda. Committee session start times between 9:00 AM and 5:00 PM are estimated. A specific Committee may start later than the time published but will not begin earlier than its published time.

BTV can be found on cable systems as follows: Comcast channels 10 (standard) and 321 (high definition), and CenturyLink channels 40 (standard) and 1040 (high definition).

The meetings are also [streamed live](#) on the internet as they occur. Online viewers will see exactly what cable customers would see.

The Bellingham Public Library also has DVD's available for checkout. Video and audio files are available on the Internet at <https://meetings.cob.org> within 5 business days following each meeting.

BTV Council Meeting Rebroadcast Schedule:

Tues. 12 PM: Repeat broadcast of Monday afternoon Committee meetings
Tues. 7 PM: Repeat broadcast of Monday night regular meeting
Wed. 8 AM: Repeat broadcast of Monday night regular meeting
Sat. 12 PM: Repeat broadcast of Monday afternoon Committee meetings
Sat. 7 PM: Repeat broadcast of Monday night regular meeting

Accessibility:

The Council Chambers is fully accessible. Elevator access to the second floor is available at City Hall's west entrance. Hearing assistance is available and a receiver may be checked out through the clerk prior to the evening session. For additional accommodations, contact the Legislative Assistant at 778-8200 in advance of the meeting. Thank you.

**Next City Council Meeting
Monday, June 22, 2020**

Deadline to submit material for any public hearing for inclusion in the published agenda packet is 8:00 a.m. on Wednesday prior to the meeting.



City Council Agenda Bill

22593

Bill Number

Subject: **Update on the COVID-19 Response**

Summary Statement: Staff will provide an update on planning and mitigating efforts related to the outbreak of COVID-19.

Previous Council Action: **Staff Presentations on 3/23/20, 4/13/20, 4/27/20, 5/4/20 and 5/18/20**

Fiscal Impact: **Yet to be determined**

Funding Source: **Citywide Funds**

Attachments:

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Evening Presentation	6/08/2020	Information/Discussion	Staff & Guests	30 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Brian Heinrich, Deputy Administrator

Council Action:

Reviewed By	Department	Date
<i>Brian M. Heinrich</i>	Executive	6/02/2020
<i>Peter M. Ruffatto</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



City Council Agenda Bill

22025

Bill Number

Subject: Public Hearing to Consider an Ordinance Extending the Current Moratorium on Change of Use for the Ten Mobile Home Parks in Bellingham

Summary Statement: On May 18, 2020, the City Council approved a six-month extension of an emergency ordinance establishing a moratorium on the acceptance or processing of development applications or permits relating to the redevelopment of any of the ten mobile home parks in Bellingham. State law (RCW 36.70A.390) requires the City Council to hold a Public Hearing on an emergency ordinance within 60-days of passage. Council can take no action and keep the moratorium in place or vote to rescind or modify the ordinance. This moratorium is needed to ensure the continued availability of this form of affordable housing while the City develops potential preservation options.

Previous Council Action: June 3, 2019 adoption of Ordinance No. 2019-06-021; May 18, 2020 presentation to Council

Fiscal Impact: Existing staff resources will be used

Funding Source: General Fund

Attachments: 1. MEMO
2. ORDINANCE
3. PUBLIC NOTICE
4. PUBLIC COMMENT

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Public Hearing - Direction Requested	6/08/2020	Provide Direction	Rick Sepler, Planning and Community Development	5 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Greg Aucutt, Planning and Community Development, 360-778-8300

Reviewed By

Rick M. Sepler

Department

Planning & Community Development

Date

5/29/2020

Council Action:

Alan A. Marriner

Legal

6/02/2020

Seth M. Fleetwood

Executive

6/02/2020



MEMORANDUM

TO: BELLINGHAM CITY COUNCIL
FROM: GREG AUCUTT, ASSISTANT DIRECTOR, PCDD
SUBJECT: PUBLIC HEARING ON A MORATORIUM PROHIBITING THE PROCESSING OF APPLICATIONS TO CHANGE THE USE OF MOBILE AND MANUFACTURED HOME PARKS
DATE: MAY 27, 2020

On May 18, 2020, the City Council approved a six-month extension of the moratorium ordinance that prohibits the acceptance or processing of any application to redevelop or change the use of any of the ten mobile/manufactured home parks (MHPs) in Bellingham. (Ord. 2020-05-011)

State law requires the City Council to conduct a public hearing within 60 days of adoption of an emergency ordinance. This public hearing is intended to fulfill that requirement. At the conclusion of public testimony, City Council can take no action and keep the moratorium in place or vote to rescind or modify the moratorium ordinance.

Staff recommends that the Council allow the moratorium to remain in effect. The moratorium will preserve the status quo and ensure the continued availability of housing in the city's MHPs, while the City investigates options to potentially preserve this form of affordable housing.

Although the City continues to make efforts to advance the planning process on this matter, the COVID-19 emergency has limited our ability to facilitate opportunities for public involvement for those who are most affected by this issue. PCDD Staff is developing alternative approaches for community outreach but remain concerned about solely using technology (i.e. new public involvement platform, zoom meetings) due to equity and access issues. Staff will closely monitor how Whatcom County advances in the Phased COVID-19 Recovery process and will revise the attached Work Plan accordingly. Should restrictions remain in place longer than anticipated, Staff would recommend that the Moratorium be extended accordingly.

Applications to replace, repair, maintain or otherwise improve an existing mobile or manufactured home within the ten parks are not impacted by the moratorium.

MHP PROPOSED WORK PLAN AND SCHEDULE
MAY 28, 2020

Although the City continues to make efforts to advance the planning process on this matter, the COVID-19 emergency has limited our ability to facilitate opportunities for public involvement for those who are most affected by this issue. Should restrictions remain in place longer than anticipated, this work plan will be revised and the moratorium should be extended accordingly.

2nd Quarter 2020

- City Council holds required public hearing for emergency ordinance
- Staff continues to evaluate zoning and resident acquisition options

3rd Quarter 2020

- Staff meets with MHP owners and residents
- Planning Commission holds public meeting on initial recommendations for each MHP

4th Quarter 2020

- Staff initiates SEPA review of proposed zoning code amendments (as applicable)
- Staff continues discussions with owners, residents, potential funding partners
- Planning Commission holds public hearing on any proposed land use/zoning changes

1st Quarter 2021

- Planning Commission develops recommendations on any proposed land use/zoning changes
- City Council holds public hearing and committee meetings to review Planning Commission recommendations

2nd Quarter 2021

- City Council enacts ordinance(s) adopting land use and zoning changes (as applicable)
- City Council provides direction to staff regarding acquisition/funding partner options

ORDINANCE NO. _____

AN EMERGENCY ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON, RELATING TO LAND USE AND ZONING, EXTENDING A MORATORIUM ON DEVELOPMENT APPLICATIONS AND PERMITS RELATING TO THE REDEVELOPMENT OF EXISTING MOBILE HOME OR MANUFACTURED HOME PARKS, AND SETTING SIX MONTHS AS THE EFFECTIVE PERIOD OF THE MORATORIUM TO ALLOW THE CITY TO REVIEW OPTIONS AND DRAFT REGULATIONS FOR THE PRESERVATION OF EXISTING MOBILE HOME AND MANUFACTURED HOME PARKS.

WHEREAS, as land values, home prices and interest rates continue to rise, housing becomes less and less affordable in Bellingham, the state and the nation; and

WHEREAS, severe housing cost burdens disproportionately impact low-income and fixed income households; and

WHEREAS, mobile home and manufactured home parks provide some of the most affordable ownership and housing opportunities for elderly and low-income residents available today; and

WHEREAS, there are ten (10) existing mobile home and manufactured home parks, with approximately 894 dwelling units, within the city of Bellingham; and

WHEREAS, the City Council has expressed the need to evaluate methods to preserve existing mobile home and manufactured home parks to ensure their continued provision of affordable housing; and

WHEREAS, all lands within the city of Bellingham are under pressure to develop or redevelop for many reasons including extremely low vacancy rates and available housing stock; and

WHEREAS, the remaining mobile home and manufactured home parks are also subject to redevelopment pressure and the residents of those parks are at risk of being displaced and many of the units in those parks may not be suitable or able to relocate within the city of Bellingham; and

WHEREAS, the City believes a moratorium on applications to redevelop or convert existing mobile home and manufactured home parks is in the City's best interest; and

WHEREAS, the moratorium will prevent the vesting of new development rights leading to development or redevelopment that would displace existing mobile home or manufactured home park tenants; and

WHEREAS, the moratorium will preserve the status quo and ensure the availability of housing in the City's existing mobile home and manufactured parks while new regulations are

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drafted and reviewed through the legislative process; and

WHEREAS, RCW 36.70A.390 authorizes the City Council to adopt an immediate moratorium for a period of up to twelve months without holding a public hearing on the proposal provided that a public hearing is held within at least 60 days of its adoption and a work plan is developed for related studies providing for the twelve-month period; and

WHEREAS, RCW 36.70A.390 provides that, “A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal”; and

WHEREAS, RCW 35.63.200 provides a similar process for adopting and extending land use moratoriums; and

WHEREAS, moratoriums enacted under RCW 36.70A.390 and/or RCW 35.63.200 are methods by which local governments may preserve the status quo so that new regulations will not be rendered moot by intervening projects; and

WHEREAS, RCW 36.70A.390 and RCW 35.63.200 both authorize the enactment of a moratorium without holding a public hearing if a public hearing is held within at least sixty days of its enactment; and

WHEREAS, pursuant to WAC 197-11-880, the adoption of this emergency moratorium is exempt from the requirements of a threshold determination under the State Environmental Policy Act (SEPA); and

WHEREAS, a moratorium will provide the City with additional time to explore options and to draft new land use regulations regarding the preservation of mobile home and manufactured home parks; and

WHEREAS, the City Council concludes that the City has the authority to establish a moratorium and that the City must adopt a moratorium concerning the filing, acceptance, and processing of new applications for redevelopment of the City’s existing mobile home and manufactured home parks; and

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360-778-8270

WHEREAS, on June 3, 2019 the Bellingham City Council adopted an emergency ordinance (Ordinance No. 2019-06-021) establishing a moratorium on development applications and permits relating to the redevelopment of existing mobile home or manufactured home parks; and

WHEREAS, this emergency ordinance expires on June 2, 2020; and

WHEREAS, the City Council has determined it needs additional time to explore the City's options for preserving mobile home and manufactured home parks and draft new land use regulations to preserve mobile home and manufactured home parks; and

WHEREAS, the City Council adopts the foregoing as its findings of facts justifying the adoption of this ordinance.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Findings of Fact. The City Council adopts the above "WHEREAS" recitals as findings of fact in support of its action as required by RCW 36.70A.390 and RCW 35.63.200.

Section 2: Definitions.

- A. "Mobile home or manufactured home park" shall include all lands currently developed with mobile or manufactured homes as identified on EXHIBIT A, including all abutting lands and property held under common ownership of the existing parks. This definition does not include individual designated manufactured homes on individual lots or parcels not located in the parks identified on EXHIBIT A.
- B. "Application" means any application or permit for demolition, construction, land use or alteration of land including, but not limited to, variances, conditional use permits, planned development permits, rezones, use permits or any other applications or permits associated with mobile home and manufactured home parks as determined by the Planning and Community Development Director. This term does not include any land use or development permit or application that is subject to the vested rights doctrine, and that was submitted to the City and determined by the City staff to be complete on or before the effective date of this ordinance.

Section 3. Purpose. The purpose of this moratorium is to allow the City adequate time to explore options and prepare zoning and land use regulations that preserve existing mobile home and manufactured home parks.

Section 4. Moratorium Extended. The City Council extends the existing moratorium on the filing, acceptance, processing and/or review of any application to develop, redevelop or to establish a new use or accessory use, or change a use or accessory use for any site

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currently used as a mobile home or manufactured home park as identified on EXHIBIT A. Any such application submitted shall be rejected and returned to the applicant. Applications to replace in-kind, repair, maintain, or otherwise improve an existing mobile home or manufactured home within the parks identified on EXHIBIT A, or any other applications necessary for public health and safety as determined by the Planning and Community Development Director shall not be impacted by this moratorium and shall be allowed to proceed through the standard application and review process.

Applications to locate individual new designated manufactured homes as provided in Bellingham Municipal Code 20.10.030 on lands not designated as mobile home or manufactured home parks as identified on EXHIBIT A shall not be subject to this moratorium.

Section 5. Duration of Moratorium. This moratorium shall be extended and in effect for an additional six (6) months, beginning on June 3, 2020, and ending on December 2, 2020, unless final regulations and codes governing the preservation of existing mobile home or manufactured home parks have been adopted by the City Council before December 2, 2020. This moratorium may be extended as provided by state statute.

Section 6. Public Hearing Required. As required by RCW 36.70A.390, within sixty (60) days of passage of this ordinance, the City Council will hold a public hearing on this moratorium.

Section 7. Work Plan. During the moratorium period, City staff will study the issues concerning the loss of affordable housing options through redevelopment of existing mobile home and manufactured home parks. Staff will prepare appropriate revisions to the City's codes and regulations and conduct the public review process as required for amendments to the Bellingham Municipal Code as shown in the Proposed Work and Public Participation Plan attached as EXHIBIT B.

Section 8. Declaration of Emergency. The City Council hereby finds and declares that an emergency exists necessitating that this ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council as required by RCW 35A.12.130.

Without an immediate moratorium on the City's acceptance of development applications, such applications could become vested, leading to development, redevelopment or change in use of existing mobile home and manufactured home parks resulting in the loss of mobile and manufactured housing stock and displacement of the individuals living in this stock. Therefore, the moratorium must be imposed as an emergency measure to protect the public health, safety and welfare, and to prevent the submission of applications to the City in an attempt to vest rights for an indefinite period of time.

Section 9. Effective Date. This ordinance shall take effect and be in full force and effect immediately upon passage, as set forth herein, as long as it is approved by a majority plus one of the entire membership of the Council, as required by RCW 35A.12.130.

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Section 10. Conflict with other BMC Provisions. If the provisions of this ordinance are found to be inconsistent with other provisions of the Bellingham Municipal Code, this ordinance shall control.

Section 11. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

PASSED by the Council this _____ day of _____, 2020.

Council President

APPROVED by me this _____ day of _____, 2020.

Mayor

ATTEST: _____
Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published:

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270



BELLINGHAM CITY COUNCIL

210 Lottie Street, Bellingham, Washington 98225

Telephone (360) 778-8200 Fax (360) 778-8101

Email: ccmail@cob.org Website: www.cob.org

BELLINGHAM CITY COUNCIL NOTICE OF PUBLIC HEARING

Notice is hereby given that the Bellingham City Council will hold a public hearing on June 8, 2020 @ 7:00 PM, or as soon thereafter as possible during their Regular City Council meeting, which will take place remotely, to take public comment on the following:

A public hearing to consider an ordinance approving a 6-month extension of the moratorium on processing applications to change the use of any of the ten mobile home/manufactured home parks in the City of Bellingham.

Detailed information can be found at: meetings.cob.org five days prior to the public hearing.

Staff Contact: Greg Aucutt 360-778-8344 gaucutt@cob.org

Anyone wishing to comment on this item is invited to do so. Advanced testimony by mail, email, and telephone is accepted and strongly encouraged by sending comments to the Council Office, 210 Lottie Street, ccmail@cob.org, phone (360) 778-8200 or fax (360) 778-8101 to be received prior to 10:00 a.m. Wednesday, **DATE** to be included in the agenda packet. Comment received after that will be distributed to Council but not included in the published packet. Anyone wishing to testify live during the public hearing can do so by joining the remote meeting at the following link: <https://www.cob.org/ccph>. This link can be used before the meeting to pre-register or during the meeting to register and immediately join the meeting. Pre-registration is encouraged.

Those who would like to listen in by phone can do so using any of the following phone numbers:

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- (346) 248-7799
- (669) 900-6833
- (301) 715-8592
- (312) 626-6799
- (929) 205-6099

Meeting ID: 987-8938-4682

Password: 9

Contact the Legislative Assistant at (360) 778-8200 for additional assistance prior to the meeting. Thank you.

Publication date: _____

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Council Member
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hetstone@cob.org

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DANIEL HAMMILL
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MICHAEL LILLQUIST
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HOLLIE HUTHMAN
Council Member
At Large
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hahuthman@cob.org



Bellingham City Council

Public Comment for a Public Hearing to Consider an Ordinance Extending the Current Moratorium on Change of Use for the Ten Mobile Home Parks in Bellingham received by the City Council May 29, 2020 through June 3, 2020

From: Desiree Fitzgerald <fitz.desiree@yahoo.com>
Sent: Monday, June 1, 2020 7:10 PM
To: CC - Shared Department
Subject: 6 month extension on mobile home parks

My name is Desiree Hollins I own my home that sits at the Samish Park. I bought my home a little over a year ago was not advised the owners were planning on changing it into something else. I live here with my husband and my adult disabled son. We are in the middle of a nation wide crisis. Everyone in my home has been on lockdown for months. Im fighting for my life I have been on active chemo since last August for terminal brain cancer. My husband can't work outside the home because he needs to be here to take care of me and my disabled son. So we are very limited on our income and there is no way we would be able to afford to pay anything more for rent than we already do for the lease space. I cannot become homeless again especially now that Im trying to fight for my life and responsible for my son. At last years meeting we were told us owners would have options and workshops. We have not heard anything from anyone and I even left some voicemails.

Not only do I want an extension but I also need to know what they plan on doing for us when time runs out.

Desiree and Tyrone Hollins
119 N Samish. way Trlr 38
Bellingham. 98225
206 531 6799
Sent from Yahoo Mail on Android

From: Richard Beckenbaugh
<rabeckenbaugh@gmail.com>
Sent: Tuesday, June 2, 2020 2:27 PM
To: CC - Shared Department
Subject: Moratorium on processing applications to change
the use of ten mobile home/manufactured home
parks

The moratorium should be continued until the Council can develop a final
plan for protecting the
investment of the people who own homes in these parks

--

Richard Beckenbaugh
rabeckenbaugh@gmail.com
206-295-0609

From: Kathy Valenti <acraftaday@yahoo.com>
Sent: Tuesday, June 2, 2020 3:03 PM
To: CC - Shared Department
Subject: June 8th remote meeting

City Council Members,

We have been in attendance at the previous meetings concerning mobile and manufactured home parks in Bellingham.

We are writing to request your continued support of the extension of the moratorium on processing applications to change the use of the 10 mobile/manufactured home parks in the city of Bellingham.

Thank you.

Kathy & Michael Valenti
2015 24th Street, #91
Bellingham, WA

Sent from my iPhone



City Council Agenda Bill

22645

Bill Number

Subject: **Mayor's Reappointment of Stacey Sledge and Jim Haupt to the Tourism Commission (Information)**

Summary Statement: The Tourism Commission is authorized by BMC 2.80.020.

The Mayor reappoints Stacey Sledge to her second term, which will expire on April 3, 2023, at which time she may be reappointed.

The Mayor reappoints Jim Haupt to his second term, which will expire on April 3, 2023, at which time he may be reappointed.

This agenda bill item is "necessary and routine" during the COVID-19 public health emergency to provide for continuity of government.

Previous Council Action: **N/A**

Fiscal Impact: **None**

Funding Source: **None**

Attachments:

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Mayor's Report - Information Only	6/08/2020	Information/Discussion	Mayor Seth Fleetwood	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Tracy Lewis, Mayor's Office

Council Action:

Reviewed By	Department	Date
<i>Brian M. Heinrich</i>	Executive	6/02/2020
<i>Peter M. Ruffatto</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



City Council Agenda Bill

22634

Bill Number

Subject: **Draft 2021-2026 Transportation Improvement Program (TIP)**

Summary Statement: The 6-Year Transportation Improvement Program (TIP) is adopted annually to plan and program public funding toward capital improvements to Bellingham's multimodal transportation network. State law (RCW 35.77.010) requires cities to adopt the TIP before July 1 each year. On May 12, 2020, staff presented the DRAFT 2021-2026 TIP to the Transportation Commission, which recommended approval to City Council (TC Resolution 2020-02). On May 18, staff presented the DRAFT 2021-2026 TIP to City Council and a Public Hearing was conducted. On June 8, 2020 the City Council will hold a Work Session to consider adoption of the DRAFT 2021-2026 TIP.

Previous Council Action: **Council Public Hearing Monday, May 18, 2020**

Fiscal Impact: **The 6-Year Transportation Improvement Program provides direction for budget preparation; allows for submittal of grant applications; and allows obligation of grant funding for project construction. Projects listed in this year's TIP are valued at over \$120,000,000.**

Funding Source: **Street, REET, Trans Fund, State/Federal Grants, Public/Private Partnerships**

Attachments:

1. STAFF REPORT
2. DRAFT 2021-2026 TRANSPORTATION IMPROVEMENT PROGRAM (TIP)
3. TRANSPORTATION COMMISSION RESOLUTION 2020-02
4. RESOLUTION ADOPTING THE 2021-2026 TIP

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	6/08/2020	Vote to Approve	Eric Johnston, PW Director	15 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Chris Comeau, Transportation Planner 778-7946

Council Action:

Reviewed By	Department	Date
<i>Eric C. Johnston</i>	Public Works	6/01/2020
<i>Matthew T. Stamps</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



City of Bellingham
210 Lottie Street
Bellingham, WA 98225

STAFF REPORT

TO: CITY COUNCIL
FROM: ERIC JOHNSTON, PUBLIC WORKS DIRECTOR
CC: MAYOR SETH FLEETWOOD
SUBJECT: 2021-2026 TRANSPORTATION IMPROVEMENT PROGRAM (TIP) ADOPTION
DATE: 8 June 2020

This agenda item has been determined to be both “necessary and routine” and, therefore, appropriate for consideration during the COVID-19 health crisis. The 6-year TIP is necessary because state law requires cities to adopt a TIP before July 1 each year. This agenda item is routine because it does not implicate a change in policy but is instead focused on maintaining our state requirements for transportation improvements and is required to be adopted by granting agencies as a condition of funding transportation projects.

BACKGROUND:

The 6-Year Transportation Improvement Program (TIP) is adopted annually to plan and program public funding toward capital improvements to Bellingham's multimodal transportation network. State law (RCW 35.77.010) requires cities to adopt the TIP before July 1 each year. The DRAFT 2021-2026 TIP is based on Public Works staff and Transportation Commission (TC) recommendations together with public and Council comments gathered at the public hearing held on May 18, 2020.

EVALUATION:

The 2021-2026 TIP is comprised of 19 projects. The first three projects are funded by a sales and use tax levy for transportation improvements, formerly known as the Transportation Benefit District (TBD). Staff has taken comment from the public and Council and revised the titles associated with these projects. They are shown in the TIP as the Annual Street Pavement Resurfacing Program, Non-Motorized Transportation Improvements, and Climate Action Plan & WTA Transit Plan projects. These projects are required to be listed in the TIP in order to be eligible for the sales tax funds. The split of dollars will be determined annually with the 6-year TIP and City budget based on the City's needs for asset management. By listing the general project categories in the ballot measure and the 6-year TIP the City satisfies the requirements of the law and retains the flexibility on individual annual project locations. As discussed at the public hearing, these general project categories are summarized as follows:

Annual Street Pavement Resurfacing Program. This general project entails the preservation, restoration and replacement of pavements on arterial streets.

Non-Motorized Transportation Improvements. This general project entails annual improvements implementing and constructing improvements listed in the Bicycle and Pedestrian master plans. These projects connect neighborhoods to schools and parks, many of which are located in middle to low income areas of City.

Climate Action Plan & WTA Transit Plan. This new general project will program capital improvements for projects that implement transportation measures in the Climate Action Plan as well as projects that support WTA's transit system serving Bellingham. Projects will be wide ranging and may include accessible pathways to transit stops, transit bus queue jumps at traffic signals, electric-powered WTA buses, electric bus charging facilities at WTA stations, electric vehicle charging stations throughout the City, and group purchase of e-bikes & e-cars to name a few.

In order to prepare the TIP, staff reviews our adopted plans (Comprehensive Plan, Pedestrian Master Plan, Bicycle Master Plan) as well as our pavement preservation and utility replacement lists, allowing us to coordinate projects and manage our assets effectively. Where practical, multiple non-motorized transportation projects from the bike and pedestrian plan are combined into a single construction project. This simplifies contract preparation and execution and saves money. The downside is that the projects are concentrated into a single geographic location which may limit visibility or perceived benefit to the broader community in any single year.

The voter approved sales and use tax ends in 2020. Funds collected in 2020 will be used to fund projects in 2021 listed in the 6-year TIP. The Council will be considering a proposal to renew and extend the sales and use tax for an additional 10 years to fund the three general projects described above in late June of 2020. Voter approval of Initiative 976 and current economic conditions have also resulted in changes in State funding levels. As required by law the 6-year TIP requires a funding plan for projects listed. Staff has made assumptions in generating this year's TIP reflecting the current economic conditions as follows:

- Renewal of the 0.2% Sales and Use tax is proposed and approved by Bellingham voters in November of 2020.
- A significant reduction in anticipated sales tax revenue for years 2021 and 2022 due to COVID-19 stay-at-home order, closure of U.S.-Canada border, and less local commerce.
- State transportation budget cuts due to revenue loss from voter approved Initiative 976 (\$30 car tabs) resulting in State TIB Complete Streets grant eliminated.

Public and Council comment coming out of the public hearing have also been utilized to revise the TIP in preparation for adoption. As stated previously, most of the comments have been addressed in the revised TIP and are summarized as follows:

- *The TBD project names of Secure, Safe, and Clean Transportation are confusing*
 - The first three projects in the TIP have been renamed as Annual Street Pavement Resurfacing Program, Non-Motorized Transportation Improvements, and Climate Action Plan & WTA Transit Plan and a more thorough explanation of the WTA aspects of Project #3 has been included in the TIP.

- *There is a gap in the bike lanes proposed on Meridian between Broadway and Illinois under Project #2*
 - The project list identified in Project #2 is for planning purposes only and is revised during the planning and budgeting of specific projects. This project will be looked at in greater detail once design begins. Installing a bicycle lane on the section of Meridian Street between W. Illinois and Broadway would require the removal of parking on one side of Meridian Street through the heart of the Fountain District Urban Village, which is contrary to the adopted Fountain District Urban Village Plan. Per the Bicycle Master Plan, the adopted street profile for this section of Meridian Street does not include bicycle lanes but calls for shared lanes.
- *The renderings for the roundabouts shown in Projects #14 and #16 do not show bike lanes and bike facilities need to be incorporated into the designs*
 - The TIP is a planning document and the graphics shown in the TIP are for reference only. Projects #14 and #16 are both currently unfunded. The final design of City infrastructure is often limited by a variety of constraints including right-of-way, critical areas, utility conflicts, and available dollars to name a few. When the projects are designed prior to construction they will meet the latest transportation standards and requirements for multimodal concurrency.

RECOMMENDATION ACTION:

A motion to adopt the resolution approving the 2021-2026 TIP.



Six-Year (2021-2026) Transportation Improvement Program (TIP)

Seth Fleetwood, Mayor
Eric Johnston, Public Works Director

City Council Members

Gene Knutson - 2nd Ward, Council President
Hannah Stone – 1st Ward, Council President Pro Tempore
Pinky Vargas - 4th Ward, Mayor Pro Tempore
Dan Hammill - 3rd Ward
Michael Lilliquist – 6th Ward
Lisa Anderson - 5th Ward
Hollie Huthman - At Large Ward

Public Review Process

Draft posted on City Web site for Public Review: May 4, 2020
Transportation Commission Review: May 12, 2020
City Council Public Hearing: May 18, 2020
City Council Work Session to adopt: June 8, 2020
Submittal to Washington State: June 30, 2020

Adopted June 8, 2020

Prepared by Chris Comeau, AICP-CTP
Transportation Planner
Public Works Engineering
ccomeau@cob.org

Transportation Planning Documents

The 2021-2026 Transportation Improvement Program (TIP) is informed by the transportation planning documents listed below, which are available on the City of Bellingham web site by clicking on the links

[2020 Transportation Report on Annual Mobility \(TRAM\)](#)

[2016 Multimodal Transportation Chapter, Bellingham Comprehensive Plan](#)

[2014 Bicycle Master Plan](#)

[2012 Pedestrian Master Plan](#)

[Whatcom Transportation Authority \(WTA\) Strategic Transit Plan](#)

Please contact the City Transportation Planner if you have questions about the TIP or any other transportation planning information.

Chris Comeau, AICP-CTP, Transportation Planner ccomeau@cob.org
Bellingham Public Works Engineering (360) 778-7946

State Law Requirements for Six-Year Transportation Improvement Program (TIP)

RCW 35.77.010

Perpetual advanced six-year plans for coordinated transportation program expenditures -- Nonmotorized transportation -- Railroad right-of-way.

(1) The legislative body of each city and town, pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive transportation program for the ensuing six calendar years. If the city or town has adopted a comprehensive plan pursuant to chapter [35.63](#) or [35A.63](#) RCW, the inherent authority of a first-class city derived from its charter, or chapter [36.70A](#) RCW, the program **shall be consistent with this comprehensive plan.** The program **shall include any new or enhanced bicycle or pedestrian facilities** identified pursuant to RCW [36.70A.070](#)(6) or other applicable changes that promote nonmotorized transit.

The program shall be filed with the secretary of transportation not more than thirty days after its adoption. Annually thereafter the legislative body of each city and town shall review the work accomplished under the program and determine current city transportation needs. Based on these findings each such legislative body shall prepare and after public hearings thereon adopt a revised and extended comprehensive transportation program **before July 1st of each year**, and each one-year extension and revision shall be filed with the secretary of transportation not more than thirty days after its adoption. The purpose of this section is to assure that each city and town shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a **coordinated transportation program**. The program may at any time be revised by a majority of the legislative body of a city or town, but only after a public hearing.

The six-year plan for each city or town shall specifically set forth those projects and programs of regional significance for inclusion in the transportation improvement program within that region.

(2) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a city or town will expend its moneys, including funds made available pursuant to chapter [47.30](#) RCW, for nonmotorized transportation purposes.

(3) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a city or town shall act to preserve railroad right-of-way in the event the railroad ceases to operate in the city's or town's jurisdiction.

Funding Source Definitions

NOTE: All funding sources listed below are affected by frequent changes in economic conditions, funding levels, and eligibility and funding criteria.

Local Funding Sources

- **Bellingham Street Fund:** Public Works Street Fund comprised of motor vehicle gas tax and a portion of the total sales tax collected by the City of Bellingham.
- **Bellingham Real Estate Excise Tax (REET):** Comprised of **1/2 of 1%** of the total real estate revenue for a given year. REET funding is divided into first quarter (¼) and second quarter (¼) and can be used for limited types of transportation projects.
- **Transportation Benefit District (TBD) – Transportation Fund (T-Fund) :** Comprised of **0.2 cents of the total 8.7 cents per dollar** annual sales tax receipts collected within City limits to fund street resurfacing, non-motorized transportation, and implementation of Climate Action Plan and coordination with WTA Transit Plan. The Bellingham TBD is governed by the City Council acting as the TBD Board of Directors and is effective January 1, 2011 to **December 31, 2020**.
- **Bellingham Multimodal Transportation Impact Fees (TIF):** The proportional share contribution from private developments for annual transportation investments citywide per BMC 19.06.

Washington State Funding Sources

- **State:** Includes State-funded educational institutions such as Western Washington University (WWU), Whatcom Community College (WCC), and Bellingham Technical College (BTC).
- **Transportation Improvement Board (TIB):** State grant funding for urban arterials and sidewalks. Includes biennial “Complete Streets” grant awards (*Complete Streets grants eliminated in March 2020 State transportation budget by voter approval of I-976 \$30 car tabs*).
- **WSDOT:** State administered grant funding programs, such as WSDOT Pedestrian & Bicycle Safety grants (**Ped-Bike**) or State-funded Safe Routes to School (**SR2S**) grants.
- **WSDOT Connecting Washington (CW):** Washington state gas tax 15-year funding package.

Federal Funding Sources

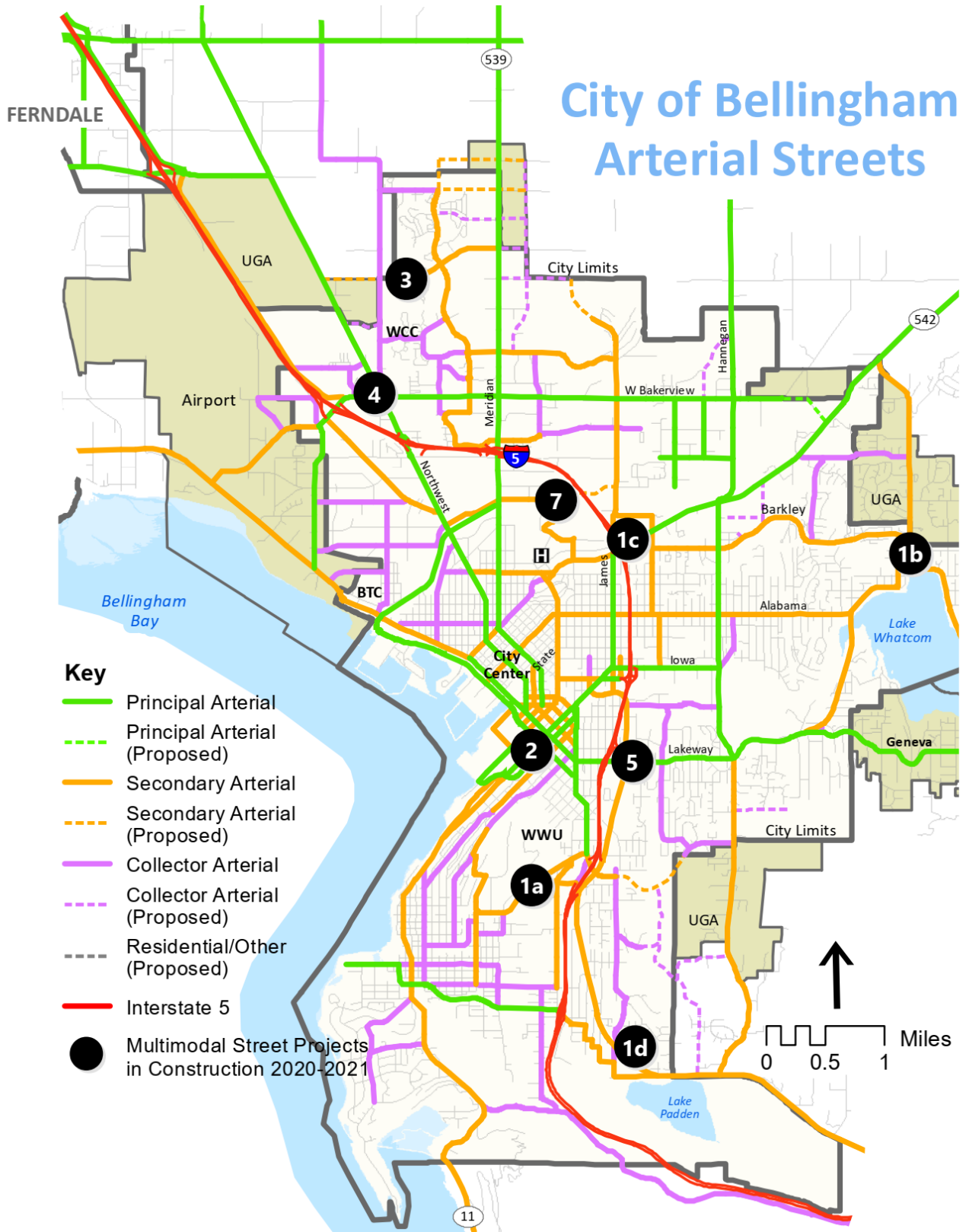
- **Federal:** Federal Highway Administration (FHWA), Federal Transit Administration (FTA), or U.S. Department of Transportation (USDOT) administered grant funding programs, including federal funds administered by WSDOT, such as Safe Routes to School (SR2S) and Highway Safety Improvement Program (HSIP) funding.
- **Highway Bridge Program (HBP):** Provides federal funds for structural repair or replacement administered by Washington State Bridge Replacement Advisory Committee (BRAC).
- **Surface Transportation Block Grant (STBG): Administered by WSDOT and WCOG;** provides federal funds to construct, maintain, and expand eligible regionally important arterial streets.
- **Transportation Alternatives Program (TA):** Provides federal funds to construct and enhance facilities for non-motorized transportation modes.

Private and Other Partnerships

- Transportation Impact Fees (TIF), Whatcom County, Economic Development Investment (EDI), Whatcom Transportation Authority (WTA), private business investment, private mitigation, etc.

Multimodal Street Projects in Construction 2020-2021 (Fully Funded and Not Included in 2021-2026 TIP)

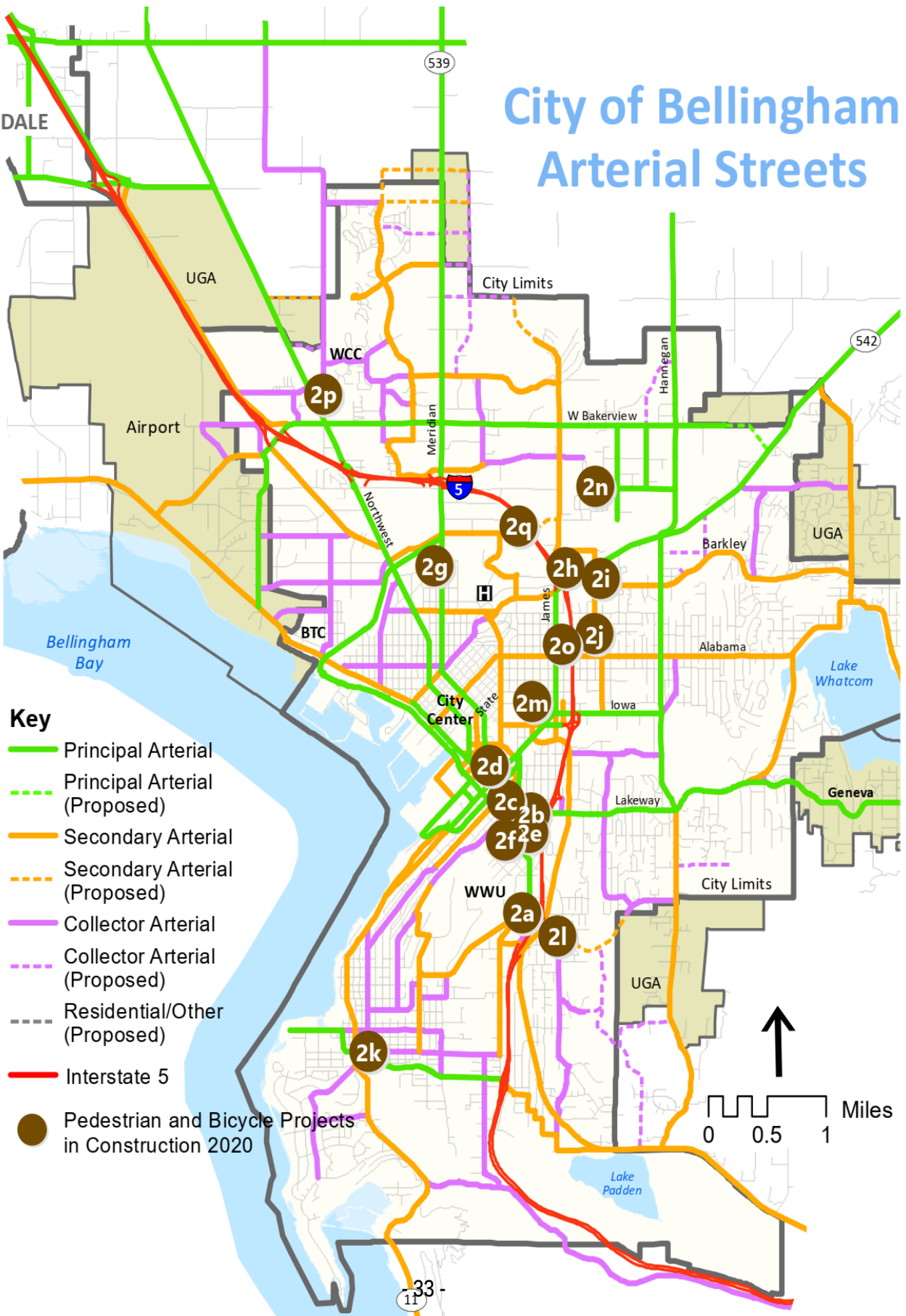
No.	PROJECT DESCRIPTION	FUNDING SOURCE	Previous	FUNDED	
			Budget	2020	2021
1	Annual Street Resurfacing 1.a. Bill McDonald Pkwy (25th to N. Samish) 1.b. Britton Road (Northshore to City limit) 1.c. James Street (Woodstock to Barkley) 1.d. Harrison Street (40th St to Hawk Way)	Street			
		T-Fund Resurface			
				Resurface	
				Resurface	
				Resurface	
				Resurface	
		Subtotal			
2	Downtown Pedestrian Safety and Traffic Signal Improvements Holly/High; State/Maple; State/Laurel	Street	357		
		T-Fund Non-Motorized	250		
		Private Mitigation	143	Complete	
		Subtotal	750		
3	West Horton Road Multimodal Corridor Improvements - Phase 1 Pacific Rim Drive to Aldrich Road	Street	1,700		
		T-Fund Non-Motorized	800		
		Private Mitigation	1,312	Construct	
		Federal STP/Map21	1,800		
		Subtotal	5,612		
4	Northwest Avenue / Bakerview Road Intersection Safety Improvements	Street	75		
		T-Fund Non-Motorized	500	Construct	
		Subtotal	575		
5	Samish-Maple-Ellis Multimodal Safety Improvements (Interstate 5 to Lakeway Drive) Road Diet for Buffered Bike Lanes	Street	50		
		T-Fund Non-Motorized	350	Construct	
		WSDOT Ped-Bike	1,007		
		Subtotal	1,407		
6	Bicycle & Pedestrian Improvements Various locations citywide (See next page)	Street	75		
		T-Fund Non-Motorized	500	Construct	
		Subtotal	575		
7	Orchard Drive Extension (Birchwood/Squalicum to James Street) Multimodal Grade-Separated Crossing Underneath Interstate 5	Street	864		
		Federal STP-R	1,250	Construct	
		Connecting WA	3,500	6,500	
		Subtotal	0	500	



	Pedestrian and Bicycle Projects in Construction 2020 (Not Included in 2021-2026 TIP)	
Tier Priority	2012 Pedestrian Master Plan and 2014 Bicycle Master Plan Projects (Or related improvements not identified in these plans = n/a)	Funding Source
2020 Pedestrian and Bicycle Improvements in Construction		
2.a.) Tier 1	Bill McDonald/35th Street Pedestrian & Bicycle Crossing Improvements - Flashing Crosswalk, ADA ramps, marked crosswalks, median refuge.	WSDOT grant
2.b.) Tier 2	Samish-Maple-Ellis Buffer Separated Bicycle Lane from I-5/Samish to Lakeway Drive - Remove two vehicle lanes, install buffer-separated bicycle lanes on both sides, green dashed markings across driveways and intersections.	WSDOT grant
2.c.) Tier 2	Ellis Street Buffer Separated Bicycle Lane from Forest Street to Lakeway Drive - Remove one vehicle lane, install buffer-separated uphill bicycle climbing lane NW side, green bike box at Magnolia/Ellis/Potter. Timed with Samish-Maple-Ellis	TBD
2.d.) Tier 2	Magnolia Street Buffer Separated Bicycle Lane from Commercial Street to Ellis Street - Rechanelize vehicle lanes, install buffer-separated uphill bicycle climbing lane SW side, green bike box at Magnolia/Ellis/Potter. Timed with Samish-Maple-Ellis	TBD
2.e.) Tier 2	Whatcom Street Bike Blvd - Shared lane markings (585 LF) from Ellis Street bike lane to Grant Street Bike Blvd; connects to Chestnut Street buffer-separated bike lane and Grant/Lakeway HAWK signal. Timed with Samish-Maple-Ellis	TBD
2.f.) Tier 3	Edwards Street Bike Blvd - Shared lane markings (800 LF) from Maple Street buffer- separated bike lane to Humboldt Street Bike Blvd; connects to Grant/Lakeway HAWK signal. Timed with Samish-Maple-Ellis	TBD
2.g.) Tier 3	Victor Street Bike Blvd - Shared lane markings (7,080 LF) from Cornwall Park and Vallette Street bike blvd to Eldridge Avenue & Carl Lobe Park; Flashing crosswalk at Meridian/Victor.	TBD
2.h.) Tier 3	James Street Buffer Separated Bicycle Lane around west Sunset Square shopping center - Resurface/rechannelize vehicle lanes, install buffer-separated bicycle lanes on both sides.	
2.i.) Tier 3	Orleans Street Bike Markings - Shared lane markings (2,000 LF) from W. Indiana to Woodstock Way to complement James Street buffered bike lanes around Sunset Square shopping center	TBD
2.j.) n/a	Orleans Street/Railroad Trail Crossing Improvements - RRFB signal at Railroad Trail crossing on Orleans Street	TBD
2.k.) Tier 1	14th/Old Fairhaven Parkway Pedestrian & Bicycle Crossing Improvements - Flashing Crosswalk (RRFB), ADA ramps, marked crosswalks.	TBD
2.l.) Tier 3	40th Street/Elwood Avenue Sidewalk Improvements - Complete the eastern edge of 40th Street with curb, gutter, and sidewalks from Fielding to the 40th/Elwood intersection.	TBD
2.m.) Tier 3	Grant/Kentucky Crossing Improvements - Curb extensions, ADA ramps, and 4-way stop	TBD
2.n.) Tier 1	Fruitland-Orchard Bike Blvd - Shared lane markings (3,380 LF) from Division/Hammer trail along Fruitland and East Orchard Drives to James/Orchard traffic signal, bike lanes on both James and Orchard, Sunset Pond Park, and Squaticum Creek Trail	TBD
2.o.) Tier 2	North Street Bike Blvd & James/North Crossing Improvements - Shared lane markings Cornwall Ave bike lanes to Lincoln Street and Railroad Trail; RRFB signal at James/North	TBD
2.p.) Tier 3 & Tier 3	Northwest/W. Bakerview Sidewalks and Bike Lanes - ADA upgrade to sidewalks, curb ramps, crosswalks, and bike lanes thru intersection to Aldrich Road	TBD
2.q.) Tier 3 & Tier 3	Orchard-Birchwood Sidewalk and Bike Lanes - Sidewalk north side; bike lanes both sides from James Street beneath Interstate 5 to Birchwood Avenue	Federal & State grants

FERNDALE

City of Bellingham Arterial Streets



Transportation Improvement Projects 2021-2026 (Funding Page 1)

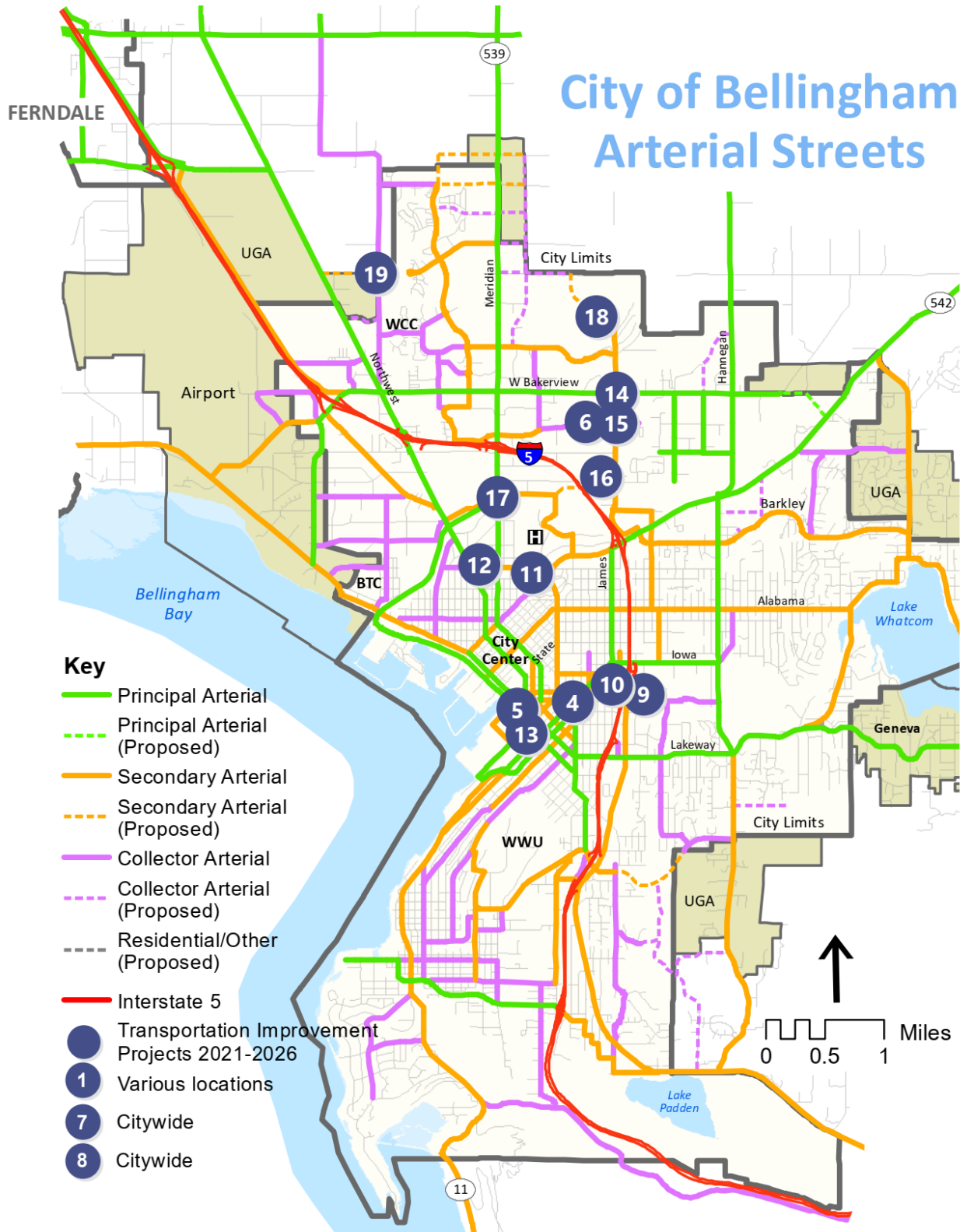
No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars							PROJECT TOTALS
			Previous	FUNDED			UNFUNDED			
			Budget	2021	2022	2023	2024	2025	2026	
1	Annual Street Pavement Resurfacing ^{1,2,3} Preserving investment in public streets 1) Pre-COVID-19 direction from Finance: Increase annual sales tax 1.5 - 2.0%	Street	1,055	670	2,500	2,100	2,640	2,680	2,700	14,345
		T-Fund Resurface	2,315	1,392	2,400	2,400	2,400	2,435	2,500	15,842
		See 2020 construction list, project #1				Assumes: TBD Renewal; 15% Loss 21-22				
		Subtotal	3,370	2,062	4,900	4,500	5,040	5,115	5,200	30,187
2	Nonmotorized Transportation ^{2,3} Sidewalk and Bikeway Improvements 2) Current TBD expires 12/31/2020	T-Fund Non-Motorized	1,300	1,280	2,400	2,400	2,400	2,435	2,500	14,715
		See project sheet #2 for 2021 project list				Assumes: TBD Renewal; 15% Loss 21-22				
		Subtotal	1,300	1,280	2,400	2,400	2,400	2,435	2,500	14,715
3	Climate Action Plan & WTA Transit Plan ³ Supporting Climate Plan & WTA Plan 3) Presumes TBD renewal in Nov 2020	T-Fund Climate-Transit	0	500	500	500	500	500	500	3,000
		See project sheet #3 for 2021 project list				Assumes: TBD Renewal; 15% Loss 21-22				
		Subtotal	0	500	500	500	500	500	500	3,000
4	Ellis Street Bridge Reconstruction (Ellis - N. State Intersection)	Street	100							
		T-Fund Resurface	585							
		Federal BRAC	2,995	Build						
		Subtotal	3,680							3,680
5	F Street/BNSF Railroad Crossing Safety Improvements (Holly Street to Roeder Ave)	1st 1/4 REET	40	250						
		Federal HSIP	690	Build						
		Subtotal	730	250						980
6	Telegraph Road Multimodal Safety Improvements (2/3-mile Deemer Road to James Street) Center turn lane, traffic signals at Deemer and James, bike lanes, sidewalks, storm water, flashing crosswalks at bus stops, requires right-of-way acquisition	Street	800	800						
		T-Fund Non-Motorized	1,000	300						
		T-Fund Resurface	1,000	200						
		Private Mitigation	150	100						
		WTA	107	Build						
		Federal STBG		1,650						
		Subtotal	3,057	3,050						6,107
7	Pedestrian Master Plan Update	T-Fund Non-Motorized		100	Adopt					
		Subtotal		100						100
8	Bicycle Master Plan Update	T-Fund Non-Motorized		100	Adopt					
		Subtotal		100						100
9	Meador Avenue / Whatcom Creek Bridge Reconstruction	Street		350						
		T-Fund Resurface		404						
		Federal Hwy Bridge		3,768	Build					
		Subtotal		4,522						4,522
10	James Street / Whatcom Creek Bridge Reconstruction	Street		350						
		T-Fund Resurface		404						
		Federal Hwy Bridge		3,768	Build					
		Subtotal		4,522						4,522
11	Parkview ES Safe Route to School Sidewalks, ADA ramps, crosswalks, parking removal, bike lanes (Sunset Drive to Meridian Street)	T-Fund Non-Motorized		350						
		Bham School District								
		WSDOT Federal SRTS		1,400	Build		Pending SRTS Grant			
		Subtotal		1,750						1,750
12	W. Illinois Pedestrian and Bicycle Safety Sidewalk, parking, bike lane, intersection (Meridian Street to Lynn Street)	T-Fund Non-Motorized		320						
		WSDOT Ped-Bike	- 34 -	1,225	Build		Pending Ped-Bike Grant			
		Subtotal		1,545						1,545

Transportation Improvement Projects 2021-2026 (Funding Page 2)

			Cost Estimates (000's) 2020 Dollars							
No.	PROJECT DESCRIPTION	FUNDING SOURCE	Previous	FUNDED			UNFUNDED			PROJECT
			Budget	2021	2022	2023	2024	2025	2026	TOTALS
13	Bellingham Railroad Quiet Zones	1st 1/4 REET	210	0	250	250	250	250	250	
		Subtotal	210	0	250	250	250	250	250	1,460
14	James/Bakerview Intersection	Street	120			500				
	Safety Improvements (Expandable multimodal roundabout)	Federal STP	385			Build				
		Federal STBG				2,000				
		Federal HSIP				900	Pending WSDOT Grant			
		Subtotal	505			3,400				3,905
15	James Street Pedestrian and Bicycle	T-Fund Non-Motorized				160				
	Safety Improvements; Segment 3	State				740	Pending WSDOT Grant			
	Segment 3 = Telegraph to Bakerview	Subtotal				900				900
16	Meridian Street Roundabouts	Street Study)	160				Grants being sought			
	(Squalicum & Birchwood), Phases 1 & 2 Phase 1 = Squalicum; Phase 2 = Birchwood	Federal STBG								
		Unknown						12,000		
		Subtotal	160					12,000		12,160
17	James Street Pedestrian and Bicycle	Street (Study)	110				Grants being sought			
	Safety Improvements; Segments 1, 2, & 4	T-Fund Non-Motorized								
	Segment 1 = Orchard to McLeod	Pvt Mitigation								
	Segment 2 = McLeod to Telegraph	Unknown							14,000	
	Segment 4 = Bakerview to Gooding	Subtotal	110						14,000	14,110
18	North James Street	Pvt Mitigation	600				Private Construction			
	Multimodal Arterial Connection	Unknown							3,000	
	(Gooding to Van Wyck; Long Term)	Subtotal	600						3,000	3,600
19	West Horton Road Multimodal	Federal Map 21	1,000				City/County Partnership			
	Corrdor Extension, Phase 2	County Road Fund	260							
	[City-County Partnership] (Aldrich to Northwest; Long-Term)	Pvt Mitigation					1,000			
		Unknown							12,000	
		Subtotal	1,260				1,000		12,000	14,260

2021-2026 TIP PROJECT FUNDING SOURCE SUMMARIES

FUNDING SOURCES	Cost Estimates (000's) 2020 Dollars								
	Previous	FUNDED				UNFUNDED			TOTALS
	Budget	2021	2022	2023	2024	2025	2026		
STREET FUNDS	2,345	2,170	2,500	2,600	2,640	2,680	2,700	17,635	
TRANSPORTATION FUND - Resurfacing	3,900	2,400	2,400	2,400	2,400	2,435	2,500	18,435	
TRANSPORTATION FUND - Nonmotorized	2,300	2,450	2,400	2,400	2,400	2,435	2,500	16,885	
TRANSPORTATION FUND - Climate Action & WTA Transit	0	500	500	500	500	500	500	3,000	
1st & 2nd QUARTER REET FUNDS	210	250	250	250	250	250	250	1,710	
STATE FUNDS (TIB, WSDOT, Gas Tax, WWU, WCC, etc)	0	0	0	0	0	0	0	0	
FEDERAL FUNDS (STP, SR2S, HSIP, etc)	5,070	9,186	0	0	2,000	0	0	16,256	
PRIVATE MITIGATION FUNDS (SEPA-TIA; MTIF; Other)	750	100	100	100	0	0	0	1,050	
OTHER (Parks, Port, County, EDI, WTA, BSD, etc)	260	0	0		0	0	0	260	
UNKNOWN FUNDS	0	2,625	0	1,640	0	12,000	29,000	45,265	
TOTAL 2021-2026 TIP FUNDS	14,835	19,681	8,150	9,890	10,190	20,300	37,450	120,496	



Project #1: Annual Street Pavement Resurfacing Program

PROJECT NARRATIVE: Annual maintenance of existing public streets and bicycle lanes to protect the City's investment in these facilities and to ensure an adequate quality driving and riding surface at an optimized life-cycle cost. Presuming a 20-year life cycle, approximately 5% of the City's arterial streets may require resurfacing each year, but that goal has not been achieved due to funding shortfalls. If Bellingham voters approve the extension of the former Transportation Benefit District (TBD) sales tax as a 10-year "Transportation Fund," then revenue to supplement the City Street Fund will be used for street resurfacing through the year 2030.

MULTIMODAL TRANSPORTATION BENEFITS: Automobiles represent the dominant mode choice of travelers on the multimodal transportation network and adding bicycle lanes, sidewalks, curb extensions, and crosswalks (where possible) when arterial pavement resurfacing occurs, also helps to expand and enhance the citywide **pedestrian**, **bicycle**, and **WTA transit** networks and increases safety for all users.

No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars							PROJECT TOTALS
			Previous Budget	FUNDED			UNFUNDED			
			2021	2022	2023	2024	2025	2026		
1	Annual Street Pavement Resurfacing ^{1,2,3}	Street	1,055	670	2,500	2,100	2,640	2,680	2,700	14,345
	Preserving investment in public streets	T-Fund Resurface	2,315	1,392	2,400	2,400	2,400	2,435	2,500	15,842
	1) Pre-COVID-19 direction from Finance: Increase annual sales tax 1.5 - 2.0%	See 2020 construction list, project #1				Assumes: TBD Renewal; 15% Loss 21-22				
		Subtotal	3,370	2,062	4,900	4,500	5,040	5,115	5,200	30,187

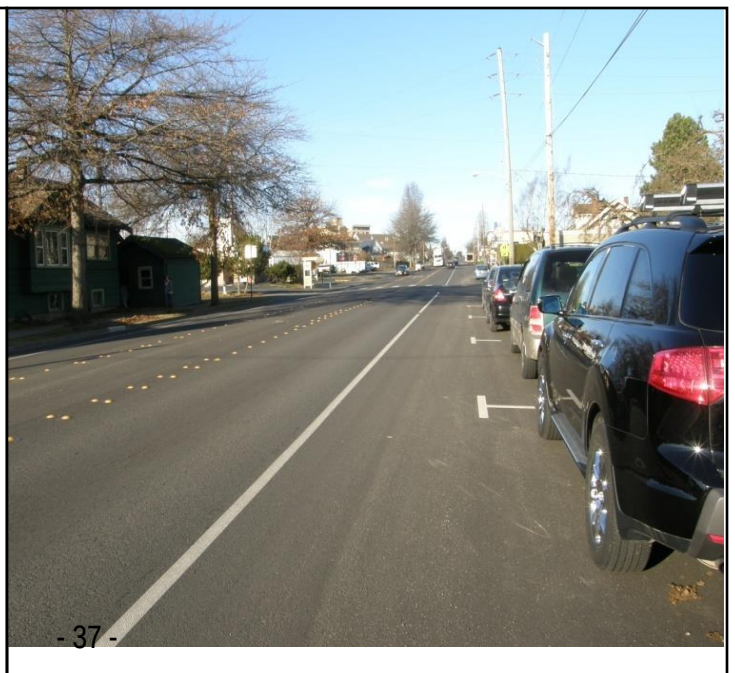
TRANSPORTATION IMPACT FEES COLLECTED

Annual Street Maintenance – Not Eligible

RIGHT-OF-WAY ACQUISITION NECESSARY

No

PROJECT STATUS: Annual program, 2019 - 2024; Goal 5% of arterial street network per year





Project #2: Non-Motorized Transportation Improvements



PROJECT NARRATIVE: Non-motorized improvements are primarily prioritized through the Pedestrian Master Plan, the Bicycle Master Plan, and the ADA Transition Plan, but also through grant funding opportunities, transportation capital improvement needs, locations where development is happening, and opportunities for funding partnerships, such as those of WTA for public transit or the Bellingham School District for Safe Route to School projects. Non-motorized funding is provided by revenue from the Transportation Fund sales tax through December 31, 2030.

MULTIMODAL TRANSPORTATION BENEFITS: Additional sidewalk connections, crosswalks, ADA upgrades, and various bicycle facilities will help to complete and enhance the citywide **Pedestrian** and **Bicycle** non-motorized transportation network and the **WTA transit network** throughout Bellingham.

No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars							PROJECT TOTALS
			Previous Budget	FUNDED			UNFUNDED			
			2021	2022	2023	2024	2025	2026		
2	Nonmotorized Transportation ^{2,3}	T-Fund Non-Motorized	1,300	1,280	2,400	2,400	2,400	2,435	2,500	14,715
	Sidewalk and Bikeway Improvements	See project sheet #2 for 2021 project list			Assumes: TBD Renewal; 15% Loss 21-22					
	2) Current TBD expires 12/31/2020	Subtotal	1,300	1,280	2,400	2,400	2,400	2,435	2,500	14,715

TRANSPORTATION IMPACT FEES COLLECTED

Yes, citywide Complete Networks

RIGHT-OF-WAY ACQUISITION NECESSARY

Undetermined

PEDESTRIAN AND BICYCLE PROJECT LIST PROGRAMMED FOR 2021 – NEXT PAGE

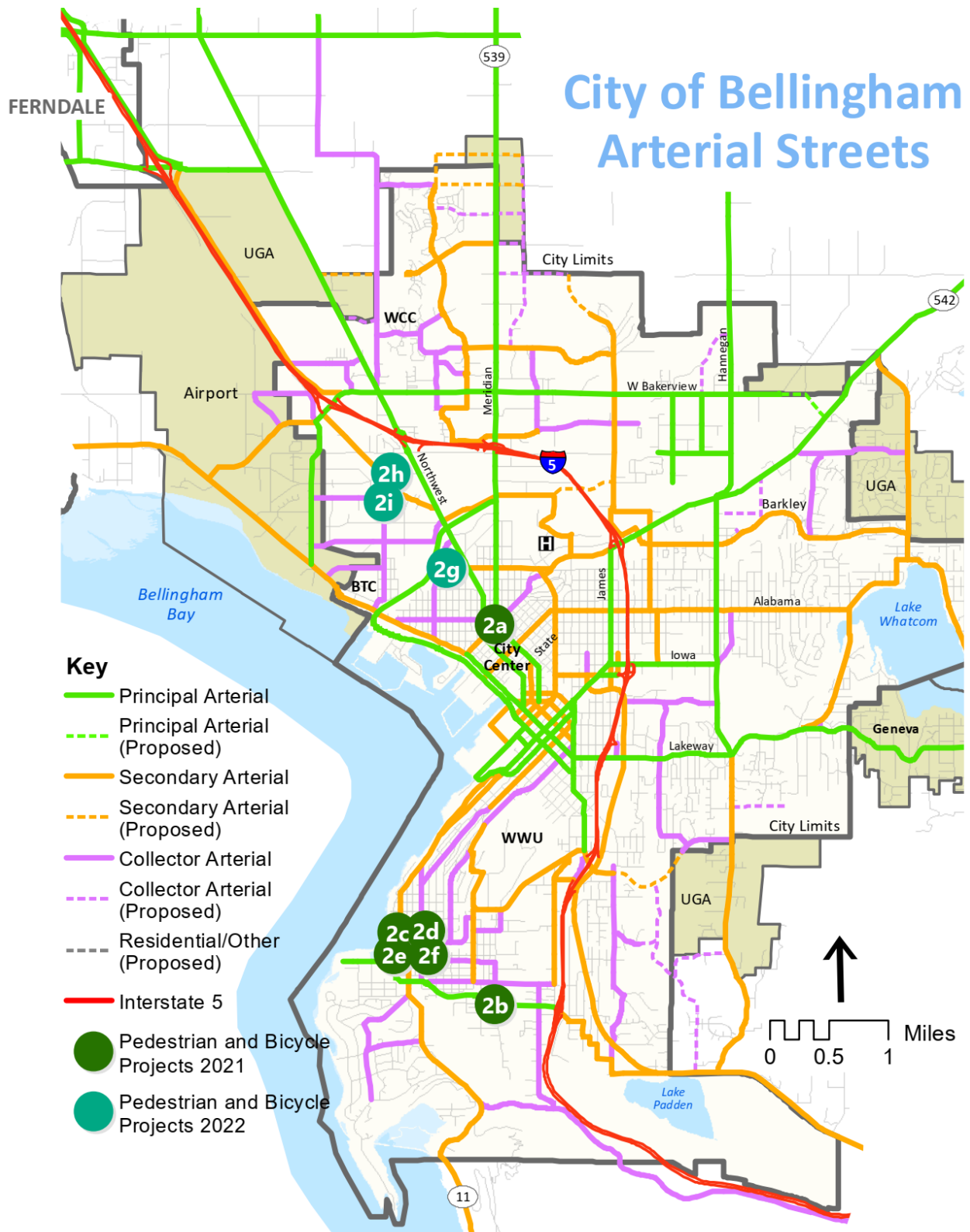




Pedestrian and Bicycle Projects Programmed for 2021 & 2022 (Project #2 in 2021-2026 TIP)



Tier Priority	2012 Pedestrian Master Plan and 2014 Bicycle Master Plan Projects (Or related improvements not identified in these plans = n/a)	Cost Estimate
2021 Pedestrian and Bicycle Improvements		TBD Funds
Notes: Planning level cost estimates; Assumes TBD renewal Nov. 2020 & 15% reduction in TBD funds (COVID-19)		
2.a.) Tier 3	Meridian-Girard Bike Lanes - Marked bike lanes (2,110 LF) from W. Illinois to Victor Street and (2,760 LF) Broadway Avenue to Young Street; <i>Pending Council decision to remove parking on one side of Meridian Street and on one side of Girard Street (WSDOT grant candidate)</i>	\$50,000
2.b.) Tier 1	Old Fairhaven Parkway/24th Street Pedestrian & Bicycle Crossing Improvements - Flashing Crosswalk (RRFB), ADA ramps, marked crosswalk. <i>(TIB grant candidate)</i>	\$30,000
2.c.) Tier 1	11th Street/Finnegan Way Intersection Safety Improvements <i>(TIB grant candidate)</i> - Intersection reconstruction, flashing Crosswalk (RRFB), ADA ramps, marked crosswalk.	\$900,000
2.d.) Tier 1	11th Street Sidewalk (Westside 11th Street to 200' north of 12th Street) - 335 LF Sidewalk, ADA ramps.	\$275,000
2.e.) Tier 1	11th Street Sidewalk (Westside 90 feet south of Gambier Ave to Mill Avenue) - 670 LF Sidewalk, ADA ramps.	\$545,000
2.f.) Fairhaven UV Growth	12th Street/Mill Avenue Traffic Signal - Full traffic signal with audible crossing warnings and ADA crosswalks	\$400,000
	Subtotal	\$2,200,000
2022 Pedestrian and Bicycle Improvements		TBD Funds
Notes: Planning level cost estimates; Assumes TBD renewal Nov. 2020 & 15% reduction in TBD funds (COVID-19)		
2.g.) Tier 1 & Tier 3	West Illinois Street Multimodal Safety Improvements - ADA upgrade to sidewalks, curb ramps, crosswalks, and bike lanes from Sunset Drive to Lynn Street - <i>See TIP Projects 11 & 12 - \$670,000 = local funds toward possible WSDOT Safe Route to School grant and Pedestrian & Bike Safety grant</i>	\$670,000
2.h.) Tier 1	Alderwood Avenue Sidewalk (Southside W. Maplewood to Shuksan MS north driveway) - 1,113 LF Sidewalk, ADA ramps.	\$900,000
2.i.) Tier 2	Cottonwood Avenue Sidewalk (Southside Pinewood to W. Maplewood) - 885 LF Sidewalk, ADA ramps.	\$700,000
	Subtotal	\$2,270,000

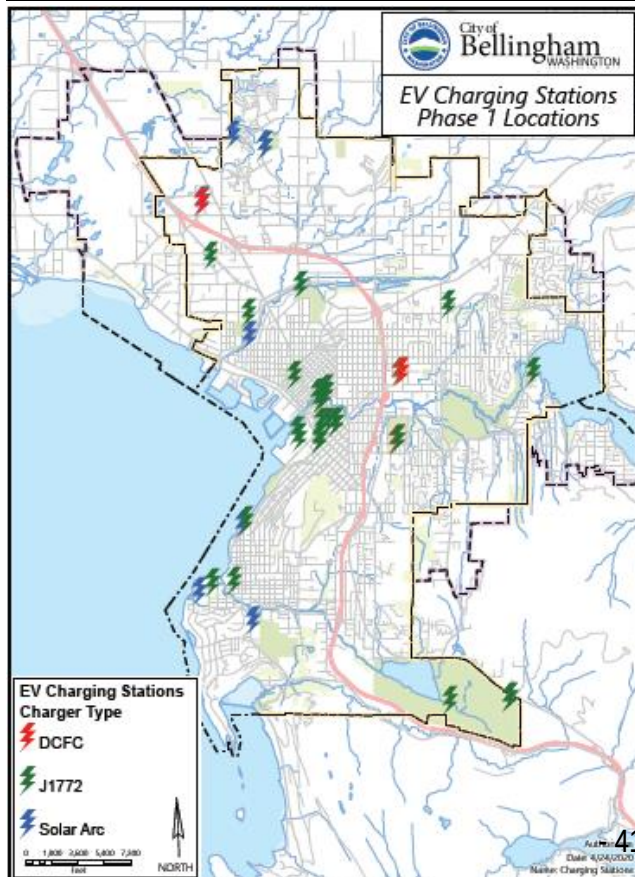


Project #3: Climate Action Plan & WTA Transit Plan

PROJECT NARRATIVE: The purpose and intent of project #3 will be programming capital improvements for transportation projects that implement transportation measures in the Climate Action Plan, as well as capital improvements to support WTA's transit system serving Bellingham. Examples of possible eligible projects may include accessible pathways to transit stops, transit bus queue jumps at traffic signals, electric-powered WTA buses, electric bus charging facilities at WTA stations, electric vehicle charging stations throughout the City, group purchase of e-bikes & e-cars, and other capital improvements that implement Bellingham's Climate Action Plan and WTA's Long-Range Transit Plan.

MULTIMODAL AND ENVIRONMENTAL TRANSPORTATION BENEFITS: Vehicles are the dominant mode choice of travelers on the multimodal transportation network and funding electric vehicle charging stations add convenience to help reduce greenhouse gas emissions. Funding capital improvements that support access to and capacity expansion for a reliable and convenient **WTA transit system** in Bellingham, both helps to reduce greenhouse gas emissions from transportation as well as promoting local transportation mode shift away from single-occupancy vehicles to transit.

No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars							PROJECT TOTALS
			Previous Budget	FUNDED			UNFUNDED			
				2021	2022	2023	2024	2025	2026	
3	Climate Action Plan & WTA Transit Plan ³	T-Fund Climate-Transit	0	500	500	500	500	500	500	3,000
	Supporting Climate Plan & WTA Plan	See project sheet #3 for 2021 project list	Assumes: TBD Renewal; 15% Loss 21-22							
	3) Presumes TBD renewal in Nov 2020	Subtotal	0	500	500	500	500	500	3,000	



Climate Action and Transit Projects Programmed for 2021 & 2022 (Project #3 in 2021-2026 TIP)

Each year, Public Works Engineering and Natural Resources staff will collaborate with WTA staff to recommend Transportation Fund sales tax programming for capital improvements to implement the Bellingham Climate Protection Action Plan and the WTA Long-Range Transit Plan.

Bellingham City Council has final approval of funding through annual adoption of the Six-Year TIP.

Plan Reference	2018 Climate Protection Action Plan & 2021 WTA Long-Range Transit Plan Projects (Or related improvements not identified in these plans = n/a)	Cost Estimate
2021 Projects Supporting Climate Action and WTA Transit Plans		TBD Funds
Notes: Planning level cost estimates; Assumes TBD renewal Nov. 2020 & 15% reduction in TBD funds (COVID-19)		
3.a.) Climate Action Plan	Citywide Electric Vehicle (EV) Charging Station Improvements - Approximately 10 locations funded with TBD with possibility of many more with Commerce grant.	\$500,000
3.b.) WTA Transit Plan	2020-2021 WTA Long-Range Transit Plan in process. - City transportation planning staff is directly involved in planning with WTA staff.	In-Kind
3.c.) WTA Transit Plan	2020-2021 Lincoln-Lakeway Multimodal Transportation Study in process. - City transportation planning staff is directly involved in planning with WTA, WSDOT, & WCOG.	In-Kind
	Subtotal	\$500,000
2022 Projects Supporting Climate Action and WTA Transit Plans		TBD Funds
Notes: Planning level cost estimates; Assumes TBD renewal Nov. 2020 & 15% reduction in TBD funds (COVID-19)		
3.d.) Climate Action Plan	Transportation Improvements Supporting Climate Protection Action Plan - Capital improvements recommended by PW Staff, Approved by City Council in 2021	Unknown
3.e.) WTA Transit Plan	Transportation Improvements Supporting WTA Long-Range Transit Plan - Capital Improvements recommended by WTA & PW Staff, Approved by City Council in 2021	Unknown
3.f.) Other	Yet to be Determined	Unknown
	Subtotal	\$0

Project #4: Ellis Street Bridge Reconstruction (Ellis Street/N. State Street Intersection)

PROJECT NARRATIVE The existing bridge was constructed in 1940 and has experienced major substructure deterioration. Major repairs were made in the year 2000 when new pilings were driven in, but the overall deterioration has continued. Temporary shoring allows the bridge to remain open, but reconstruction of the bridge is necessary in the near future. Federal BRAC grant funding has been secured for construction. Local funding is programmed for preliminary engineering, design, and local matching fund requirements for the BRAC grant. Construction scheduled for 2020.

MULTIMODAL TRANSPORTATION BENEFITS: Sidewalks, bikeways, transit, auto, freight.

PROJECT STATUS: Funded with Federal BRAC. Design 2019. Construction 2021.

No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars								PROJECT TOTALS
			Previous	FUNDED			UNFUNDED				
			Budget	2021	2022	2023	2024	2025	2026		
4	Ellis Street Bridge Reconstruction	Street	100								
	(Ellis - N. State Intersection)	T-Fund Resurface	585								
		Federal BRAC	2,995	Build							
		Subtotal	3,680							3,680	

TRANSPORTATION IMPACT FEES COLLECTED

Yes, for local funds

RIGHT-OF-WAY ACQUISITION NECESSARY

No



Project #5: F Street/BNSF Railroad Crossing Safety Improvements (Holly Street to Roeder Avenue)

PROJECT NARRATIVE: The F Street/BNSF rail crossing is located on the 160-foot-long section of F Street between Holly Street and Roeder Avenue, which is a designated freight truck route serving all of the heavy industrial and commercial uses on the Bellingham Waterfront. This section of F Street crosses three (3) BNSF railroad tracks and is between the BNSF switching yard and the mainline tracks through the 200-acre Bellingham Waterfront redevelopment site. From 2010 - 2016, there were 30 vehicle collisions on this segment of F Street, eleven (37%) of which were injury-related. The City will construct upgrades to the F Street crossing with safety improvements that will include four quadrant gates, pedestrian and bicycle improvements, and vehicle travel lane channelization and restriction.

MULTIMODAL TRANSPORTATION BENEFITS: Bicycle and ADA-compliant surface crossing of railroad tracks and reduction of pedestrian, bicycle, vehicle, and train conflicts.

PROJECT STATUS: Funded WSDOT-administered HSIP grant. Design 2019-2020. Construct 2021.

No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars								PROJECT TOTALS
			Previous		FUNDED		UNFUNDED				
			Budget	2021	2022	2023	2024	2025	2026		
5	F Street/BNSF Railroad Crossing	1st 1/4 REET	40	250							
	Safety Improvements	Federal HSIP	690	Build							
	(Holly Street to Roeder Ave)	Subtotal	730	250						980	

TRANSPORTATION IMPACT FEES COLLECTED

No

RIGHT-OF-WAY ACQUISITION NECESSARY

Possible



Project #6: Telegraph Road Multimodal Safety Improvements (James Street to Deemer Road)

PROJECT NARRATIVE: Telegraph Road has seen an increase in vehicle traffic, as well as pedestrian, bicycle, and transit demand, as a result of annexations, growth, and development. The King Mountain Neighborhood is zoned for more high-density housing units and many development projects are in plan review and permitting stages. WTA provides high-frequency Gold GO Line Route 331 service to James Street-Telegraph Road-Deemer Road, but there are few sidewalks and crossings to bus stops.

MULTIMODAL TRANSPORTATION BENEFITS: Tier 3 sidewalks, Tier 3 bicycle lanes, pedestrian crossing, center turn lane, access management, safety, LED street lights, traffic signals, and transit shelters for WTA Gold GO Line (Route 331).

PROJECT STATUS: Funded. Federal grant, local funds, private TIF & mitigation, WTA funding. Design, Engineering, ROW acquisition, permitting 2019-2020. Construction scheduled 2021-2022.

No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars							PROJECT TOTALS
			Previous Budget	2021	2022	2023	2024	2025	2026	
6	Telegraph Road Multimodal Safety Improvements (2/3-mile Deemer Road to James Street) Center turn lane, traffic signals at Deemer and James, bike lanes, sidewalks, storm water, flashing crosswalks at bus stops, requires right-of-way acquisition	Street	800	800						
		T-Fund Non-Motorized	1,000	300						
		T-Fund Resurface	1,000	200						
		Private Mitigation	150	100						
		WTA	107	Build						
		Federal STBG		1,650						
		Subtotal	3,057	3,050						6,107

TRANSPORTATION IMPACT FEES COLLECTED
RIGHT-OF-WAY ACQUISITION NECESSARY

Yes, for local funds
Yes



Project #7: Pedestrian Master Plan Update

(In Advance of Comp Plan Update; Pending Dedicated Funding)

PROJECT NARRATIVE: The Bellingham Pedestrian Master Plan (PMP) was created by citizens, staff, and consultants in 2011-2012 and approved by the City Council in August 2012. The PMP includes approximately 350 individual sidewalk and crossing improvement projects, as well as goals, policies, program recommendations, and design guidance. Since 2012, the City has constructed and funded 75 of the 2012 PMP projects. The PMP was adopted by reference into the Multimodal Transportation Chapter of the Bellingham Comprehensive Plan in November 2016. Bellingham Urban Growth Areas were not included in the 2012 PMP and several annexations have occurred since that time. If the TBD is renewed by voters in 2020, then it would make sense to invest in an update to the 2012 PMP in advance of the GMA-required 2023-2024 Comprehensive Plan update cycle.

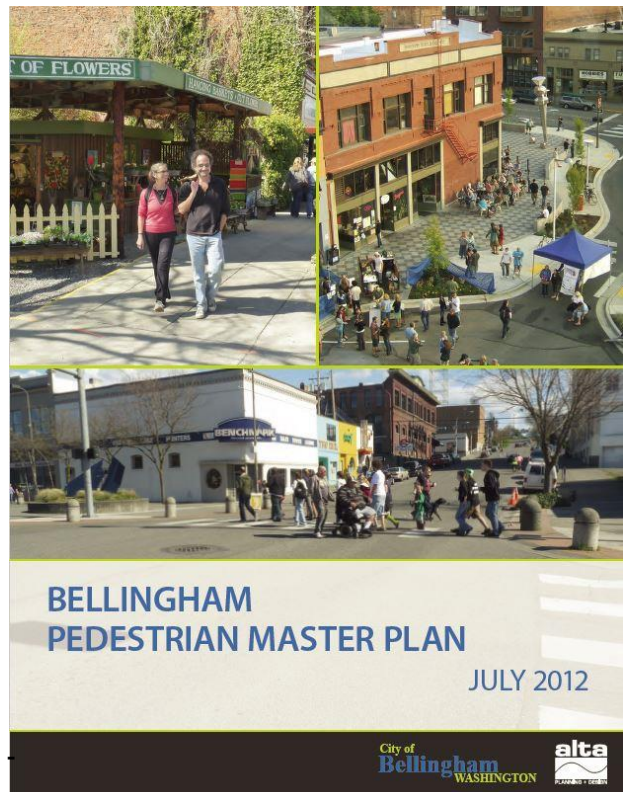
MULTIMODAL TRANSPORTATION BENEFITS: Sidewalks and pedestrian crossing improvements.

PROJECT STATUS: Plan update needed in 2021-2022 if there is a dedicated funding source

No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars								PROJECT TOTALS
			Previous Budget	FUNDED			UNFUNDED				
			2021	2022	2023	2024	2025	2026			
7	Pedestrian Master Plan Update	T-Fund Non-Motorized		100	Adopt						
	Subtotal			100						100	

TRANSPORTATION IMPACT FEES COLLECTED
RIGHT-OF-WAY ACQUISITION NECESSARY

Yes, for local funds
 Varies by location



Project #8: Bicycle Master Plan Update

(In Advance of Comp Plan Update; Pending Dedicated Funding)

PROJECT NARRATIVE: The Bellingham Bicycle Master Plan (BMP) was created by citizens, staff, and consultants in 2013-2014 and approved by the City Council in October 2014. The BMP includes approximately 186 individual bicycle facility improvements and 26 bicycle crossing improvements, as well as goals, policies, program recommendations, and design guidance. Since 2014, the City has constructed and funded 111 (52%) of the 2014 BMP projects. The BMP was adopted by reference into the Multimodal Transportation Chapter of the Bellingham Comprehensive Plan in November 2016. Bellingham Urban Growth Areas were included in the 2014 BMP. If the TBD is renewed by voters in 2020, then it would make sense to invest in an update to the 2014 BMP in advance of the GMA-required 2023-2024 Comprehensive Plan update cycle.

MULTIMODAL TRANSPORTATION BENEFITS: Bicycle facilities and bicycle crossing improvements.

PROJECT STATUS: Plan update needed in 2021-2022 if there is a dedicated funding source

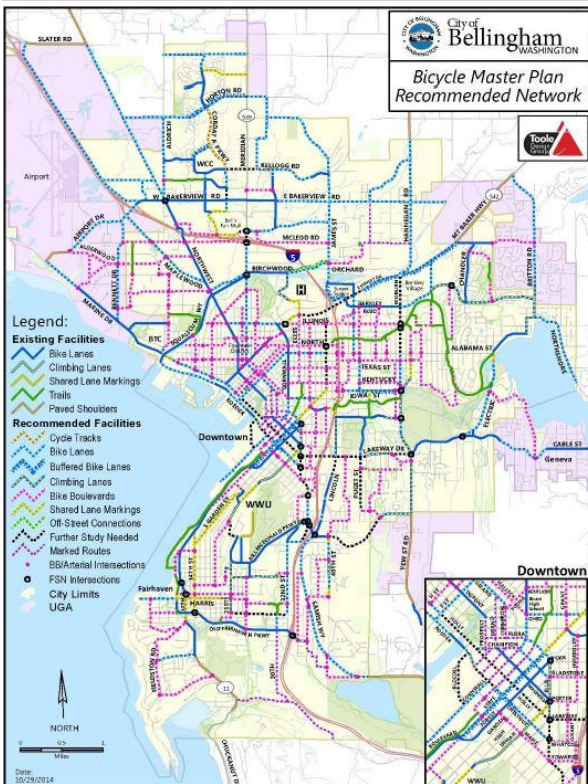
No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars								PROJECT TOTALS
			Previous Budget	FUNDED			UNFUNDED				
			2021	2022	2023	2024	2025	2026			
8	Bicycle Master Plan Update	T-Fund Non-Motorized		100	Adopt						
		Subtotal		100						100	

TRANSPORTATION IMPACT FEES COLLECTED

Yes, for local funds

RIGHT-OF-WAY ACQUISITION NECESSARY

Varies by location



2014
Bellingham Bicycle
Master Plan



Project #9: Meador Avenue Bridge Reconstruction (Between State St and James St)

PROJECT NARRATIVE: The existing bridge has experienced major substructure deterioration and reconstruction of the bridge is necessary in the near future. Federal BRAC grant funding is being sought for construction. Local funding is programmed for preliminary engineering, design, and local matching fund requirements for the BRAC grant. If grant funding is secured, then construction could be scheduled for 2022.

MULTIMODAL TRANSPORTATION BENEFITS: Sidewalks, bikeways, transit, auto, freight.

PROJECT STATUS: Design 2020. Construction 2022, pending Federal BRAC grant funds.

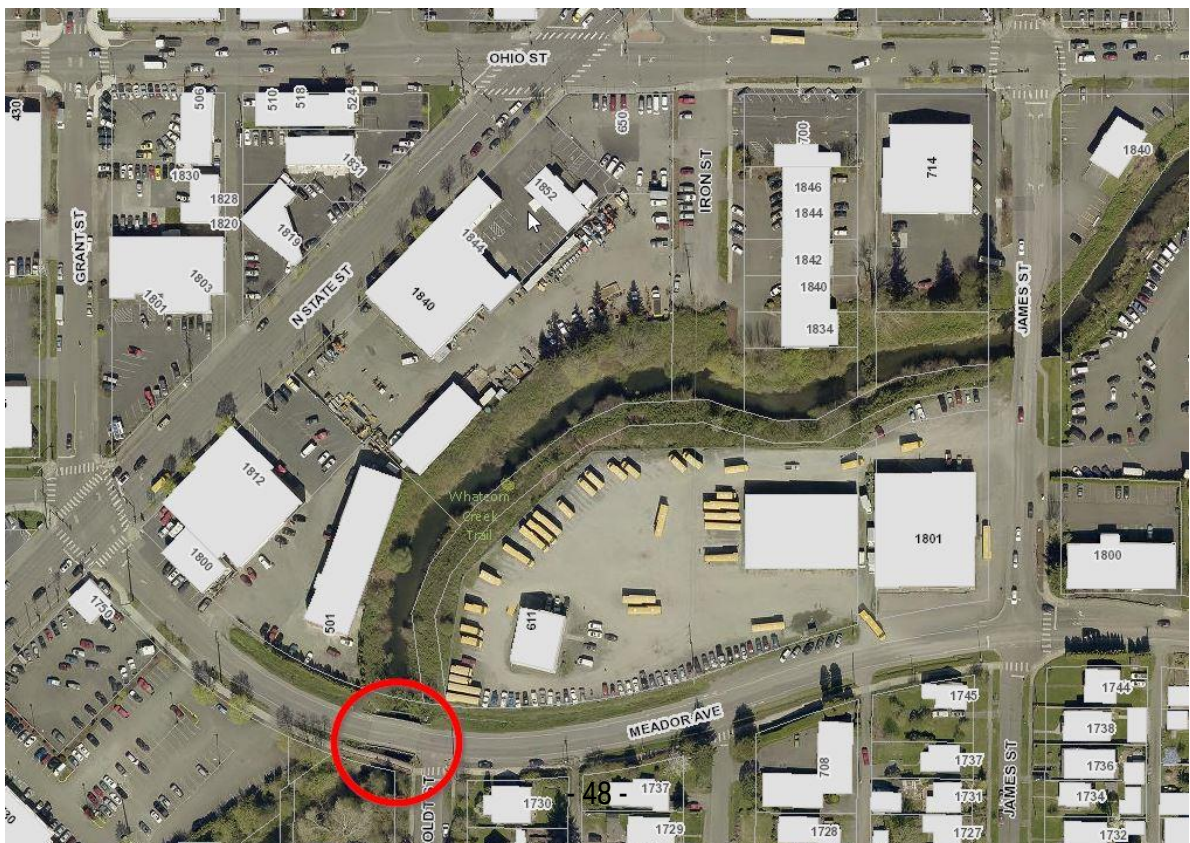
No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars							PROJECT TOTALS
			Previous	FUNDED			UNFUNDED			
			Budget	2021	2022	2023	2024	2025	2026	
9	Meador Avenue / Whatcom Creek	Street		350						
	Bridge Reconstruction	T-Fund Resurface		404						
		Federal Hwy Bridge		3,768	Build					
		Subtotal		4,522						4,522

TRANSPORTATION IMPACT FEES COLLECTED

Yes, for local funds

RIGHT-OF-WAY ACQUISITION NECESSARY

Unknown



Project #10: James Street Bridge Reconstruction

(Between Ohio St and Meador Ave)

PROJECT NARRATIVE: The existing bridge has experienced major substructure deterioration and reconstruction of the bridge is necessary in the near future. Federal BRAC grant funding is being sought for construction. Local funding is programmed for preliminary engineering, design, and local matching fund requirements for the BRAC grant. If grant funding is secured, then construction could be scheduled for 2022.

MULTIMODAL TRANSPORTATION BENEFITS: Sidewalks, bikeways, transit, auto, freight.

PROJECT STATUS: Design 2020. Construction 2022, pending Federal BRAC grant funds.

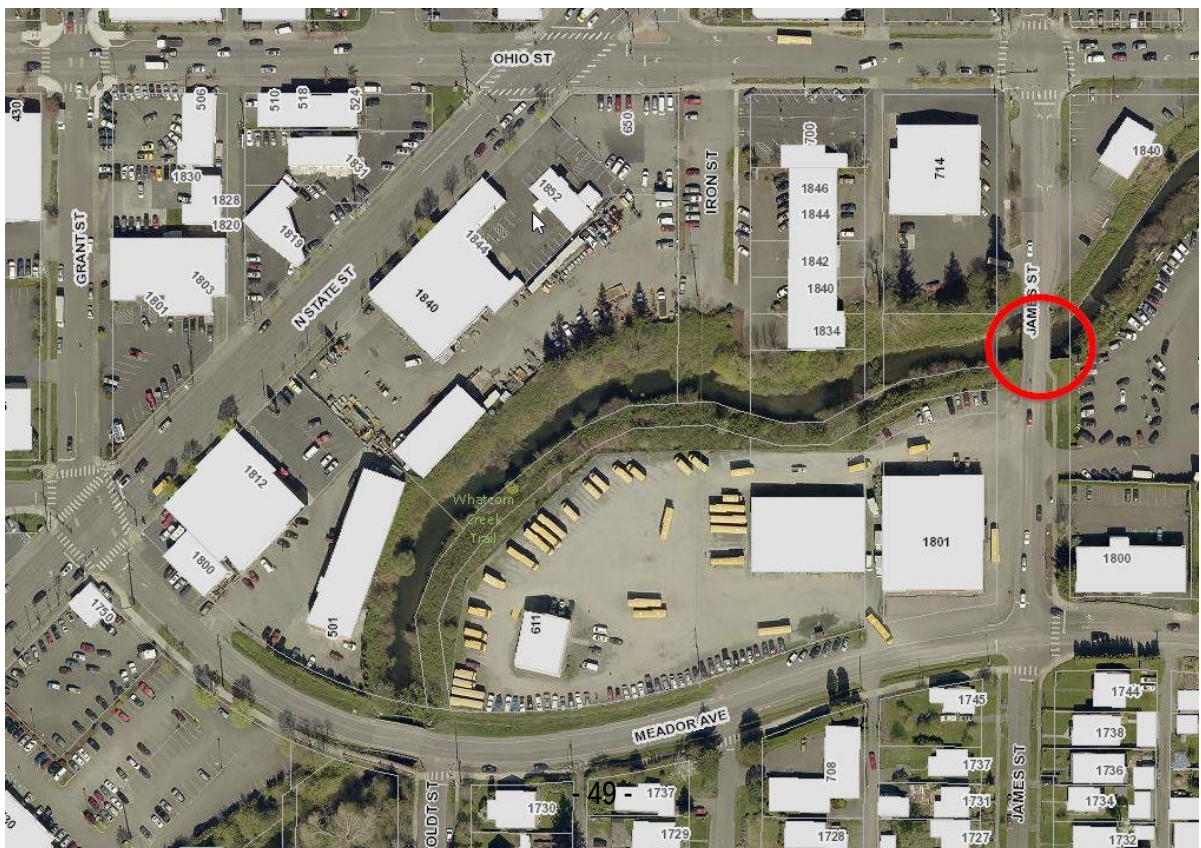
No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars							PROJECT TOTALS
			Previous	FUNDED			UNFUNDED			
			Budget	2021	2022	2023	2024	2025	2026	
10	James Street / Whatcom Creek	Street		350						
	Bridge Reconstruction	T-Fund Resurface		404						
		Federal Hwy Bridge		3,768	Build					
		Subtotal		4,522						4,522

TRANSPORTATION IMPACT FEES COLLECTED

Yes, for local funds

RIGHT-OF-WAY ACQUISITION NECESSARY

Unknown



Project #11: Parkview ES Safe Route to School Improvements

PROJECT NARRATIVE: Construct Tier 3 sidewalks and Tier 3 pedestrian crossing improvements on Cornwall Avenue, Coolidge Street, and W. Illinois Street and removal of parking on the north side of W. Illinois from Sunset to Meridian to install Tier 1 bike lanes on both sides of the corridor. The Bellingham School District is in the process of reconstructing Parkview Elementary School and is partnering with the City of Bellingham to apply to WSDOT for Safe Route to School grant funding. This project compliments project #12 on the western half of the W. Illinois corridor.

MULTIMODAL TRANSPORTATION BENEFITS: Access, safety, connectivity for pedestrians, bicyclists, vehicles, and freight trucks.

PROJECT STATUS: If WSDOT grant is awarded July 2021, then construction anticipated 2022.

No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars								PROJECT TOTALS
			Previous Budget	FUNDED			UNFUNDED				
			2021	2022	2023	2024	2025	2026			
11	Parkview ES Safe Route to School	T-Fund Non-Motorized		350							
	Sidewalks, ADA ramps, crosswalks, parking removal, bike lanes (Sunset Drive to Meridian Street)	Bham School District									
		WSDOT Federal SRTS		1,400	Build		Pending SRTS Grant				
			Subtotal		1,750						1,750

TRANSPORTATION IMPACT FEES COLLECTED

Yes, for local public funds

RIGHT-OF-WAY ACQUISITION NECESSARY

No



Project #12: W. Illinois Pedestrian & Bicycle Safety Improvements (Meridian Street to Lynn Street)

PROJECT NARRATIVE: W. Illinois Street is a major east-west connection serving west-central Bellingham between Sunset (SR 542), Cornwall, Meridian (SR 539) and Northwest Avenue. W. Illinois provides access to Cornwall Park, Parkview Elementary School, a regional grocery store, Fountain District Urban Village, and residential homes in the Cornwall Park and Columbia Neighborhoods. Pedestrian and Bicycle Master Plans call for sidewalks and bike lanes on W. Illinois Street, but installation of bike lanes will require on-street parking to be removed on at least one side of the street. Intersection geometry and operations must be studied for improvements. This project complements project #11 Parkview ES Safe Routes to School.

MULTIMODAL TRANSPORTATION BENEFITS: Tier 1 bicycle lanes, Tier 3 sidewalks, intersection improvements. WTA Routes 4, 15, and 232 (Green GO Line high-frequency route) serve W. Illinois.

PROJECT STATUS: If WSDOT Ped & Bicycle Safety grant awarded July 2021; then construction 2022

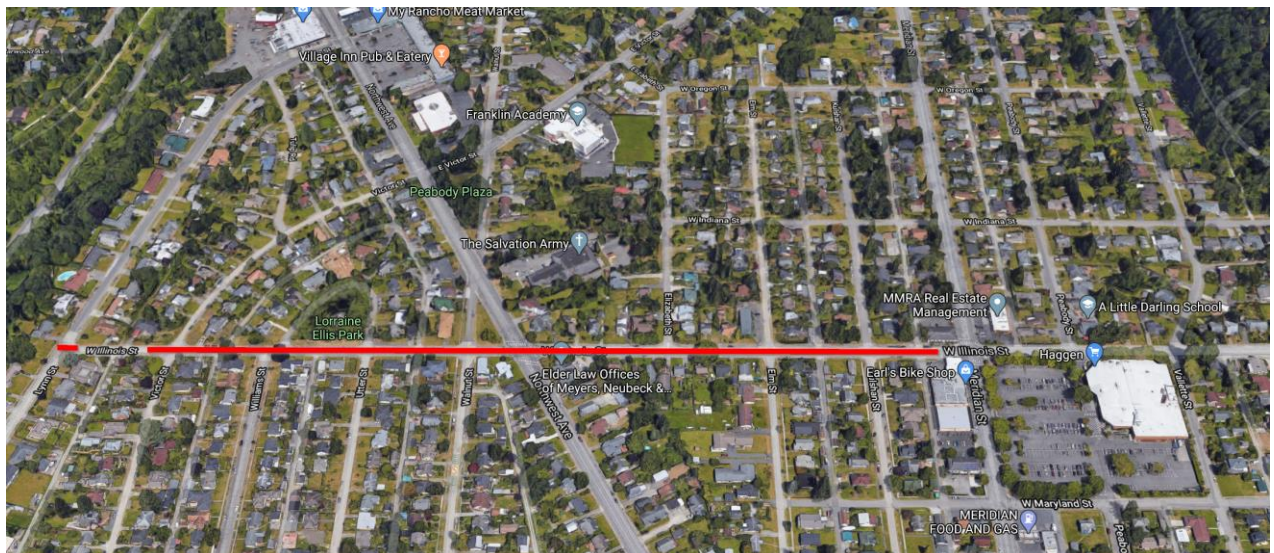
No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars							PROJECT TOTALS
			Previous Budget	FUNDED			UNFUNDED			
			2021	2022	2023	2024	2025	2026		
12	W. Illinois Pedestrian and Bicycle Safety	T-Fund Non-Motorized		320						
	Sidewalk, parking, bike lane, intersection (Meridian Street to Lynn Street)	WSDOT Ped-Bike		1,225	Build		Pending Ped-Bike Grant			
		Subtotal		1,545						1,545

TRANSPORTATION IMPACT FEES COLLECTED

Yes, for local funds

RIGHT-OF-WAY ACQUISITION NECESSARY

Not yet known



Project #13: BNSF Railroad Quiet Zones

PROJECT NARRATIVE: The City of Bellingham will examine the possibility of making significant safety improvements for the at-grade street crossings of the Burlington Northern Sante Fe (BNSF) railroad tracks throughout the City. If safety improvements can be made that meet BNSF and federal guidelines, then a "Railroad Quiet Zone" may be established that would allow train engineers not to blow train horns unless there was an emergency. Several different types of at-grade crossing improvements can be used, depending on the circumstances and needs of the specific site. Preliminary cost estimates are approximately \$500,000 to \$750,000 per at-grade crossing, depending on the improvements made.

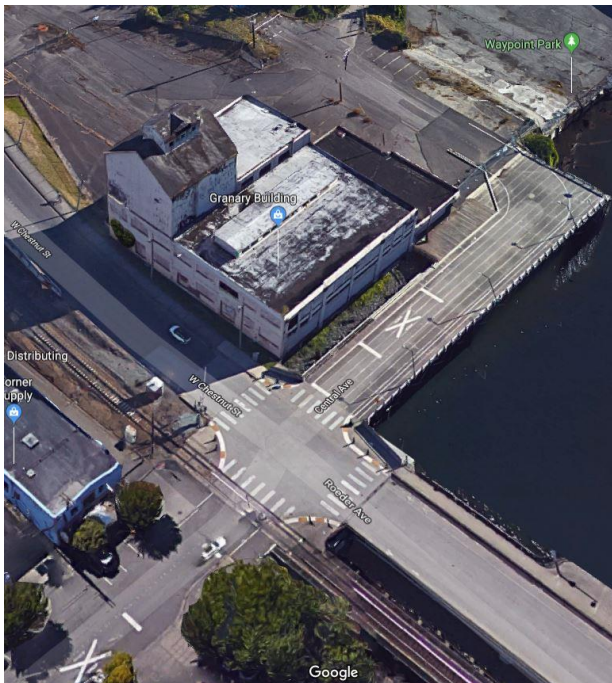
MULTIMODAL TRANSPORTATION BENEFITS: ADA-compliant surface crossing of railroad tracks and reduction of vehicle/rail conflicts.

PROJECT STATUS: REET funding identified as most-appropriate for these improvements.

No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars							PROJECT TOTALS
			Previous Budget	FUNDED			UNFUNDED			
				2021	2022	2023	2024	2025	2026	
13	Bellingham Railroad Quiet Zones	1st 1/4 REET	210	0	250	250	250	250	250	
		Subtotal	210	0	250	250	250	250	250	1,460

TRANSPORTATION IMPACT FEES COLLECTED
RIGHT-OF-WAY ACQUISITION NECESSARY

No
Possible



Project #14: James/Bakerview Intersection Safety Improvements

PROJECT NARRATIVE: East Bakerview Road is a major arterial and trucking route between the Irongate industrial area, SR 539, and I-5. James Street is the only north-south secondary arterial between Sunset Drive and Kellogg Road. Increased traffic and lack of north-south left-turn lanes contribute to an increase in speeding and collisions at the James/Bakerview intersection. Constructing an expandable multimodal roundabout will slow speeding vehicles, reduce collisions, and improve safety for all users, while also providing long-term transportation capacity as the King Mountain area develops.

MULTIMODAL TRANSPORTATION BENEFITS: Tier 3 sidewalks, crosswalk with pedestrian refuges, Tier 3 bicycle lanes, collision reduction, increased safety & efficiency of freight and goods movement, Greenways parks and trails planned adjacent to roundabout, WTA transit route 48 and future WTA transit routes as ridership demand increases.

PROJECT STATUS: 100% engineering and design completed; Federal grant funds being sought; construction 2023 pending full funding.

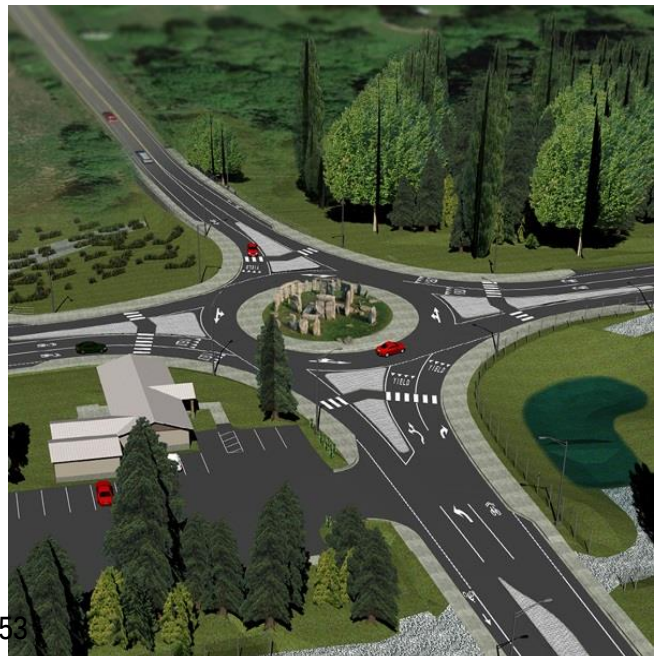
No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars								PROJECT TOTALS \$
			Previous Budget	FUNDED			UNFUNDED				
				2021	2022	2023	2024	2025	2026		
14	James/Bakerview Intersection	Street	120			500					
	Safety Improvements	Federal STP	385			Build					
		Federal STBG				2,000					
		(Expandable multimodal roundabout)	Federal HSIP				900	Pending WSDOT Grant			
		Subtotal	505			3,400				3,905	

TRANSPORTATION IMPACT FEES COLLECTED

Yes, for local funds

RIGHT-OF-WAY ACQUISITION NECESSARY

Yes



Project #15: James Street Pedestrian & Bicycle Safety Improvements; Segment 3

(West side James Street from Telegraph Rd to E. Bakerview Rd)

PROJECT NARRATIVE: James Street is the only north- south transportation corridor serving north-central Bellingham between Meridian (SR 539) and Hannegan, which is already zoned for 3,000 or more housing units. James Street provides access to Squalicum Creek Trail and Sunset Pond Park between Sunset Square Shopping Center, Telegraph Road, and East Bakerview Road. Pedestrian and Bicycle Master Plans call for sidewalks and bike lanes and WTA high-frequency Gold GO Line Route 331 service requires sidewalks and crossings to bus stops. Segment 3 is the most financially feasible section to construct and if grant funding can be secured, could be completed in 2023 to complement the Telegraph Road improvements and the James/Bakerview roundabout.

MULTIMODAL TRANSPORTATION BENEFITS: Tier 3 sidewalks, Tier 3 bicycle lanes, turn lanes, increased access, safety, sight distance, and efficiency. WTA Gold GO Line high-frequency transit route 331 and future WTA transit routes as King Mountain Neighborhood continues to develop.

PROJECT STATUS: Feasibility Study Completed 2019. Unfunded. WSDOT grant funds applied for.

No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars								PROJECT TOTALS
			Previous Budget		FUNDED 2021 2022 2023			UNFUNDED 2024 2025 2026			
15	James Street Pedestrian and Bicycle	T-Fund Non-Motorized				160					
	Safety Improvements; Segment 3	State				740	Pending WSDOT Grant				
	Segment 3 = Telegraph to Bakerview	Subtotal				900				900	

TRANSPORTATION IMPACT FEES COLLECTED

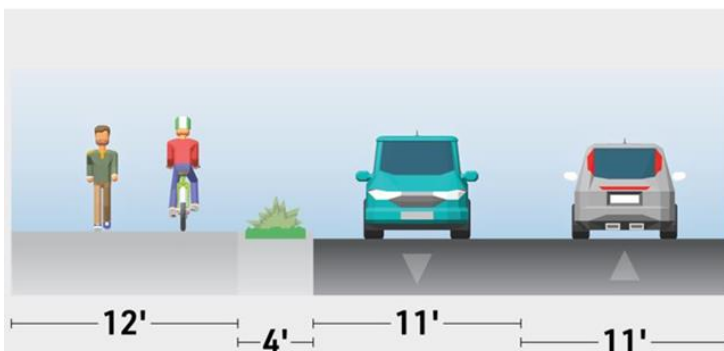
Yes, for local funds

RIGHT-OF-WAY ACQUISITION NECESSARY

No

James Street Preferred Alternative

West Side Shared Use Path



SHARED USE PATH

- 11-foot vehicle lanes with a 10 to 12-foot wide bi-directional shared use path on one side
- Vegetated planting strip between path and roadway used for stormwater conveyance and treatment and separation from traffic
- Curbed shoulders in locations where additional sidewalk is needed on the other side of the road

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transpogroup **7**
WHAT TRANSPORTATION CAN BE.

Project #16: Meridian Street Roundabouts

(Meridian/Squalicum & Meridian/Birchwood)

PROJECT NARRATIVE: These two closely spaced intersections are a critical freight route and multimodal transportation link between the industrial Bellingham Waterfront and U.S.-Canadian border crossings connected by Interstate 5 and Guide-Meridian (SR 539). When the Orchard-Birchwood extension is completed in 2021, vehicle traffic volume, as well as pedestrian and bicycle demand, will increase and these intersections will become increasingly congested. Pedestrian and Bicycle Master Plans call for sidewalks and Parks plans call for a multiuse trail on the former railroad bed. WTA has indicated that Meridian is a candidate for future high-frequency GO Line service.

MULTIMODAL TRANSPORTATION BENEFITS: Tier 2 sidewalks, Tier 3 bicycle lanes, turn lanes, increased access, safety, sight distance, and efficiency. WTA Routes 4 and 15 currently provide transit service, with future consideration for high-frequency transit on Meridian Street (SR 539).

PROJECT STATUS: Feasibility study completed 2019. Unfunded. State and federal grants, as well as public-private funding partnerships will be sought.

No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars								PROJECT TOTALS
			Previous Budget	FUNDED			UNFUNDED				
			2021	2022	2023	2024	2025	2026			
16	Meridian Street Roundabouts (Squalicum & Birchwood), Phases 1 & 2 Phase 1 = Squalicum; Phase 2 = Birchwood	Street Study)	160				Grants being sought				
		Federal STBG									
		Unknown					12,000				
		Subtotal	160				12,000		12,160		

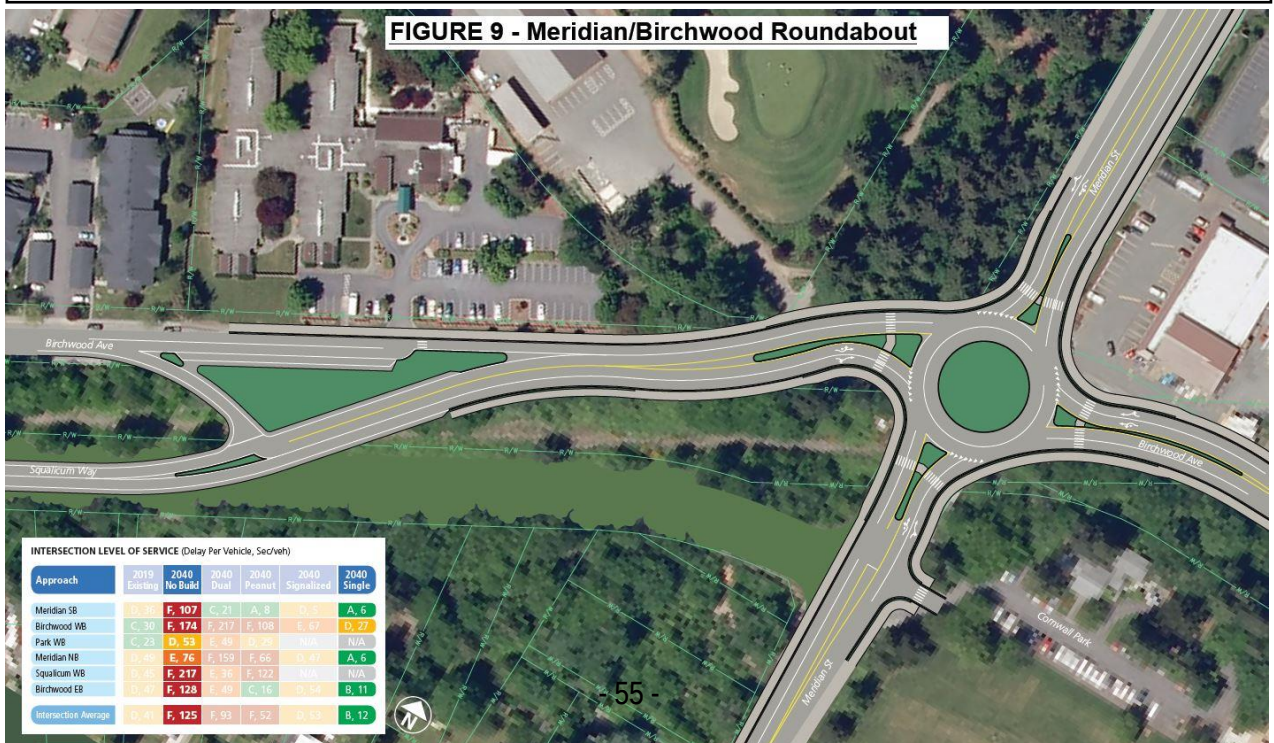
TRANSPORTATION IMPACT FEES COLLECTED

Yes, for local funds

RIGHT-OF-WAY ACQUISITION NECESSARY

Yes: Intersection corners and railroad ROW

FIGURE 9 - Meridian/Birchwood Roundabout



Project #17: James Street Pedestrian & Bicycle Safety Improvements; Segments 1, 2, & 4 (West side James Street from E. Orchard to Gooding Rd)

PROJECT NARRATIVE: James Street is the only north- south transportation corridor serving the King Mountain Neighborhood, which is zoned for 3,000 or more housing units. James Street provides access to Squalicum Creek Trail and Sunset Pond Park between Sunset Square Shopping Center, Telegraph Rd, and East Bakerview Rd. Pedestrian and Bicycle Master Plans call for sidewalks and bike lanes and WTA high-frequency Gold GO Line Route 331 service requires sidewalks and crossings to bus stops. Significant costs include, removal of a vertical curve sight distance issue on the hill between Orchard and McLeod and reconstruction of culverts beneath James Street between Orchard Dr and Telegraph Rd and Bakerview Rd and Kellogg Rd will require reconstruction for fish passage improvements.

MULTIMODAL TRANSPORTATION BENEFITS: Tier 3 sidewalks, Tier 3 bicycle lanes, turn lanes, increased access, safety, sight distance, and efficiency. WTA Gold GO Line high-frequency transit route 331 and future WTA transit routes as King Mountain Neighborhood continues to develop.

PROJECT STATUS: Feasibility Study Completed 2019. Unfunded. Grant funds will be sought.

No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars								PROJECT TOTALS
			Previous Budget	FUNDED			UNFUNDED				
			2021	2022	2023	2024	2025	2026			
17	James Street Pedestrian and Bicycle Safety Improvements; Segments 1, 2, & 4	Street (Study)	110				Grants being sought				
		T-Fund Non-Motorized									
	Segment 1 = Orchard to McLeod	Pvt Mitigation									
	Segment 2 = McLeod to Telegraph	Unknown						14,000			
	Segment 4 = Bakerview to Gooding	Subtotal	110						14,000	14,110	

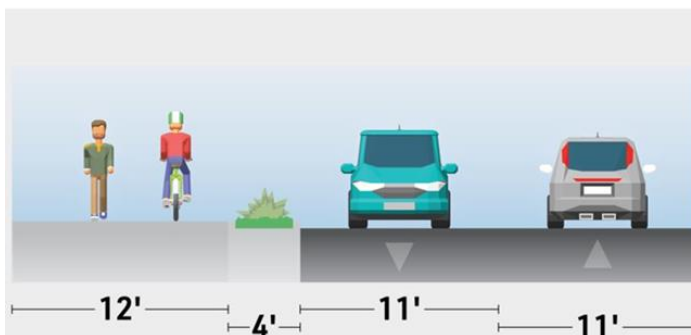
TRANSPORTATION IMPACT FEES COLLECTED

Yes, for local funds

RIGHT-OF-WAY ACQUISITION NECESSARY

Possibly; yet-to-be-determined

James Street Preferred Alternative West Side Shared Use Path



SHARED USE PATH

- 11-foot vehicle lanes with a 10 to 12-foot wide bi-directional shared use path on one side
- Vegetated planting strip between path and roadway used for stormwater conveyance and treatment and separation from traffic
- Curbed shoulders in locations where additional sidewalk is needed on the other side of the road

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Visualization (looking south just s/o McLeod Rd)



transpogroup **7T**
WHAT TRANSPORTATION CAN BE.

Project #18: North James Street Multimodal Arterial Connection (Gooding Avenue to Van Wyck Road)

PROJECT NARRATIVE: The Transportation Element of the Bellingham Comprehensive Plan identifies the North James Street extension to Van Wyck Road as a secondary arterial. James Street is the only north-south transportation corridor serving the King Mountain Neighborhood, which is zoned for over 3,000 new housing units. In addition to supporting the development planned for the King Mountain Neighborhood, this northern extension of James Street will provide another north-south corridor parallel to Meridian (SR 539), which will provide multimodal access and connectivity in King Mountain.

MULTIMODAL TRANSPORTATION BENEFITS: Tier 3 sidewalks, Tier 3 bike lanes, center turn lanes at intersections, regional multimodal transportation connectivity, and possible future WTA transit route.

PROJECT STATUS: Private developer is currently constructing road improvements with subdivision

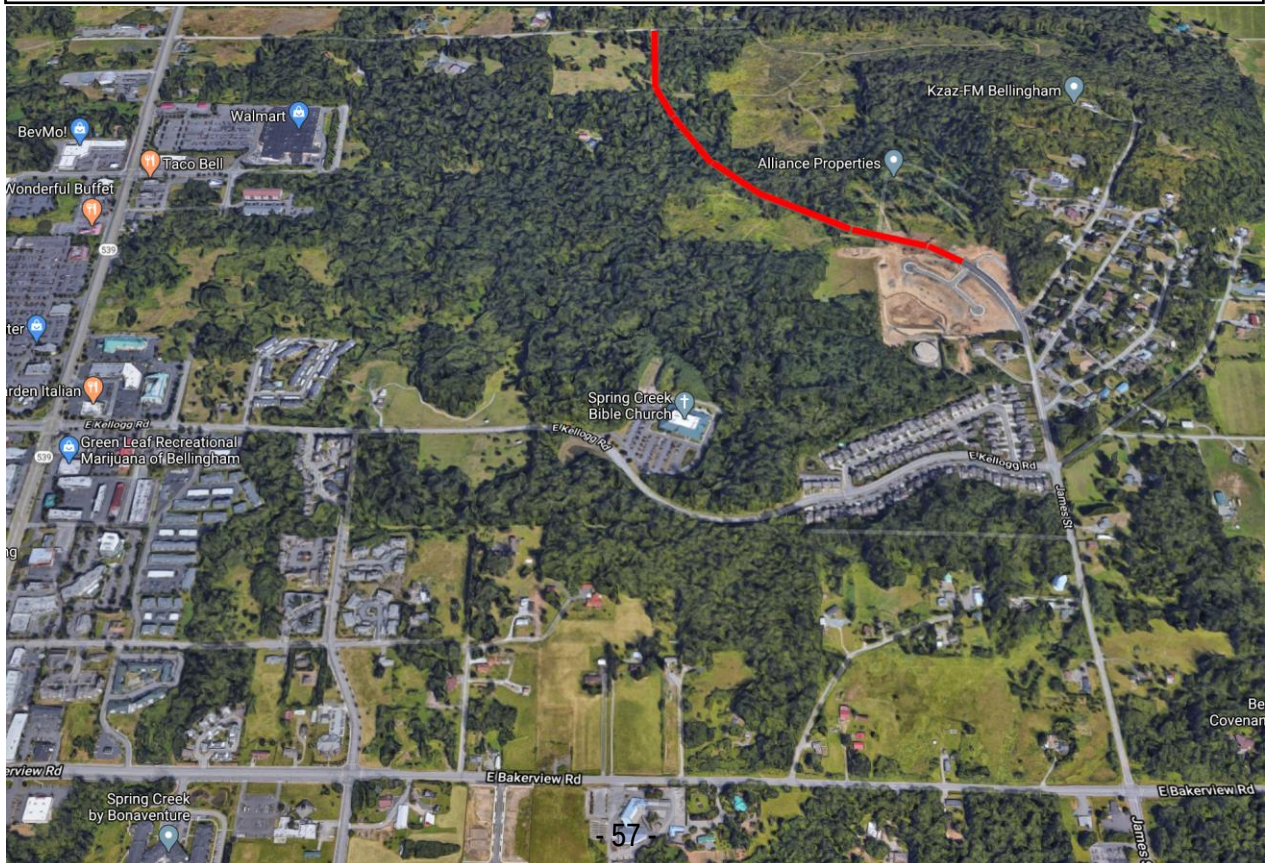
No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars							PROJECT TOTALS
			Previous Budget	FUNDED			UNFUNDED			
			2021	2022	2023	2024	2025	2026		
18	North James Street	Pvt Mitigation	600				Private Construction			
	Multimodal Arterial Connection	Unknown						3,000		
	(Gooding to Van Wyck; Long Term)	Subtotal	600					3,000	3,600	

TRANSPORTATION IMPACT FEES COLLECTED

No, private construction receives TIF credit

RIGHT-OF-WAY ACQUISITION NECESSARY?

Yes, private development to dedicate



Project #19: West Horton Road Multimodal Corridor Extension, Phase 2 (Aldrich Road to Northwest Avenue)

PROJECT NARRATIVE: City – County partnership to extend an east-west regional transportation connection in northern Bellingham. Phase 2 extends West Horton for one-half mile west as an arterial street with sidewalks and bicycle lanes on both sides from Aldrich Road to Northwest Avenue. Environmental impacts require land acquisition, off-site mitigation, and minimizing the road footprint.

MULTIMODAL TRANSPORTATION BENEFITS: Increased access, safety, and connectivity for pedestrians, bicyclists, transit riders, and vehicles. Tier 1 sidewalks, Tier 1 bike lanes, possible future WTA transit route as W. Horton Road, annexations, and MF & SF developments are completed.

PROJECT STATUS: Feasibility, wetlands, & survey: 2017-2019; PE/Design 2019-2020; ROW acquisition & mitigation planning 2020-2024; additional funding to be sought, when appropriate. ROW acquisition and construction is responsibility of Whatcom County until alignment is annexed to City.

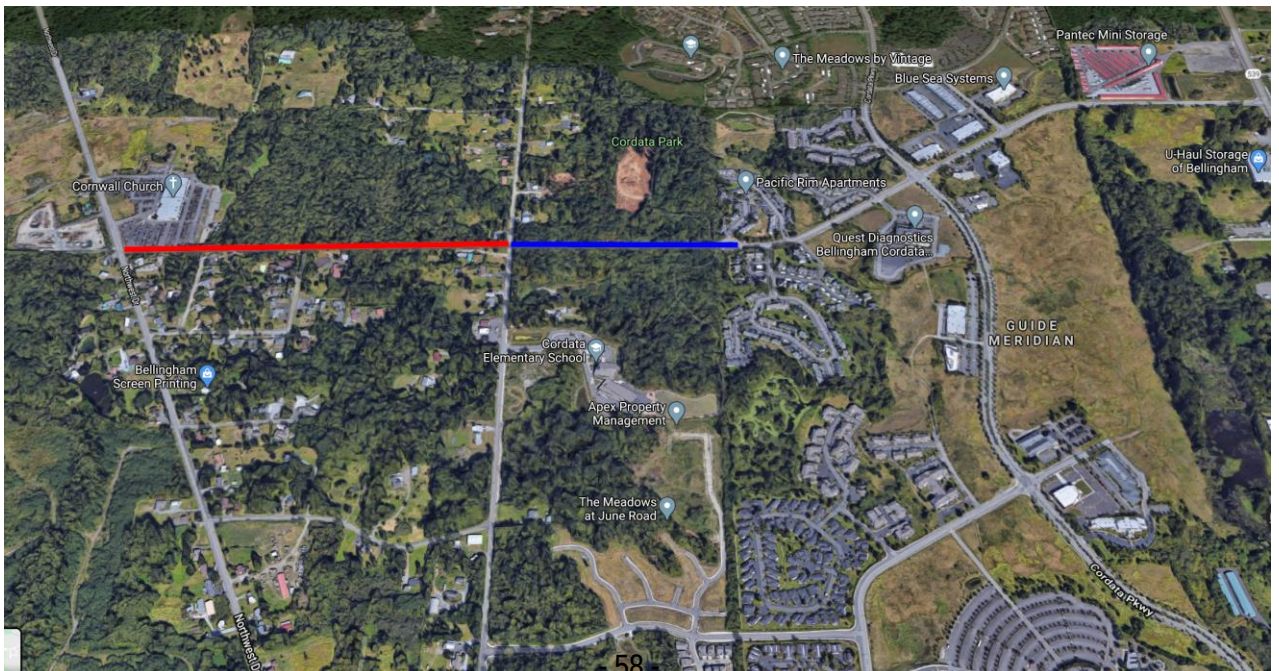
No.	PROJECT DESCRIPTION	FUNDING SOURCE	Cost Estimates (000's) 2020 Dollars							PROJECT TOTALS
			Previous Budget	FUNDED			UNFUNDED			
			2021	2022	2023	2024	2025	2026		
19	West Horton Road Multimodal Corrdor Extension, Phase 2 [City-County Partnership] (Aldrich to Northwest; Long-Term)	Federal Map 21	1,000				City/County Partnership			
		County Road Fund	260							
		Pvt Mitigation					1,000			
		Unknown							12,000	
		Subtotal	1,260				1,000		12,000	14,260

TRANSPORTATION IMPACT FEES COLLECTED

Not until annexed to City

RIGHT-OF-WAY ACQUISITION NECESSARY

Yes



Bellingham Transportation Commission
Transportation Commission Resolution 2020-02

The Transportation Commission (TC) has reviewed and endorses the Draft Six-Year (2021-2026) Transportation Improvement Program (TIP).

PASSED by the City of Bellingham Transportation Commission
this 12th day of May, 2020.

Signed 
Bret Beaupain, Chair
City of Bellingham Transportation Commission

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF BELLINGHAM, WASHINGTON
ADOPTING THE 2021 - 2026 TRANSPORTATION IMPROVEMENT PROGRAM.**

WHEREAS, in April of 2020, the City of Bellingham Public Works staff worked with a Transportation Commission liaison to prepare staff recommendations for a Draft 2021 - 2026 Transportation Improvement Program (TIP); and

WHEREAS, Public Works staff posted the Draft 2021-2026 TIP on the City web site and made it available to the public on Monday, May 4, 2020; and

WHEREAS, a public meeting of the Transportation Commission was held on Tuesday, May 12, 2020 at which Public Works staff presented the Draft 2021 - 2026 TIP; and

WHEREAS, the Bellingham Transportation Commission voted to endorse the Public Works staff recommendations for the Draft 2021-2026 TIP and issued Transportation Commission Resolution 2020-02 to the Bellingham City Council; and

WHEREAS, notice of the scheduled Monday, May 18, 2020 public hearing date for the Draft 2021 - 2026 TIP was advertised to major media in the Whatcom County region on Monday, May 4, 2020; and

WHEREAS, a public hearing before the Bellingham City Council regarding the Draft 2021 - 2026 TIP was held on Monday, May 18, 2020; and

WHEREAS, all written and oral comments regarding the Draft 2021 - 2026 TIP were received and considered by Council; and

WHEREAS, City Council discussion regarding the Draft 2021 - 2026 TIP was continued at a Bellingham City Council work session on June 8, 2020; and

WHEREAS, as per RCW 35.77.010, the City Council is required to adopt a comprehensive Transportation Improvement Program by July 1 each year for the ensuing six years;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM:

That the 2021 - 2026 Transportation Improvement Program as prepared by the Public Works Department for the City of Bellingham, attached to this Resolution as Exhibit A and by reference made a part hereof, be and the same is hereby adopted; and

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

BE IT FURTHER RESOLVED that a copy of said 2021 – 2026 Transportation Improvement Program be filed with the Washington State Secretary of Transportation.

PASSED by the Council this _____ day of _____, 2020.

Council President

APPROVED by me this _____ day of _____, 2020.

Mayor

ATTEST: _____
Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270



City Council Agenda Bill

22646

Bill Number

Subject: **Proposed Emergency Ordinance to Temporarily Waive Certain Permitting Requirements for Short-Term Closures of Residential Streets to Facilitate Outdoor Exercise and Recreation During the COVID-19 Health Crisis**

Summary Statement: In order to facilitate local access closures of residential streets during the COVID-19 health emergency without unduly burdening individual property owners with standard insurance or indemnification requirements, an emergency ordinance is required to temporarily waive these code requirements. The proposed waiver, as well as criteria for residential street closures related to COVID-19, are outlined in the attached ordinance.

This ordinance is presented as an emergency ordinance pursuant to Bellingham City Charter 3.05. The ordinance shall take effect immediately upon final passage by City Council provided that at least a majority plus one of all the members of the Council vote in its favor and it is approved by the Mayor.

Previous Council Action: **N/A**

Fiscal Impact: **Waiving insurance and indemnification requirements means the City will face increased financial risk if a claim for damages or injury occurs. The cost of application is also proposed to be waived and will be absorbed with existing budgets, and is expected to be negligible.**

Funding Source: **N/A**

Attachments: 1. STAFF MEMO ON RESIDENTIAL STREET RESTRICTIONS RELATED TO COVID-19
2. EMERGENCY ORDINANCE

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	6/08/2020	Pass Ordinance	Eric Johnston, PW Director	5 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Eric Johnston, PW Director 360-778-7710

Council Action:

Reviewed By	Department	Date
<i>Eric C. Johnston</i>	Public Works	6/01/2020
<i>Matthew T. Stamps</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



MEMORANDUM

TO: BELLINGHAM CITY COUNCIL
FROM: ERIC JOHNSTON, INTERIM PUBLIC WORKS DIRECTOR
CC: MAYOR SETH FLEETWOOD
SUBJECT: STAFF MEMO ON RESIDENTIAL STREET RESTRICTIONS RELATED TO COVID-19
DATE: JUNE 8, 2020

This agenda item responds to the COVID-19 health crisis and is therefore appropriate for consideration by City Council in the remote meeting format.

The Bellingham Municipal Code allows for short-term temporary closures or restrictions of public rights-of-way for special events (including, neighborhood block parties and parades) as well as commercial and other miscellaneous uses (including sidewalk cafes, parklets, food trucks, scaffolding, etc.). Bellingham Municipal Code Chapters 13.13 and 13.14 outline the permitting requirements, exceptions and waivers allowed for these types of closures. Of particular note is the requirement for insurance and indemnification for most events and permits. Block parties, which are considered special events, are allowed waivers in limited circumstances under BMC 13.13.

During the COVID "Stay Home, Stay Healthy" period, some communities across the country have chosen to restrict access to some streets, not for a block party, but rather to allow for social distancing, outdoor recreation and non-motorized movement. This type of use requires a temporary right of way use permit under BMC 13.14. In order to facilitate local access closures of residential streets during COVID response without unduly burdening individual property owners with standard insurance or indemnification requirements, an emergency ordinance is required to temporarily waive these code requirements (in the same way that these requirements are waived for block parties under BMC 13.13). The proposed waiver, as well as criteria for residential street closures related to COVID-19, are outlined in the ordinance included in the packet. An ordinance is required because the current code provisions do not allow for waiver of these requirements administratively or by executive order.

ORDINANCE _____

AN EMERGENCY ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON REGARDING THE SAFE USE OF RESIDENTIAL STREETS FOR OUTDOOR RECREATION AND PHYSICAL ACTIVITY DURING THE COVID-19 HEALTH CRISIS

WHEREAS, the City is responding to the global COVID-19 pandemic and seeks to create opportunities for safe outdoor recreation and physical activity with appropriate social distancing within public rights-of-way located in residential areas; and

WHEREAS, City Council desires to provide neighbors with the ability to restrict vehicular access on their residential streets to local access only during the COVID-19 health crisis by utilizing the existing temporary right-of-way use permit process contained in Chapter 13.14 of the Bellingham Municipal Code (“BMC”); and

WHEREAS, City Council desires to adopt this ordinance to establish criteria for residential street closures permitted under BMC 13.14 to ensure appropriate access to public facilities and residential properties is maintained while, at the same time, providing a safe space for residents to exercise and recreate outside during the COVID-19 health crisis; and

WHEREAS, City Council further desires to adopt this ordinance to waive certain permit requirements for residential street closures permitted under BMC 13.14, which may not be waived administratively or by executive order under the current code provisions, including permit fees, insurance and indemnification, which are a substantial impediment to the proposed use.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELLINGHAM DOES HEREBY ORDAIN THAT:

Section 1. Staff is authorized to issue a temporary right-of-way use permit under BMC 13.14 to temporarily restrict motor-vehicle access on a residential street to local access only (adjacent properties) provided all the following requirements are met:

1. The street is classified as a residential street and has an average daily traffic volume of 1,500 vehicles per day or less as determined by the City Traffic Engineer.
2. The closure must extend from one intersection to the next or from a dead end to the nearest cross street intersection.
3. The closure shall not include any street that is part of a fixed public transit route, nor shall the partial closure have the effect of inhibiting regular transit operations on a fixed public transit route.
4. Persons requesting the closure must reside on the street for which the closure is requested.

5. The local access only closure does not unduly inhibit or restrict access to the surrounding neighborhood.
6. At least one responsible adult in each place of residence along the section supports by signature the request for the local access closure. This includes each unit of multifamily housing including duplexes, triplexes, fourplexes and large multi-unit complexes.
7. The closure does not limit vehicle movement, or parking, to critical or emergency services, parks, open space, public facilities.
8. The location does not have regular commercial uses which require vehicular access.

Section 2. Staff is directed to waive the permit fee and requirement to provide indemnification and insurance for right-of-way use permits issued pursuant to BMC 13.14 in accordance with Section 1 of this ordinance.

Section 3. City Council finds that the COVID-19 pandemic threatens the public health and that the actions authorized in this ordinance are taken to preserve the public health of the Bellingham community by creating safe spaces within public rights-of-way for persons to exercise and recreate with appropriate social distancing. Therefore, this ordinance is to be adopted on an emergency basis and shall take effect immediately pursuant to Section 3.05 of the Bellingham City Charter.

Section 4. This ordinance shall expire automatically without further action from City Council upon termination of Bellingham Mayor Seth Fleetwood's Proclamation of Emergency, dated March 12, 2020.

PASSED by City Council this ____ day of _____, 2020.

Council President
APPROVED by me this ____ day of _____, 2020.

Mayor

ATTEST:

Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published:



City Council Agenda Bill

22647

Bill Number

Subject: **Bid Award for the Library Central Branch Remodel & Renovation Project, Bid #28B-2020**

Summary Statement: The City received eight bids for the Library Central Branch Remodel & Renovation Project, which were publicly opened on May 6, 2020. BFC Construction was the lowest bidder, but was deemed non-responsive for failure to submit bonding documentation at the time of submittal. They were notified of the error and acknowledged receipt of the notice. The lowest responsive and responsible bidder is Tiger Construction with a price of \$1,413,879.60, including any applicable Washington State Sales or Use Tax. The engineer's estimate was \$1,754,715.00.

Previous Council Action: **Approval of the 2019-2020 Biennial Budget**

Fiscal Impact: **The recommended bid award exceeds the expenditure authorization in the approved budget. A budget amendment as a separate action will be necessary to fund the full bid amount.**

Funding Source: **REET**

Attachments: 1. STAFF MEMO - LIBRARY REMODEL & RENOVATION
2. MANDATORY BIDDER'S CHECKLIST BID#28B-2020
3. BID SUMMARY 28B-2020

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	6/08/2020	Award Bid	Eric Johnston, PW Director	5 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Clark Williams, Superintendent PW Facilities 778-7810

Council Action:

Reviewed By	Department	Date
<i>Eric C. Johnston</i>	Public Works	6/01/2020
<i>Andrew D. Asbjornsen</i>	Finance Department	6/02/2020
<i>Connie C. Allen</i>	Purchasing	6/02/2020
<i>Andrew D. Asbjornsen</i>	Finance	6/02/2020
<i>Matthew T. Stamps</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



City of Bellingham
210 Lottie Street
Bellingham, WA 98225

STAFF REPORT

TO: CITY COUNCIL
FROM: ERIC JOHNSTON, PUBLIC WORKS DIRECTOR
CC: MAYOR SETH FLEETWOOD
SUBJECT: LIBRARY CENTRAL BRANCH REMODEL AND RENOVATION, BID #28B-2020
DATE: June 8, 2020

This agenda item has been determined to be both “necessary and routine” and, therefore, appropriate for consideration during the COVID-19 health crisis. The Bid Award for the Library Central Branch Remodel and Renovation BID #28B-2020 is necessary due to the need to maintain our assets in good condition and replace aging infrastructure for life safety and ADA improvements during the summer when the library is actually closed at this time to the public to risk exposure to our contractor and customers. This agenda item is routine because it does not implicate a change in policy but is instead focused on keeping the Library Remodel on schedule as laid out for the 2020 workplan.

BACKGROUND:

The remodel of the main floor of the library is necessary to meet the operating needs of the library. The base work includes reconfiguration of the space and improvements to support the new materials sorting equipment purchased by the Library. Also, included are basic repairs and the construction a new ADA accessible restroom on the main floor. These base improvements are consistent with the Bellingham Library strategic plan and the City of Bellingham Facilities policy to preserve existing buildings.

Fire alarm panel upgrades and annunciating devices were bid as alternates to the first-floor remodel to bring the whole building into compliance with current codes. In addition, a conversion of the lighting to LED fixtures, shelving, a loading dock canopy, painting, ceiling tile replacement, carpet replacement and low energy emission glazing replacement were also included as bid alternates. All of the alternates will be necessary work at some point.

The Council previously awarded a contract to Tiger Construction for the main passenger elevator replacement as a separate project.

EVALUATION:

The City publicly opened bids on May 6th, 2020. The City received eight (8) bids. BFC Construction was the lowest bidder but was deemed non-responsive for failure to provide proper documentation of bonding at the time of submittal. They were notified of the error and acknowledged receipt of the notification.

The bidder who submitted the lowest responsive and responsible bid is Tiger Construction of 1,413,879.60, including any applicable Washington State Sales or Use Tax. The engineer's estimate was \$1,754,715.00. Staff recommend award of the bid to Tiger Construction.

The recommended bid award includes all the aforementioned alternates. In order to award the contract at this amount a budget amendment will be required as a separate council action. While the base bid work can be completed within the existing authorized budget, the costs savings and impacts to library operations justify the additional expenditure authority at this time.

RECOMMENDATION ACTION:

A motion to award the bid to Tiger Construction, Inc. as the lowest, responsive bidder.

MANDATORY BIDDER RESPONSIBILITY CHECKLIST

Bid Number: 28B-2020	Bid Submittal Deadline: May 5th, 2020
Project Name: Bellinham Public Library Central Branch Remodel & Renovation	Project Number: EF-136
Bidder's Business Name: Tiger Construction, LTD	City Business Registration Number: Active? 002283 Yes ☒ No ☐
CONTRACTOR REGISTRATION https://secure.lni.wa.gov/verify/	
License Number: TIGERCL121MA	License Active? Yes ☒ No ☐
Effective Date: 7/11/1988 7/01/1988	Expiration Date: 6/18/2021
UBI/TAX REGISTRATION NUMBER https://secure.dor.wa.gov/gteunauth/ (go to Business Lookup)	
UBI/TAX Registration Number: 601-090-108	Account: Open ☒ Closed ☐
INDUSTRIAL INSURANCE COVERAGE https://fortress.wa.gov/lmi/crpsi/MainMenu.aspx	
Account Number: 343,437-01	Account Current? Yes ☒ No ☐
EMPLOYMENT SECURITY DEPARTMENT	
Employment Security Department Number: 650767-00-7	
Has Bidder provided account number on the Bid Form?	Yes ☒ No ☐
NOT DISQUALIFIED FROM BIDDING https://secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx	
Is the Bidder listed on the "Debarred Contractors List" list of the Washington State Department of Labor and Industries Website?	Yes ☐ No ☒ Attach printout from website
https://www.SAM.gov/ (go to Search Records)	
Is the bidder listed on the current debarred or suspended bidder list available on the U.S. General Services Administration's System for Award Management ("SAM") website?	Yes ☐ No ☒ Attach printout from website
BIDDER CERTIFICATIONS	
1. The bidder hereby certifies under penalty of perjury under the laws of the State of Washington that, within the 3-year period immediately preceding the bid solicitation date, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of RCW 49.46, 49.48, or 49.52, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction. 2. The undersigned further certifies that bidder (check one): ☐ Has received training on the requirements related to public works and prevailing wage as mandated in RCW 39.04.350(1)(f) or ☒ Is exempt from such training because it has completed three or more public works projects and has had a valid business license in Washington for three or more years. 3. The undersigned further certifies that all other information provided by or on behalf of bidder on this form is true and correct.	
Signature of Authorized Official	May 5, 2020 Date
Scott Isenhardt, President	Everson, WA
Print Name & Title	Place of Execution (City & State)
CITY VERIFICATION	
City Purchasing Manager or Designee	5/19/20 Date
Has bidder satisfied applicable supplemental responsibility criteria?	Yes ☒ No ☐ Documentation on file



CITY OF BELLINGHAM

FINAL BID OPENING REPORT

Clark Williams-PROJECT MANAGER

MATT SERIER ,
AARON MCELROY- BUYERS

BID NAME		BID NUMBER	DATE OPENED		
Bellingham Public Library Central Branch Remodel & Renovation Project No. EF-136 Improvements		28B-2020	5/5/2020		
Company Name		CITY/STATE		TOTAL BID AMOUNT WITH ALTS INCLUDING TAX	
BFC CONSTRUCTION - NON- REPOSIVE		FEDERAL WAY, WA		Total W/ 8.7% TAX	\$1,385,702.18
TIGER CONSTRUCTION		EVERSON, WA		Total W/ 8.7% TAX	\$1,413,879.60
COLVOS CONSRUCTION		TACOMA, WA		Total W/ 8.7% TAX	\$1,418,426.30
DCA DIVERSE CONTROLS		BELLINGHAM, WA		Total W/ 8.7% TAX	\$1,509,048.91
ROSENDAAL HONCOOP		BELLINGHAM, WA		Total W/ 8.7% TAX	\$1,564,616.92
CORESTONE CONTRACTING		SNOHOMISH, WA		Total W/ 8.7% TAX	\$1,729,195.53
DAWSON CONSTRUCTION		BELLINGHAM, WA		Total W/ 8.7% TAX	\$1,750,070.00
SCHUCHART		EVERETT, WA		Total W/ 8.7% TAX	\$1,761,660.27
FABER CONSTRUCTION		LYNDEN, WA		Total W/ 8.7% TAX	\$1,774,260.00



City Council Agenda Bill

22648

Bill Number

Subject: An Ordinance Increasing Appropriations and Transferring Funds to Fully Fund the Central Library Refurbishment

Summary Statement: The attached ordinance increases the budget for the Central Library refurbishment by \$600,000 and brings the total appropriations for this project to \$2,350,000.

The 2019-2020 Adopted Biennial Budget included an initial \$1 million placeholder appropriation for refurbishment of the Central Library main floor. After design, Council added an additional \$750,000 in the mid-biennial adjustment to include rebuild of the passenger elevator. Staff further refined the project and created a bid schedule that included a number of alternates to improve the Library spaces and further climate action goals. This ordinance fully funds the project as bid with all alternates and contingency. Bid approval is also before Council today.

The ordinance increases appropriations and transfers \$600,000 from the 1st Quarter Real Estate Excise Tax Fund into the Previous Council Action: **Adoption of the 2019-2020 Biennial Budget; 2019-2020 Mid-Biennial Adjustment**

Fiscal Impact: \$600,000

Funding Source: First Quarter REET

Attachments: 1. STAFF MEMO
2. ORDINANCE

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	6/08/2020	Pass Ordinance	Eric Johnson, PW Director	2 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Forrest Longman, Deputy Finance Director, 360-778-8005

Council Action:

Reviewed By	Department	Date
<i>Andrew D. Asbjornsen</i>	Finance Department	6/02/2020
<i>Matthew T. Stamps</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



MEMORANDUM

TO: BELLINGHAM CITY COUNCIL
FROM: FORREST LONGMAN, DEPUTY FINANCE DIRECTOR
CC: MAYOR SETH FLEETWOOD
SUBJECT: BUDGET AMENDMENT FOR LIBRARY REFURBISHMENT
DATE: JUNE 8, 2020

The attached ordinance increases the budget for refurbishment of Central Library main floor by \$600,000 and brings the total appropriations for this project to \$2,350,000.

The 2019-2020 Adopted Biennial Budget included an initial \$1 million placeholder appropriation. After design, Council added an additional \$750,000 in the Mid-Biennial Adjustment to include a rebuild of the passenger elevator. Staff further refined the project and created a bid schedule that included a number of alternates to improve the Library space (painting and carpeting) and further climate action goals (LED lights and window improvements). This ordinance will fully fund the project as bid with all alternates and contingency.

Approval of the project bid is also before Council today.

If passed by Council, the ordinance will amend the 2019-2020 Biennial Budget as follows:

Fund 141 - 1st 1/4 REET Fund

Expense

Transfer to Reserve Funds	\$ 600,000
TOTAL EXPENSE CHANGE	\$ 600,000

RESERVE CONTRIBUTION/(USE) \$ (600,000)

Fund 530 - Facilities Fund

Revenue

Transfer In	\$ 600,000
-------------	------------

Expense

Repairs & Maintenance-Buildings	\$ 600,000
TOTAL EXPENSE CHANGE	\$ 600,000

RESERVE CONTRIBUTION/(USE) \$ -

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE 2019-2020 BIENNIAL BUDGET INCREASING APPROPRIATIONS AND TRANSFERRING FUNDS BETWEEN THE FIRST QUARTER REAL ESTATE EXCISE TAX FUND AND FACILITIES FUND

WHEREAS, the Bellingham Central Library was constructed in 1951; and

WHEREAS, the facility was last renovated in 1985 and is in need of refurbishment; and

WHEREAS, the 2019-2020 Biennial Budget included \$1,000,000 of Real Estate Excise Tax for this purpose; and

WHEREAS, the 2019-2020 Mid-Biennial Adjustment added \$750,000 to the initial appropriation; and

WHEREAS, bids for the project were opened in early May and exceeded the budgeted appropriations; and

WHEREAS, the refurbishment will improve the public experience in the building and address needed repairs and climate action improvements.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

The 2019-2020 Biennial Budget is hereby amended to:

1. Increase appropriations within the First Quarter Real Estate Excise Tax Fund by \$600,000; and
2. Transfer \$600,000 from the First Quarter Real Estate Excise Tax Fund to the Facilities Fund; and
3. Increase appropriations in the Facilities Fund by \$600,000.

PASSED by the Council this _____ day of _____, 2020.

Council President

APPROVED by me this _____ day of _____, 2020.

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

Mayor

ATTEST: _____
Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published:



City Council Agenda Bill

22649

Bill Number

Subject: **Approval of an Interagency Agreement with the Department of Commerce for CARES Act Funding**

Summary Statement: The State has awarded the City \$2.7 million from the CARES Act through the Department of Commerce. The attached interagency agreement provides the terms for reimbursement of eligible costs related to the City's response to the COVID-19 pandemic from March 1, 2020 through October 31, 2020.

The funding cannot be used to replace lost revenues and must be used on expenditures unbudgeted or used in a significantly different manner than budgeted. A separate ordinance today proposes to budget \$500,000 of these funds. The administration will bring forward budget ordinances for the remainder at future Council meetings as needed.

Previous Council Action: **None**

Fiscal Impact: **\$2.7 million of reimbursable revenue**

Funding Source: **Federal Grant**

Attachments: 1. INTERAGENCY AGREEMENT

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	6/08/2020	Vote to Approve	Andrew Asbjornsen, Finance Director	5 minutes

Recommended Motion: Move to approve the Mayor to execute the Interagency Agreement with the Department of Commerce

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Andrew Asbjornsen, Finance Director

Council Action:

Reviewed By	Department	Date
<i>Andrew D. Asbjornsen</i>	Finance Department	6/02/2020
<i>Matthew T. Stamps</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



Interagency Agreement with

City of Bellingham

through

the Coronavirus Relief Fund for Local Governments

For

Costs incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) during the period of March 1, 2020 thru October 31, 2020.

Start date: March 1, 2020

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FACE SHEET

Contract Number: 20-6541C-114

**Washington State Department of Commerce
Local Government Division
Community Capital Facilities Unit
Coronavirus Relief Fund for Local Governments**

1. Contractor City of Bellingham 210 Lottie Street BELLINGHAM, Washington 98225-4009		2. Contractor Doing Business As (optional)	
3. Contractor Representative Andy Asbjornsen Finance Director (360) 778-8020 adasbjornsen@cob.org		4. COMMERCE Representative Randi DuPrey Project Manager (360) 522-3737 Fax 360-586-5880 randi.duprey@commerce.wa.gov P.O. Box 42525 1011 Plum Street SE Olympia, WA 98504-2525	
5. Contract Amount \$2,703,300.00	6. Funding Source Federal: X State: Other: N/A:	7. Start Date March 1, 2020	8. End Date October 31, 2020
9. Federal Funds (as applicable) \$2,703,300.00	Federal Agency: US Dept. of the Treasury	CFDA Number: 21.999	Indirect Rate (if applicable): 10.00%
10. Tax ID # XXXXXXXXXXXXXXXX	11. SWV # SWV0000608-01	12. UBI # 371-001-201	13. DUNS # 010211977
14. Contract Purpose To provide funds for costs incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) during the period of March 1, 2020 thru October 31, 2020. Final invoices must be received by November 15, 2020.			
15. Signing Statement COMMERCE, defined as the Department of Commerce, and the Contractor, as defined above, acknowledge and accept the terms of this Contract and Attachments and have executed this Contract on the date below and warrant they are authorized to bind their respective agencies. The rights and obligations of both parties to this Contract are governed by this Contract and the following documents hereby incorporated by reference: Attachment "A" – Scope of Work, Attachment "B" – Budget & Invoicing, Attachment "C" – A-19 Certification, Attachment "D" – A-19 Activity Report			
FOR CONTRACTOR Seth Fleetwood, Mayor Date		FOR COMMERCE Mark K. Barkley, Assistant Director, Local Government Division Date APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL 05-01-2020. APPROVAL ON FILE.	

**SPECIAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

1. AUTHORITY

COMMERCE and Contractor enter into this Contract pursuant to the authority granted by the Interlocal Cooperation Act, Chapter 39.34 RCW.

2. ACKNOWLEDGMENT OF FEDERAL FUNDS

Funds under the Contract are made available and are subject to Section 601(a) of the Social Security Act, as amended by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), and Title V and VI of the CARES Act.

The Contractor agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Contractor describing programs or projects funded in whole or in part with federal funds under this Contract, shall contain the following statements:

“This project was supported by a grant awarded by US Department of the Treasury. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the US Department of the Treasury. Grant funds are administered by the Local Government Coronavirus Relief Fund thru the Washington State Department of Commerce.”

3. CONTRACT MANAGEMENT

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

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

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

4. COMPENSATION

COMMERCE shall pay an amount not to exceed the contract amount listed on the Face Sheet for the performance of all things necessary for or incidental to the performance of work under this Contract as set forth in the Scope of Work (Attachment A).

5. EXPENSES

Contractor shall receive reimbursement for allowable expenses as identified in the Scope of Work (Attachment A) or as authorized in advance by COMMERCE as reimbursable.

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

6. INDIRECT COSTS

Contractor shall provide their indirect cost rate that has been negotiated between their entity and the federal government. If no such rate exists a *de minimis* indirect cost rate of 10% of modified total direct costs (MTDC) will be used.

7. BILLING PROCEDURES AND PAYMENT

COMMERCE shall reimburse the Contractor for eligible Project expenditures, up to the maximum payable under this Contract. When requesting reimbursement for expenditures made, Contractor shall submit all Invoice Vouchers and any required documentation electronically through COMMERCE's Contracts Management System (CMS), which is available through the Secure Access Washington (SAW) portal. If the Contractor has constraints preventing access to COMMERCE's online A-19 portal, a hard copy A-19 form may be provided by the COMMERCE Project Manager upon request.

**SPECIAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

The voucher must be certified by an official of the Contractor with authority to bind the Contractor. The final voucher shall be submitted to COMMERCE no later than November 15, 2020.

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

The invoices shall describe and document, to COMMERCE's satisfaction, reimbursable expenditures as set forth under the Scope of Work (Attachment A) and Budget & Invoicing (Attachment B). The invoice shall include the Contract Number as stated on the Face Sheet.

Each voucher must be accompanied by an A-19 Certification (Attachment C) and A-19 Activity Report (Attachment D). The A-19 Certification must be certified by an authorized party of the Contractor to certify and attest all expenditures submitted on the voucher are in compliance with the United States Treasury Coronavirus Relief Fund ("Fund") Guidance for State, Territorial, Local, and Tribal Governments:

<https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>

The A-19 Activity Report must be submitted which describes, in Excel spreadsheet and narrative form, a detailed breakdown of the expenditures within each applicable budget sub-category identified in the voucher, as well as a report of expenditures to date. COMMERCE will not release payment for any reimbursement request received unless and until the A-19 Certification and A-19 Activity Report is received. After approving the Invoice Voucher, A-19 Certification and Activity Report, COMMERCE shall promptly remit a warrant to the Contractor.

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

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

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

Duplication of Billed Costs

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

Disallowed Costs

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

Should the Contractor be found to spent funds inconsistent with federal laws, rules, guidelines, or otherwise inappropriately, it is the responsibility of the Contractor to reimburse Commerce for any amount spent on disallowed costs.

8. AUDIT

Contractor shall maintain internal controls providing reasonable assurance it is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs; and prepare appropriate financial statements, including a schedule of expenditures of federal awards.

If the Contractor is a subrecipient and expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year, the Contractor shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Contractor shall:

**SPECIAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

- A. Submit to COMMERCE the reporting package specified in OMB Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.
- B. Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.

If the Contractor is a subrecipient and expends less than \$750,000 in federal awards from any and/or all sources in any fiscal year, the Contractor shall notify COMMERCE they did not meet the single audit requirement.

The Contractor shall send all single audit documentation to auditreview@commerce.wa.gov.

9. DEBARMENT

- A. Contractor, defined as the primary participant and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
 - ii. Have not within a three-year period preceding this Contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and
 - iv. Have not within a three-year period preceding the signing of this Contract had one or more public transactions (Federal, State, or local) terminated for cause of default.
- B. Where the Contractor is unable to certify to any of the statements in this Contract, the Contractor shall attach an explanation to this Contract.
- C. The Contractor agrees by signing this Contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.
- D. The Contractor further agrees by signing this Contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

- i. The lower tier Contractor certifies, by signing this Contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 - ii. Where the lower tier Contractor is unable to certify to any of the statements in this Contract, such contractor shall attach an explanation to this Contract.
- E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.

10. LAWS

The Contractor shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended, including, but not limited to:

**SPECIAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

United States Laws, Regulations and Circulars (Federal)

Contractor shall comply with Uniform Administrative Requirements, Cost Principles, and Audit Requirement for Federal Award, 2 CFR 200, Subpart F – Audit Requirements.

Contractor shall comply with the applicable requirements of 2 CFR Part 200, including any future amendments to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) Circular or regulation.

Contractor shall comply with Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39.

11. ORDER OF PRECEDENCE

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

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget & Invoicing
- Attachment C – A-19 Certification
- Attachment D – A-19 Activity Report

**GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

1. DEFINITIONS

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

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

2. ALL WRITINGS CONTAINED HEREIN

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

3. AMENDMENTS

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

4. ASSIGNMENT

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

5. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

- A. "Confidential Information" as used in this section includes:
 - i. All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;
 - ii. All material produced by the Contractor that is designated as "confidential" by COMMERCE; and
 - iii. All personal information in the possession of the Contractor that may not be disclosed under state or federal law.
- B. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide COMMERCE with its policies and procedures on confidentiality.

**GENERAL TERMS AND CONDITIONS
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COMMERCE may require changes to such policies and procedures as they apply to this Contract whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by COMMERCE. Upon request, the Contractor shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.

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

6. COPYRIGHT

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

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

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

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

7. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, Agreement terms and applicable statutes and rules and make a determination of the dispute. The Dispute Board shall thereafter decide the dispute with the majority prevailing. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

8. GOVERNING LAW AND VENUE

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

**GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

9. INDEMNIFICATION

Each party shall be solely responsible for the acts of its employees, officers, and agents.

10. LICENSING, ACCREDITATION AND REGISTRATION

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

11. RECAPTURE

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

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

12. RECORDS MAINTENANCE

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

The Contractor shall maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity.

The Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

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

13. SAVINGS

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

14. SEVERABILITY

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

15. SUBCONTRACTING

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

If COMMERCE approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Contractor to amend its subcontracting procedures as they

**GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. Contractor shall incorporate 2 CFR Part 200, Subpart F audit requirements into all subcontracts. The Contractor is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to COMMERCE for any breach in the performance of the Contractor's duties.

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

16. SURVIVAL

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

17. TERMINATION FOR CAUSE

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

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

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

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

18. TERMINATION FOR CONVENIENCE

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

19. TERMINATION PROCEDURES

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

COMMERCE shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Contractor and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree

**GENERAL TERMS AND CONDITIONS
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with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

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

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

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

20. TREATMENT OF ASSETS

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

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

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

**GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
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21. WAIVER

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

Scope of Work

This funding is made available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and Section V and VI of the CARES Act, for costs incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19). Under the CARES Act, the Coronavirus Relief Fund may be used to cover costs that:

- 1. Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); AND**
- 2. Are not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government.**

These funds may be used to reimburse for expenditures incurred during the period of March 1, 2020 thru Oct. 31, 2020. Please note: In order to ensure all funds have been fully utilized prior to the US Treasury's December 30, 2020 end date, the State of Washington must closeout contracts by October 31, 2020. All final requests for reimbursement must be received no later than November 15, 2020.

Expenditures must be used for necessary actions taken to respond to the public health emergency. These may include expenditures incurred to allow the local government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

Payments may be used only to cover costs not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either:

1. The cost cannot lawfully be funded using a line item, allotment, or allocation within that budget; OR
2. The cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The "most recently approved" budget is the enacted budget for the relevant fiscal period for the particular government. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Allowable expenditures include, but are not limited to:

1. Medical expenses such as:
 - a. COVID-19-related expenses of public hospitals, clinics, and similar facilities.
 - b. Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
 - c. Costs of providing COVID-19 testing, including serological testing.
 - d. Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
 - e. Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:

- a. Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
 - b. Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
 - c. Expenses for disinfection of public areas and other facilities, e.g., nursing homes, in response to the COVID-19 public health emergency.
 - d. Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
 - e. Expenses for public safety measures undertaken in response to COVID-19.
 - f. Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
 4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
 - a. Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
 - b. Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
 - c. Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
 - d. Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
 - e. COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
 - f. Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
 5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
 - a. Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
 - b. Expenditures related to a State, territorial, local, or Tribal government payroll support program.
 - c. Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
 6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

Budget & Invoicing

The Contractor shall determine the appropriate budget and use of funds within the following 6 budget categories and their sub-categories:

1. Medical
2. Public Health
3. Payroll
4. Actions to Comply with Public Health Measures
5. Economic Support
6. Other Covid-19 Expenses

The Contractor shall submit invoice reimbursement requests to the Commerce Representative using the Commerce Contract Management System's (CMS) Online A-19 Portal. Each reimbursement request must include:

1. A-19 Certification form – An authorized party of the local government will certify each invoice (A19) submitted for reimbursement and attest that all incurred expenditures meet the US Treasury Department's guidance: <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>
2. A-19 Activity Report
3. A detailed breakdown of the expenditures incurred within each applicable budget sub-category on the A-19 Activity Report.

The A-19 Certification and Activity Report templates will be provided with the executed contract. The documents are included in Attachment C and Attachment D for reference.

Receipts and proof of payment for costs incurred do not need to be submitted with A-19s. All contractors are required to maintain accounting records in accordance with state and federal laws. Records must be sufficient to demonstrate the funds have been used in accordance with section 601(d) of the Social Security Act. Commerce reserves the right to audit any costs submitted for reimbursement. The Contractor shall comply with Commerce A-19 audits and provide the appropriate records upon request.



LOCAL GOVERNMENT CORONAVIRUS RELIEF FUNDS CERTIFICATION

I, **<FIRST, LAST NAME>**, am the **<TITLE>** of **<LOCAL GOVERNMENT>**, and I certify that:

1. I have the authority and approval from the governing body on behalf of the Local Government to request reimbursement from the Department of Commerce (Commerce) per contract number **<COMMERCE CONTRACT NUMBER>** from the allocation of the Coronavirus Relief Fund as created in section 5001 of H.R.748, the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") for eligible expenditures included on the corresponding A-19 invoice voucher for report period **<REPORT PERIOD FROM A-19>**.
2. I understand that as additional federal guidance becomes available, a contract amendment to the agreement between Commerce and the Local Government may become necessary.
3. I understand Commerce will rely on this certification as a material representation in processing this reimbursement.
4. I certify the use of funds submitted for reimbursement from the Coronavirus Relief Funds under this contract were used only to cover those costs that:
 - a. Are *necessary expenditures* incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
 - b. Were not accounted for in the budget most recently approved as of March 27, 2020; and
 - c. Were incurred during the period that begins on March 1, 2020, and ends on October 31, 2020.
5. I understand the use of funds pursuant to this certification must adhere to official federal guidance issued or to be issued on what constitutes a necessary expenditure. We have reviewed the guidance established by U.S. Department of the Treasury¹ and certify costs meet the required guidance. Any funds expended by the Local Government or its subcontractor(s) in any manner that does not adhere to official federal guidance shall be returned to the State of Washington.

Footnote:

1 – Guidance available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf> (4/30/2020)

LOCAL GOVERNMENT CORONAVIRUS RELIEF FUNDS CERTIFICATION

Page 2 of 2

6. I understand the Local Government receiving funds pursuant to this certification shall retain documentation of all uses of the funds, including but not limited to invoices and/or sales receipts in a manner consistent with §200.333 *Retention requirements for records* of 2 CFR Part 200 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Such documentation shall be produced to Commerce upon request and may be subject to audit by the State Auditor.
7. I understand any funds provided pursuant to this certification cannot be used as a revenue replacement for lower than expected tax or other revenue collections.
8. I understand funds received pursuant to this certification cannot be used for expenditures for which the Local Government has received any other emergency COVID-19 supplemental funding (whether state, federal or private in nature) for that same expense.

I certify that I have read the above certification and my statements contained herein are true and correct to the best of my knowledge.

_____
Printed Name_____
Title_____
Signature_____
Date:

CRF A-19 Activity Report
INSTRUCTIONS

INSTRUCTIONS:

A completed CRF A-19 Certification and Activity Report must be submitted with each A-19 reimbursement request. The A-19 Activity Report must be submitted as an Excel spreadsheet, not a PDF. You must also include a detailed breakdown of the individual expenditures reported in **Column F** for each applicable sub-category included on the A-19 Activity Report.

There are 6 primary budget categories;

1. Medical Expenses
2. Public Health Expenses
3. Payroll expenses for public employees dedicated to COVID-19
4. Expenses to facilitate compliance with COVID-19-measures
5. Economic Supports
6. Other COVID-19 Expenses

Each primary budget category includes sub-categories and provides an option to add "other" sub-categories not listed.

Follow the below instructions when completing the A-19 Activity Report:

- 1 **REPORT PERIOD** - Enter the report period into **Cell D1** of the A-19 Activity Report.
 - a This should match the report period entered on the corresponding A-19.
 - b Report period should include MM/YY to MM/YYYY, i.e. 03/20, March 2020, 03/2020, etc.
- 2 **COLUMN E** - Enter the total amount of all previous reimbursement requests submitted to Commerce for each applicable sub-category.
- 3 **COLUMN F** - Enter the total amount being requested in the current reimbursement request for each applicable sub-category.
- 4 **COLUMN H: USE OF FUNDS** - You must include a general description of the use of the funds being requested for each applicable sub-category. Keep descriptions as concise as possible, but include adequate context to demonstrate how these funds helped address the COVID-19 emergency. If applicable, please consider:
 - a Providing a brief description of the specific activities performed.
 - b Identifying specific populations served.
 - c Identifying specific programs created or utilized.
 - d Including any known or intended outcomes, results, or community impacts.
- 5 **OTHER SUB-CATEGORIES** - Budget categories 1-5 include a placeholder to add an additional sub-category if necessary.
 - a Enter a **Title** for other expenses added within the appropriate budget category.
 - b Enter titles into **Cells: D10, D19, D27, D36, and D41**.
 - c There is only one "other" placeholder in each budget category section. Please combine multiple "other" sub-categories added to the same budget category.
- 6 **OTHER BUDGET CATEGORIES** - Budget category 6 is where you should include any eligible expenditures that don't fall under budget categories 1-5.
 - a Enter a **Title** for these "other" expenses within budget category 6.
 - b Enter titles into **Cells D44 - D48**.
 - c There are only 5 entry fields available within Budget Category 6.

Coronavirus Relief Fund
A-19 Activity ReportReport Period:

Eligible Expenditures	Previously Reported Expenditures	Current Expenditures this Invoice	Total Cumulative Expenditures	Brief Description of Use of Funds
1 Medical Expenses				
A. Public hospitals, clinics, and similar facilities	\$ -	\$ -	\$ -	
B. Temporary public medical facilities & increased capacity	\$ -	\$ -	\$ -	
C. COVID-19 testing, including serological testing	\$ -	\$ -	\$ -	
D. Emergency medical response expenses	\$ -	\$ -	\$ -	
E. Telemedicine capabilities	\$ -	\$ -	\$ -	
F. Other:	\$ -	\$ -	\$ -	
Sub-Total:	\$ -	\$ -	\$ -	
2 Public Health Expenses				
A. Communication and enforcement of public health measures	\$ -	\$ -	\$ -	
B. Medical and protective supplies, including sanitation and PPE	\$ -	\$ -	\$ -	
C. Disinfecting public areas and other facilities	\$ -	\$ -	\$ -	
D. Technical assistance on COVID-19 threat mitigation	\$ -	\$ -	\$ -	
E. Public safety measures undertaken	\$ -	\$ -	\$ -	
F. Quarantining individuals	\$ -	\$ -	\$ -	
G. Other:	\$ -	\$ -	\$ -	
Sub-Total:	\$ -	\$ -	\$ -	
3 Payroll expenses for public employees dedicated to COVID-19				
A. Public Safety	\$ -	\$ -	\$ -	
B. Public Health	\$ -	\$ -	\$ -	
C. Health Care	\$ -	\$ -	\$ -	
D. Human Services	\$ -	\$ -	\$ -	
E. Economic Development	\$ -	\$ -	\$ -	
F. Other:	\$ -	\$ -	\$ -	
Sub-Total:	\$ -	\$ -	\$ -	
4 Expenses to facilitate compliance with COVID-19-measures				
A. Food access and delivery to residents	\$ -	\$ -	\$ -	
B. Distance learning tied to school closings	\$ -	\$ -	\$ -	
C. Telework capabilities of public employees	\$ -	\$ -	\$ -	
D. Paid sick and paid family and medical leave to public employees	\$ -	\$ -	\$ -	
E. COVID-19-related expenses in county jails	\$ -	\$ -	\$ -	
F. Care and mitigation services for homeless populations	\$ -	\$ -	\$ -	
G. Other:	\$ -	\$ -	\$ -	
Sub-Total:	\$ -	\$ -	\$ -	
5 Economic Supports				
A. Small Business Grants for business interruptions	\$ -	\$ -	\$ -	
B. Payroll Support Programs	\$ -	\$ -	\$ -	
C. Other:	\$ -	\$ -	\$ -	
Sub-Total:	\$ -	\$ -	\$ -	
6 Other COVID-19 Expenses				
A. Other:	\$ -	\$ -	\$ -	
B. Other:	\$ -	\$ -	\$ -	
C. Other:	\$ -	\$ -	\$ -	
D. Other:	\$ -	\$ -	\$ -	
E. Other:	\$ -	\$ -	\$ -	
Sub-Total:	\$ -	\$ -	\$ -	
TOTAL:	\$ -	\$ -	\$ -	



City Council Agenda Bill

22650

Bill Number

Subject: **Resolution Approving an Interlocal Cost Sharing Agreement Between the City of Bellingham and Whatcom County Related to COVID-19**

Summary Statement: Council will consider an interlocal cost sharing agreement between Whatcom County and the City of Bellingham due to the COVID-19 health crisis. This agreement relates to joint cooperation and cost sharing related to the impacts of COVID-19, including addressing the need to relocate the Drop-In Center from Bellingham High School to another location to reduce the opportunities to spread COVID-19.

Previous Council Action: **None**

Fiscal Impact: **Addendum #1 to the proposed interlocal agreement anticipates up to \$700,000 from the City and \$800,000 from Whatcom County**

Funding Source: **State and Federal Grants and Housing Levy**

Attachments: 1. RESOLUTION
 2. INTERLOCAL AGREEMENT
 3. ADDENDUM 1

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	6/08/2020	Pass Resolution	Peter Ruffatto and Tara Sundin	10 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Tara Sundin, Community & Economic Development Manager 360-778-8392

Reviewed By	Department	Date
<i>Brian M. Heinrich</i>	Executive	6/02/2020

Council Action:

<i>Andrew D. Asbjornsen</i>	Finance	6/02/2020
<i>Peter M. Ruffatto</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020

RESOLUTION NO. _____

**RESOLUTION OF CITY COUNCIL OF THE CITY OF BELLINGHAM
WASHINGTON APPROVING INTERLOCAL COST SHARING AGREEMENT
RELATED TO COVID-19 HEALTH CRISIS**

WHEREAS, on February 29, 2020, the Governor of the State of Washington proclaimed that a State of Emergency exists in all counties in the State of Washington due to the outbreak of novel coronavirus (COVID-19);

WHEREAS, on March 10, 2020, the Whatcom County Executive declared a Whatcom County public health emergency due to the spread of COVID-19 in the community;

WHEREAS, on March 12, 2020, the Mayor of the City of Bellingham issued a Proclamation of Local Emergency as a result of COVID-19;

WHEREAS, the ongoing risk to public safety, health, and welfare posed by COVID-19 across Whatcom County requires the continued unified response by local governments to minimize the wide-ranging impacts of COVID-19 in our communities;

WHEREAS, there is an immediate need to relocate the Drop-in Center from the Bellingham high School to another location to reduce the opportunities to spread COVID-19 as further set forth in the addendum to the Interlocal Cost Sharing Agreement Related To Covid-19 Health Crisis;

WHEREAS, the funding set forth in the addendum to interlocal agreement under consideration will assist in covering the immediate impacts of the COVID-19 emergency, and will be used to fund expenditures to care for homeless populations and enable compliance with COVID-19 public health precautions; and

WHEREAS, the Mayor has emergency powers under B.M.C. 2.57.060 and RCW 38.52.070 to enter into agreements, including those necessary to obtain supplies, equipment, and property needed for the protection of the health, safety, and life persons but the interlocal agreement under consideration is necessary in order to assist with funding those agreements.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM:

Section 1: The recitals set forth above are hereby adopted as findings and conclusions of the City of Bellingham and made a part hereof for all purposes.

Section 2: The Council of the City of Bellingham hereby approves the interlocal agreement, attached hereto as Exhibit A, and authorizes the Mayor to execute the agreement.

PASSED by the Council this ____ day of _____, 2020.

Council President

APPROVED by me this ____ day of _____, 2020.

Mayor

ATTEST: _____
Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

INTERLOCAL COST SHARING AGREEMENT RELATED TO COVID-19 HEALTH CRISIS

This Agreement is made and entered into on this _____ day of _____ 2020, between Whatcom County (“County”) and the City of Bellingham (“City”), both municipal corporations of the State of Washington located in Whatcom County, for cost sharing related to the COVID-19 health crisis. Hereinafter, the County and the City may be referred to as "Parties," collectively, or as a "Party," individually.

RECITALS

WHEREAS, the County and City enter into this Agreement pursuant to and as authorized by the Interlocal Cooperation Act (Chapter 39.34 RCW);

WHEREAS, on February 29, 2020, the Governor of the State of Washington proclaimed that a State of Emergency exists in all counties in the State of Washington due to the outbreak of novel coronavirus (COVID-19);

WHEREAS, on March 10, 2020, the Whatcom County Executive declared a Whatcom County public health emergency due to the spread of COVID-19 in the community;

WHEREAS, on March 12, 2020, the Mayor of the City of Bellingham issued a Proclamation of Local Emergency as a result of COVID-19;

WHEREAS, the ongoing risk to public safety, health, and welfare posed by COVID-19 across Whatcom County requires the continued unified response by local governments to minimize the wide-ranging impacts of COVID-19 in our communities;

WHEREAS, Whatcom Unified Command is primarily responsible for providing the coordinated County-wide response to the COVID health crisis;

WHEREAS, the City Mayor, the County Executive, and County Sheriff jointly share executive authority over Unified Command;

WHEREAS, to date Whatcom Unified Command has deployed substantial financial resources in response to COVID. Expenditures have included but are not limited to establishing isolation and quarantine housing in Bellingham, procuring and supplying PPE county-wide, securing on-call COVID-related transportation (Cabulance) service, providing temporary shelter, meals, and services for vulnerable members of the community, and providing direct assistance to nursing and long-term care facilities suffering the disproportionate impacts of COVID;

WHEREAS, it is expected that such COVID-related expenditures will continue in the coming months;

WHEREAS, to date the Parties have cooperated in maximizing and prioritizing their resources to respond to the community's most pressing needs consistent with their respective governmental obligations and functions;

WHEREAS, cost and revenue sharing between the City and the County during this emergency is necessary to ensure the most effective and cost-efficient response to the COVID emergency County-wide;

WHEREAS, the continued cooperation between the City and County is essential to the ongoing protection of public health and safety in the Bellingham and throughout Whatcom County;

WHEREAS, to the extent reasonably practicable, the City and the County are committed to identifying and jointly pre-approving those COVID-related expenditures that may be subject to cost-sharing under this Agreement prior to incurring such expense;

WHEREAS, the Parties, as independent governmental entities, have received or anticipate receiving revenue from state and federal sources including a Washington State of Department of Commerce COVID-19 Outbreak Emergency Housing Grant; FEMA Public Assistance Program; and the CARES Act and are committed to seeking and utilizing additional funds from all available sources;

WHEREAS, the City and County are also committed, however, to sharing those COVID-related costs that will not be reimbursed or covered by state or federal funding sources, as appropriate and under the terms of this Agreement;

WHEREAS, the Parties agree that a cost and revenue sharing agreement will promote and maximize the public health, safety, and welfare of their residents;

WHEREAS, the City and the County have currently identified a specific action item requiring joint cooperation and cost sharing at this time; and

WHEREAS, the Parties currently seek to establish a cost sharing agreement for the needed replacement shelter as further articulated in Addendum No. 1 to this Agreement.

NOW, THEREFORE, and in consideration of the mutual promises and covenants contained herein the Parties agree as follows:

1. PURPOSE OF AGREEMENT. The purpose of this Agreement is to provide for ongoing joint cooperation to implement COVID-19 response action items and to formalize the cost and revenue sharing related to such action items. As of the date of this Agreement, the Parties have identified the immediate need to relocate the shelter currently housed at Bellingham High School. The terms of this specific joint action item and the related cost sharing are set forth in Addendum No. 1, which is attached hereto and incorporated into this Agreement. It is anticipated that future responsive action items may also require joint cooperation and cost and revenue sharing during the health crisis and the recovery period. Therefore, the Parties hereby commit to work in good faith toward establishing joint cooperation and cost and revenue sharing agreements specific to additional action items and expenditures, the terms of which will be memorialized as addenda to this Agreement.

2. JOINT ACTION ITEMS AND LIMITATIONS. Specific action items that the Parties deem appropriate for cost and revenue sharing will be established through addenda to this Agreement. Any addenda shall include the total cost committed by each Party for the action item, the allocation of costs to each Party, and the roles and responsibilities assigned to each Party related to the action item. The Whatcom County Executive and the Mayor of the City of Bellingham may agree to cost or revenue sharing by the Parties for additional action items other than the replacement shelter site referenced in Addendum No. 1; provided, however, that any such agreement must be reduced to a written addendum to this Agreement and executed by the Executive and the Mayor. Any cost sharing that is (1) beyond the not-to-exceed costs for the replacement shelter set forth in Addendum No. 1 or (2) exceeding any spending thresholds set by the Parties' respective councils through their budgeting processes must be approved by the County Council and the City Council. The Parties agree to establish and maintain appropriate budget spending threshold to satisfy the funding commitments set forth in Addendum No. 1.

3. COST SHARING WITH LOCAL FUNDS. The City and the County have each identified up to \$250,000 in local funds for the purpose of cost sharing in those costs that are incurred in the unified response to the COVID health crisis and which are not eligible for state, federal, or other non-local funding ("uncovered expenditures"). The Parties commit to work in good faith to identify and reach agreement regarding uncovered expenditures appropriate for cost sharing under this Section. Cost sharing for such uncovered expenditures shall be subject to the same process set forth in Section 2, including the need for an addendum to this Agreement to identify

specific obligations, and the County Executive and Mayor are hereby authorized to execute such addenda. Each Party's specific financial obligation related to an uncovered expenditure, including contribution percentage, will be identified in the applicable cost sharing addenda.

4. INVOICES AND PAYMENTS. On a monthly basis, each Party will endeavor to bill the other Party, with an invoice and supporting documentation, to prove expenses incurred for any cost sharing subject to this Agreement. Payment shall be made within 30 days following receipt of the invoice.

5. REPORTING. At the request of either the County or the City, the responding Party shall prepare and provide to the requesting Party a report showing revenue and expenses related to the COVID-19 health crisis, including cost shared by the Parties to this Agreement.

6. ASSETS. The ownership and disposition of any assets acquired by either Party through expenditures for which cost sharing has occurred under this Agreement, if any exist, shall be set forth in the applicable addenda.

7. EFFECTIVE DATE, DURATION AND TERMINATION. The County and City agree that this Agreement shall be effective as of the date it is executed and shall continue in effect as long as needed to effectuate the cost sharing contemplated in this Agreement. When the cost sharing contemplated herein is complete, this Agreement shall automatically terminate.

8. NOTICES. Any notices or actions required as a result of this contract shall be directed to the following:

WHATCOM COUNTY EXECUTIVE'S OFFICE
311 GRAND AVENUE, SUITE 108
BELLINGHAM, WA 98225

CITY OF BELLINGHAM MAYOR'S OFFICE
210 LOTTIE STREET
BELLINGHAM, WA 98225

9. COMPLIANCE WITH LAWS. The Parties, in performance of this Agreement, agree to comply with all applicable local, State and/or Federal laws and ordinances.

10. RELATIONSHIP OF PARTIES. The Parties hereto recognize and agree that they are independent governmental entities and that this Agreement does not establish a separate entity. Except as expressly provided for herein, nothing in the Agreement shall be construed to limit the discretion of the governing bodies of each party. Neither party shall assume any liability for the direct payment of any salary, wages or other compensation of any type to any of the other party's personnel performing services hereunder. No agent, employee or other representative of the Parties shall be deemed to be an employee of the other party for any reason. This Agreement shall not be construed or interpreted such that either party hereto is held to be an agent of the other party.

11. DISPUTE RESOLUTION. In the event of a dispute between the Parties arising from this Agreement or any obligations hereunder, the dispute shall first be referred to the operational officers or representatives designated by the Parties to have the responsibility of administering this Agreement. Said officers or representatives shall meet as soon as possible, and in any event the initial meeting shall be held within thirty (30) days of either Party's request for a meeting to resolve the dispute. The Parties covenant to make a good faith attempt to resolve the dispute at this meeting. In the event that the Parties are unable to resolve any dispute arising under this Agreement, or other dispute or disagreement arising from the implementation of the terms of the Agreement, the Parties agree that mediation will be a condition precedent to arbitration. The Parties agree to jointly select a mediator. In the event that mediation is unsuccessful the Parties agree to submit the matter to arbitration. Each Party shall bear its own costs and expenses related to dispute resolution.

12. SEVERABILITY. It is understood and agreed by the Parties hereto that if any part, term, or provision of this Agreement is held by the courts to be illegal, the validity of the remaining provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular provision held to be invalid.

13. ENTIRE AGREEMENT. The Parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both Parties. Both Parties recognize time is of the essence in the performance of the provision of this Agreement. The Parties agree that this Agreement supersedes any previous agreement between the Parties regarding the services and obligations set forth herein.

15. FURTHER ACTS. Each Party agrees to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions and intent of this Agreement. The Parties recognize that additional written agreements may be necessary prior to implementation of any specific action item.

Executed this ____ day of _____, 2020 for WHATCOM COUNTY.

Satpal Sidhu, County Executive

Approved as to form:

Civil Deputy Prosecuting Attorney

Executed this ____ day of _____, 2020, for CITY OF BELLINGHAM.

Seth Fleetwood, Mayor

Attest:

Andrew Asbjornsen, Finance Director

Approved as to form:

City Attorney

ADDENDUM No. 1
To The Interlocal Cost Sharing Agreement Related To Covid-19 Health Crisis
Between Whatcom County and the City of Bellingham

Project: Relocate the Drop-in Center from Bellingham High School to another location to reduce the opportunities to spread COVID-19.

Need: In response to COVID-19 and related state proclamations, as well as to address the needs of a vulnerable population, the Lighthouse Mission Ministries (LMM) relocated its Drop-In Center (DIC) on Friday, March 20. In partnership with the Bellingham School District, the DIC is temporarily housed on the Bellingham High School Campus through August 9, 2020.

The School District needs the building this coming fall, so another location is required. If the Drop-in Center in Old Town were used, approximately 110 people would no longer be served and would likely become unsheltered.

Relocation to a larger facility is consistent with guidance from the U.S. Centers for Disease Control and state and local Health Department guidelines for social (physical) distancing. People without homes do not have the ability to create the social distancing required when they are seeking shelter.

By moving the Drop-In Center to a larger facility, guests will be able to maintain physical and social distance which is necessary to reduce opportunities to spread COVID-19. This not only benefits vulnerable individuals but protects the health of the entire community.

It is expected that COVID-19 will remain in our communities for quite some time. Until there is a vaccine, it is unlikely that the DIC in Old Town will be suitable for congregate living. LMM has plans to build a new facility to replace its inadequate DIC in Old Town. Ideally, the City and County will secure a location that serves the community during the COVID emergency and serves the community while LMM pursues a capital campaign to replace its Old Town facility.

Cooperation, Roles and Responsibilities: This is a cooperative effort. The roles and responsibilities of the City and County are set forth below. For context, LMM's and Whatcom Unified Command's responsibilities are outlined as well. The roles and responsibilities outlined below may be revised by agreement of the Whatcom County Executive and the Mayor of the City of Bellingham.

Options: The DIC requires approximately 15,000 square feet of enclosed buildings with additional outdoor space. Two options that are being explored: 1) lease an existing building; or 2) lease land or use City/County land and purchase or lease a modular building. Given the tight timeline, leasing an existing building is preferred.

Deadline: The Use Agreement with Bellingham School District expires August 10, 2020. The District prefers the DIC exit the building in July for additional time to prepare the school for a restart.

Project Management: The Parties will undertake the roles and responsibilities with respect to the project as set forth in the following table.

	Whatcom County	City of Bellingham	Lighthouse Mission	WUC
Alternative Site Evaluation & Submit Letter to CE & Mayor stating continued need for alternative shelter			Support	Lead
Lease Negotiations	Support	Lead	Support	
Sub-Lease Negotiations		Lead	Lead	
Tenant Improvements*	Support	Lead	Support – Specify Needs	
Furnishings		Lead	Support – Specify Products	Support - Minor
Staffing, Supplies, etc.			Lead	
Communications Plan (until LMM DIC becomes operational)	Support	Lead	Support	Support (WCHD)
Permitting	Minor Support	Lead	Support	

* This task would include purchasing or leasing of a modular building if not feasible to lease an existing building, as noted in Option 2.

Cost Sharing: The City and Whatcom County agree to cost sharing for this project as set forth in the tables below. The funding commitments by the Parties are limited to the not-to-exceed amounts (“NTE”) set forth in the top row. The commitment by the Lighthouse Mission is provided for information and context.

Option 1: This option will involve the lease of an existing building and is the preferred option. The approximate cost of this project to the Parties is \$1.5 Million.

	Whatcom County NTE \$800,000 (DOC Balance)	City of Bellingham NTE \$700,000	Lighthouse Mission ~ 2.2 M
Lease & NNN	First 3 Years Commerce Grant		Final Year
Utilities	Through 9/2020 Commerce Grant		Oct 2020 – lease term
Damage/Maintenance			100%
Site Improvements	Commerce Grant	CARES ACT and/or Housing Levy	
Site Furnishings	Commerce Grant	CARES ACT and/or Housing Levy	Available at OT DIC
Operations			100%

Option 2: This option will involve the lease of land or use of land owned by the City or the County and will also require installation of a modular unit. The approximate cost of this project to the Parties is \$2.5 Million.

	Whatcom County NTE \$1.8 M	City of Bellingham NTE \$700k	Lighthouse Mission
Lease Land & Purchase or Lease Modular	Commerce Grant, may need CARES ACT	CARES ACT, Local Housing Levy	Balance (depends on cost to City and County)
Utilities			Depends on balance remaining from City and County Not to Exceed Amounts.
Damage/Maintenance			100%
Site Improvements	Commerce Grant, may need CARES Act	CARES ACT	
Site Furnishings			Available at OT DIC
Operations			100%



City Council Agenda Bill

22651

Bill Number

Subject: An Ordinance Increasing Appropriations and Estimate Revenues in the General Fund for Relocation of the Drop-in Shelter

Summary Statement: The proposed ordinance will add \$1.3 million in revenues and expenditures in the General Fund related to start-up and initial operation of a relocated Drop-in Shelter to be operated by the Lighthouse Mission Ministries. The City will contribute \$500,000 of its \$2.7 million CARES Act allocation and the County will reimburse the City up to \$800,000.

Staff expects the total project cost will be \$1.5 million. The Housing Levy will provide the remaining \$200,000 from its existing budget as part of the Community Development Division's 2020 Action Plan.

The Drop-in Shelter must vacate Bellingham High School before the school year begins in the fall. City and County staff are working to identify and secure a new location that can provide sufficient capacity while maintaining necessary social distancing for the individuals who use the shelter.

Previous Council Action: **Adoption of the 2019-2020 Biennial Budget**

Fiscal Impact: **\$1,300,000**

Funding Source: **State and Federal Grants**

Attachments: 1. STAFF MEMO
2. ORDINANCE

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	6/08/2020	Pass Ordinance	Peter Ruffatto & Tara Sundin	2 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Forrest Longman, Deputy Finance Director, 778-8005

Council Action:

Reviewed By	Department	Date
<i>Andrew D. Asbjornsen</i>	Finance Department	6/02/2020
<i>Matthew T. Stamps</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



MEMORANDUM

TO: BELLINGHAM CITY COUNCIL
FROM: FORREST LONGMAN, BUDGET MANAGER
CC: MAYOR SETH FLEETWOOD; ANDY ASBJORNSEN, FINANCE DIRECTOR
SUBJECT: DROP-IN SHELTER BUDGET ADJUSTMENT
DATE: JUNE 8, 2020

The proposed ordinance will add \$1.3 million in revenues and expenditures in the General Fund related to start-up and initial operation of a replacement Drop-in Shelter to be operated by the Lighthouse Mission Ministries. The City will contribute \$500,000 of its \$2.7 million CARES Act allocation and the County will reimburse the City up to \$800,000.

The total anticipated project cost is \$1.5 million. The Housing Levy will provide \$200,000 from its existing budget as part of the Community Development Division's 2020 Action Plan.

In March, Whatcom County Unified Command moved the Drop-in Shelter from its Holly Street location to Bellingham High School to accommodate appropriate social distancing for its population. The shelter must vacate that location before the school year starts in the fall. Whatcom County and the City of Bellingham are working to identify and secure a new location. This budget adjustment will provide the funding necessary to partner with the Lighthouse Mission on the additional costs associated with a new location for the Drop-in Shelter.

The interlocal agreement with the County governing this project and acceptance of the CARES Act grant funding are both also before Council today. The remainder of the CARES Act funding will be appropriated at later meetings as needed.

If passed by Council, the ordinance will amend the 2019-2020 Biennial Budget as follows:

Fund 001 - General Fund

Non-Departmental

Revenue

Federal Grant Revenue	\$ 500,000
Intergovernmental Revenue	\$ 800,000
TOTAL REVENUE CHANGE	\$ 1,300,000

Expense

Building Rental	\$ 800,000
Repairs & Maintenance-Buildings	\$ 500,000
TOTAL EXPENSE CHANGE	\$ 1,300,000

RESERVE CONTRIBUTION/(USE)	\$ -
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ORDINANCE NO. _____

AN ORDINANCE AMENDING THE 2019-2020 BIENNIAL BUDGET INCREASING APPROPRIATIONS AND ESTIMATED REVENUES IN THE GENERAL FUND

WHEREAS, in response to the COVID-19 pandemic, Whatcom County's Emergency Management Unified Command determined that the Drop-in Shelter operated by Lighthouse Mission Ministries was not large enough to accommodate effective social distancing for its clients; and

WHEREAS, in March, Unified Command temporarily moved the Drop-in Shelter's operations to Bellingham High School; and

WHEREAS, that location must be vacated before the school year begins in the fall; and

WHEREAS, the Drop-in Shelter needs to maintain a larger footprint so it can continue serving the population consistent with local, state and federal health guidelines; and

WHEREAS, Whatcom County and City of Bellingham staff are working to identify a new interim location for the Drop-in Shelter; and

WHEREAS, Whatcom County and the City of Bellingham will fund the necessary start-up and initial operational costs associated with this new location primarily with federal and state grants; and

WHEREAS, this expense was not anticipated when the 2019-2020 Biennial Budget was adopted.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

The 2019-2020 Biennial Budget is hereby amended to increase the estimated revenues and appropriation authority in the General Fund, Non-Departmental by \$1,300,000.

PASSED by the Council this _____ day of _____, 2020.

Council President

APPROVED by me this _____ day of _____, 2020.

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

Mayor

ATTEST: _____
Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published:



City Council Agenda Bill

22616

Bill Number

Subject: **Results of Filter 1 of the Climate Policy Approval Process**

Summary Statement: As directed by Council, staff will present results from the first step, Filter #1, of the Climate Policy Approval Process. Filter #1 is a coarse, high-level quantitative ranking combined with best professional judgement, which sorts the 145 items from the Climate Action Plan and Climate Task Force Report into one of four tiers. Results of Filter #1 have been reviewed and are supported by staff on the City Climate Team.

Previous Council Action: **Adoption of the 2018 Climate Action Plan and subsequent passage of Resolution (2018-06) establishing the Climate Action Task Force. Task Force presentation on their Final Report in December 2019.**

Fiscal Impact: **The anticipated fiscal impact of the long term implementation of the recommendations in the Task Force Report and measures in the 2018 Climate Action Plan ranges from a few thousand dollars to several hundred million.**

Funding Source: **Measures will likely impact all City Funds including the General Fund**

Attachments: 1. STAFF MEMO
2. CLIMATE POLICY PROCESS FILTER #1 SELECTION PRESENTATION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Direction Requested	6/08/2020	Provide Direction	Eric Johnston, PW Director	15 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Seth Vidana, Climate & Energy Manager 360-778-7999

Council Action:

Reviewed By	Department	Date
<i>Eric C. Johnston</i>	Public Works	6/01/2020
<i>Matthew T. Stamps</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



City of Bellingham
210 Lottie Street
Bellingham, WA 98225

STAFF REPORT

TO: BELLINGHAM CITY COUNCIL
FROM: ERIC JOHNSTON, INTERIM PUBLIC WORKS DIRECTOR
CC: MAYOR SETH FLEETWOOD; RENEE LACROIX, ASSIST. PUBLIC WORKS DIRECTOR, NATURAL RESOURCES; SETH VIDAÑA, CLIMATE AND ENERGY MANAGER
SUBJECT: RESULTS OF FILTER #1 IN THE CLIMATE POLICY APPROVAL PROCESS
DATE: JUNE 8, 2020

This agenda item has been determined to be both “necessary and routine” and, therefore, appropriate for consideration during the COVID-19 health crisis. It is necessary due to the time-sensitive need to establish the process that will direct the ongoing expenditure of staff resources. This agenda item is routine because it does not implicate a change in policy but is instead focused on the process for the ongoing work of staff.

BACKGROUND

In 2007, the City adopted as official policy the City of Bellingham Climate Protection Action Plan in response to the growing awareness of the global climate crisis. In May 2018, City Council adopted the updated 2018 Climate Protection Action Plan (CAP) policy with new emissions reductions targets. Council also passed Resolution 2018-06 establishing a Climate Action Task Force with the direction to determine the feasibility of achieving accelerated greenhouse gas reduction and renewable energy ambitions. At the December 9th, 2019 City Council meeting the Climate Action Task Force presented their recommendations to City Council. Council then directed staff to provide a comparison of the adopted 2018 CAP policy and the recommendations in the Task Force report at the January 9th Council meeting. At the January 9th meeting Council directed staff to define a process to evaluate the Task Force recommendations and examine which recommendations should be adopted into the 2018 Climate Action Plan. There are 145 measures or items requiring further consideration and evaluation.

On April 27, 2020 staff presented a Climate Policy Approval Process for the evaluation of climate actions identified by the Climate Task Force and those in the Climate Action Plan. Additionally, staff developed a Public Participation Plan to ensure there are opportunities for public input and dialogue throughout the process. Public input will be sought with despite the need to continue to minimize public gatherings in adherence with COVID precautions. The Mayor updated Council on the Public Participation Plan during his report to Council on May 18.

As described in the Climate Policy Approval Process there are several steps and filters leading to a Council deliberations and consideration of policy adoption. The first filter is a staff level review

which has been completed. Staff will present the results of this work to the Council.

FILTER #1

The first step in the Climate Policy Approval Process is Filter #1. Filter #1 is intended to serve as a coarse, quantitative ranking by staff using best professional judgement which sorts the 145 items from the Climate Action Plan and Climate Task Force Report into one of four tiers:

Tier 1: Ready for in-depth Triple Bottom Line Plus (TBL+) Analysis

Tier 2: Additional Research Necessary

Tier 3: Table until annual update

Tier 0: Complete, ongoing, non- priority

All 145 items were rated according legislative, funding, and planning factors, as well as an estimation on return on investment. Ten items from the areas of energy efficiency, transportation, renewable energy, and land use are proposed for Tier 1 and four items for Tier 2 at this time.

Tier 1 items include:

- Efficiency Requirements for Owner-Occupied Residences
- Electrify New Buildings
- Encourage Statewide Ban on Internal Combustion Engines (ICE)
- Create Bellingham Clean Energy Fund
- City and PSE Evaluate Community-Wide Green Direct
- Promote Electric and Hybrid Vehicles
- Support Property Assessed Clean Energy Financing (PACE)
- City of Bellingham Carbon Fund
- High Density Development
- Increase Density in Transition/Residential Multi-Family (a.k.a. Missing Middle) Zones

Tier 2 items include:

- Industrial Energy Efficiency
- Conduct a Feasibility Study for City Municipal Utility District with Mandate to Procure 100% Renewable Energy
- Electrify Existing Buildings
- Reduction of Large Volume Methane use by Industry

For consistency the titles of these items were pulled from the Climate Action Plan and the Climate Task Force Report.

Recommended Council Action:

Direction to proceed with Tier 1 and Tier 2 work for the 14 items listed above.

Climate Policy Process Presentation Filter #1 Selections

June 8, 2020



Climate Policy Process Goals:



Build on recommendations of Climate Task Force (CTF) and adopted Climate Action Plan (CAP) plan



Facilitate technical review to ensure that issues are fully vetted



Allow for fair consideration of issues

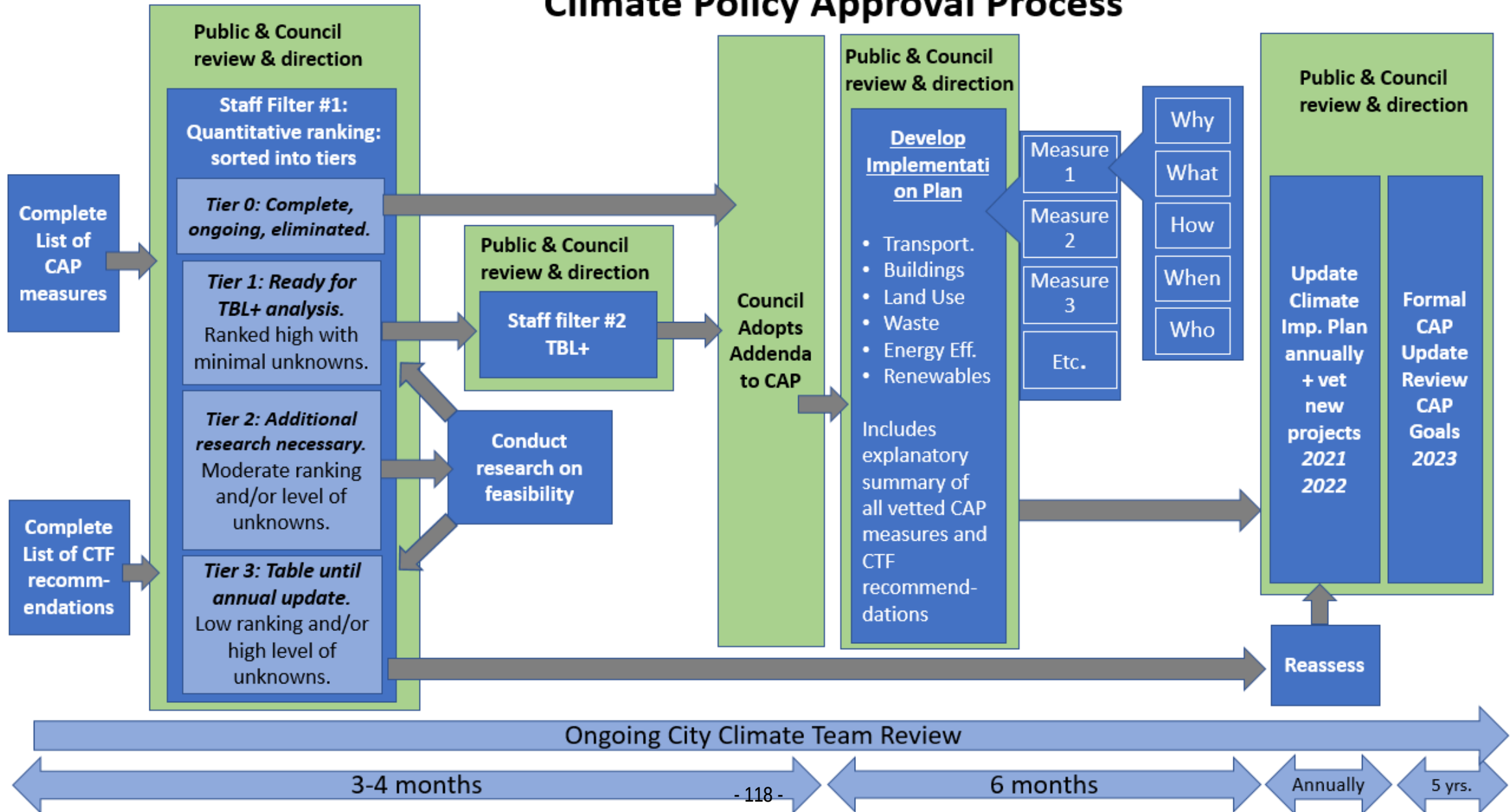


Allow for meaningful public involvement

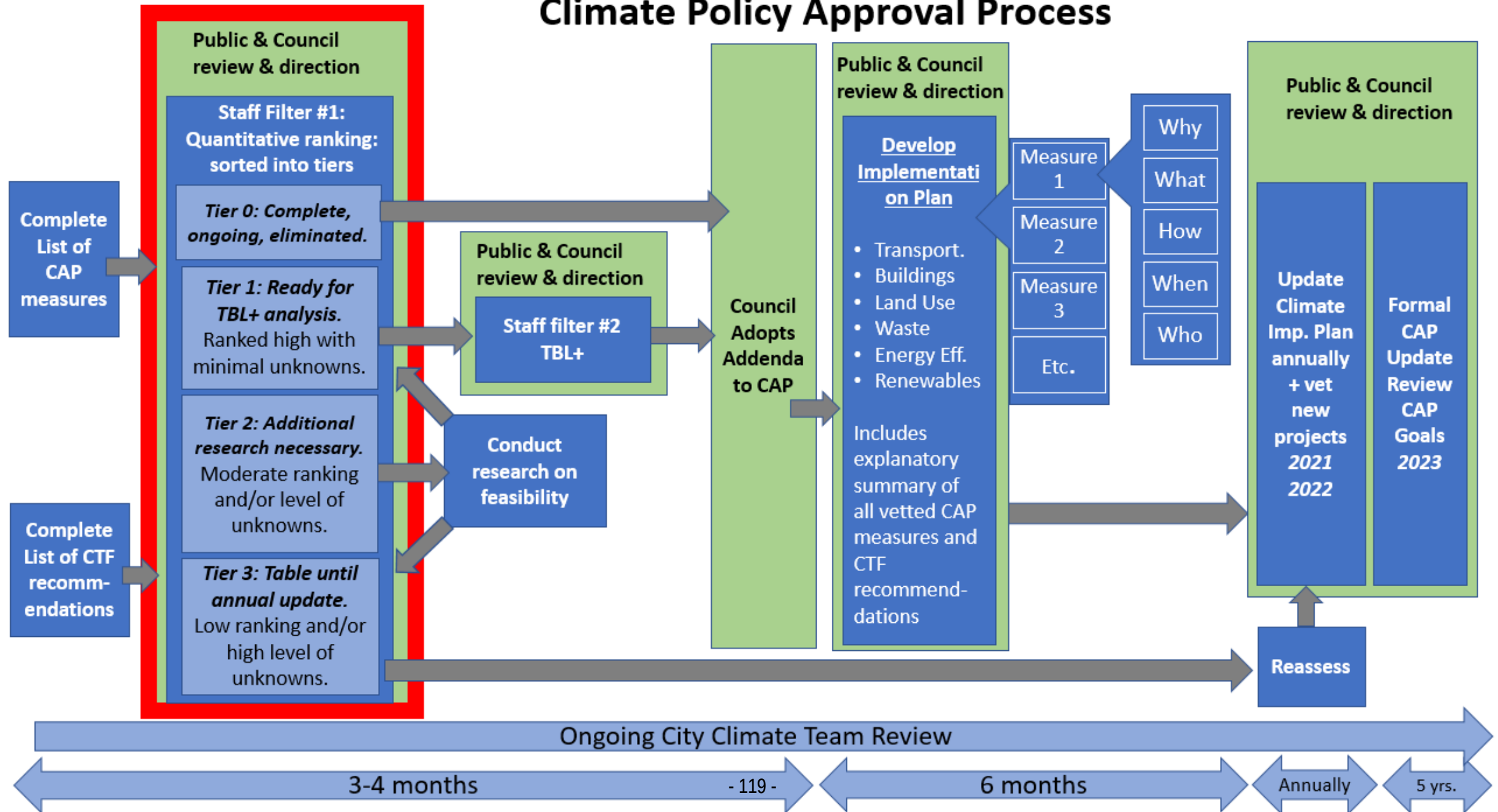


Result in informed choices

Climate Policy Approval Process



Climate Policy Approval Process



Filter #1 Factors

Legislative “Yes/Maybe/No”

- Is this item an extension of City policy?
- Do we expect potential State action on this item?

Funding “Yes/Maybe/No”

- Will this items establish a new funding source?
- Has funding been identified for this item?

Planning “Yes/Maybe/No”

- Do we anticipate substantial social impacts from this item?
- Does action with this item allow for other items to be implemented, i.e. is it first in sequence?
- Is technology available for this item?
- Does this item pose any legal barriers?

Return on Investment “High/Medium/Low”

- What is the potential carbon emissions reduction value? (inc. “Very High” option)
- What is the level of staff research necessary?
- Are the estimated resource inputs commensurate to the anticipated emission reductions? (“Y/M/N”)



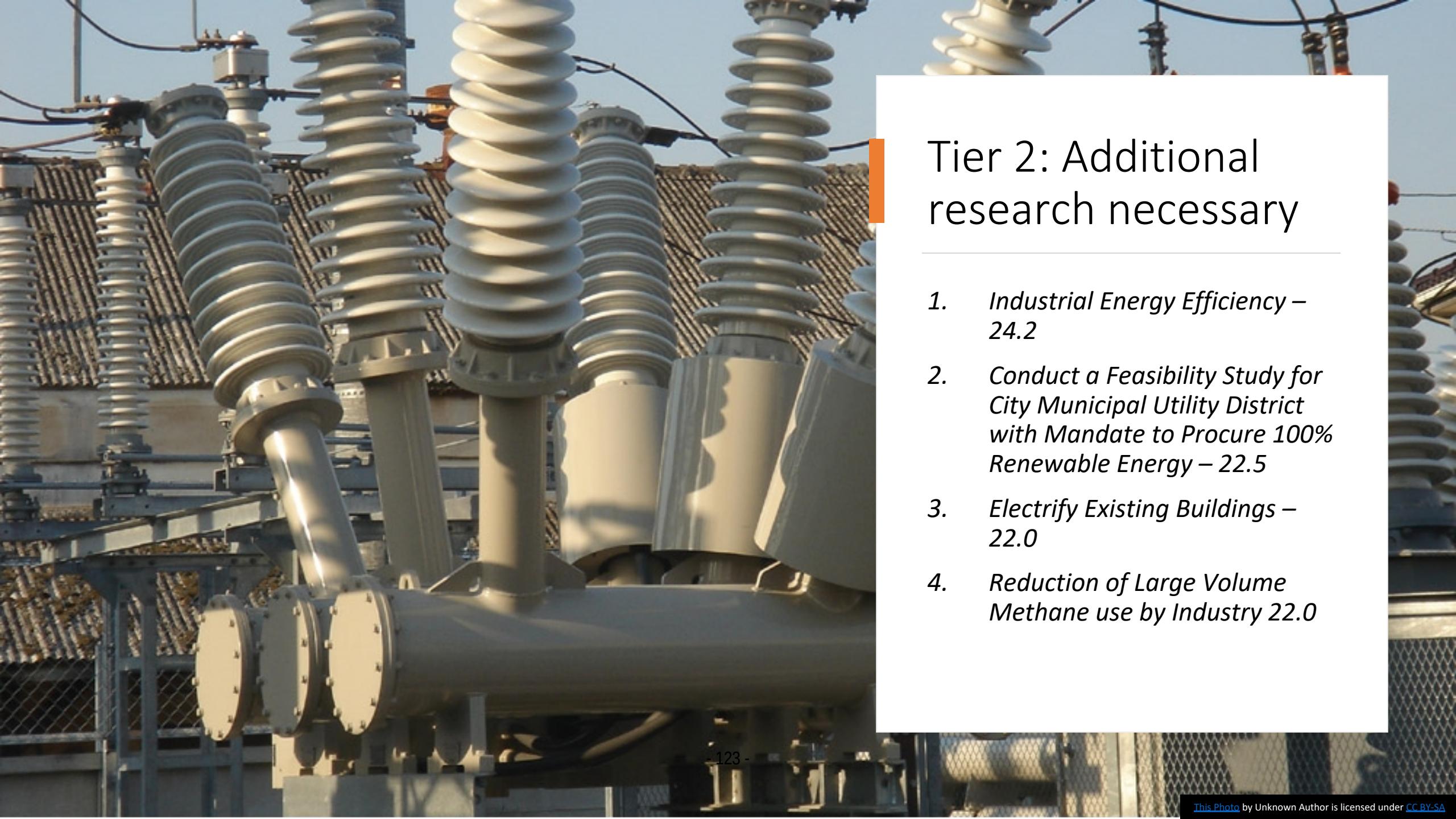
Tier 1: Ready for TBL+ In-depth Analysis

1. *Efficiency Requirements for Owner-Occupied Residences – 26.4*
2. *Electrify New Buildings – 25.9*
3. *Encourage Statewide Ban on Internal Combustion Engines (ICE) – 25.3*
4. *Create Bellingham Clean Energy Fund – 24.0*
5. *City and PSE Evaluate Community-Wide Green Direct 24.0*

Tier 1: Ready for TBL+ In-depth Analysis

6. *Promote Electric and Hybrid Vehicles – 21.6*
7. *Support Property Assessed Clean Energy Financing (PACE) – 21.0*
8. *CoB Carbon Fund – 20.6*
9. *High Density Development – 19.4*
10. *Increase Density in Transition/Residential Multi-Family (a.k.a. Missing Middle) Zones – 17.6*





Tier 2: Additional research necessary

1. *Industrial Energy Efficiency – 24.2*
2. *Conduct a Feasibility Study for City Municipal Utility District with Mandate to Procure 100% Renewable Energy – 22.5*
3. *Electrify Existing Buildings – 22.0*
4. *Reduction of Large Volume Methane use by Industry 22.0*

Tier 3: Table until
annual update

Tier 0: Complete,
ongoing, non-priority

See *Draft CAP-CTF Vetting Process:*
Staff Filter #1 document



Filter #1 Public Participation Plan



- ❖ Public Information (on-going)
 - City webpages (project-specific, topical)
- ❖ Participation in the Legislative Process (on-going)
 - Public Comment @ City Council Meeting
 - Written Comment to City Council
- ❖ Opportunities for Public Comment (on-going)
 - Written Comment to Mayor or Staff

Climate Policy Process Presentation

June 8, 2020





City Council Agenda Bill

22652

Bill Number

Subject: **Resolution Authorizing 2020 Housing and Urban Development (HUD) Annual Action Plan**

Summary Statement: The 2020 Annual Action Plan guides the allocation of federal Community Development Block Grant (CDBG), CDBG-CV (COVID-19 related), and HOME Investment Partnership Program (HOME) funds received by the City. Decisions for allocation of Housing Levy and related funding are integrated into the process. The Action Plan comes to the Council after a Community Development Advisory Board (CDAB) Public Hearing and review.

Previous Council Action: **Resolution No. 2018-07 (2018-2022 Consolidated Plan)**

Fiscal Impact: **Plan allocates federal CDBG, CDBG-CV and HOME funding (\$4.2m), incorporates a possible HUD Section 108 loan (\$2m), and reflects Housing Levy (\$10.6m) and General Fund (\$538k) commitments to housing, facilities and services programs. Includes existing funds.**

Funding Source: **Housing Levy/CDBG/CDBG-CV/HOME/Section108/General Fund**

Attachments:

1. MEMO
2. RESOLUTION
3. CONSOLIDATED PLAN PRIORITIES
4. 2020 ACTION PLAN
5. POWERPOINT

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	6/08/2020	Pass Resolution	Samya Lutz and Tara Sundin, PCDD	25 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Samya Lutz, Planning and Community Development, 360-778-8300

Council Action:

Reviewed By	Department	Date
<i>Rick M. Sepler</i>	Planning & Community Development	5/29/2020
<i>Amy B. Kraham</i>	Legal	6/01/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



Planning and Community Development City of Bellingham

Memorandum

TO: City Council Members
Mayor Seth Fleetwood

CC: Rick Sepler, Planning and Community Development Director
Tara Sundin, Community and Economic Development Manager

FROM: Samya Lutz, Housing & Services Program Manager

DATE: May 28, 2020

RE: **2020 HUD Action Plan**

The City's [Consolidated Plan](#) covers the period from July 1, 2018 - June 30, 2023. The 2020 Action Plan is the third one promulgated pursuant to the Consolidated Plan and implements and funds activities that carry out the priorities and strategies of the Consolidated Plan. The Action Plan is required as a condition of federal funding from the U.S. Department of Housing and Urban Development (HUD), and includes housing and services activities funded by HUD as well as by the City's Housing Levy and General Fund.

The City's annual Action Plan is typically due on May 15 of every year (45 days before the start of our Action Plan program year per 24 CFR § 91.15). HUD granted the City a two-month extension to this submission deadline due to the COVID-19 pandemic; staff is moving this forward now in order to be able to honor the annual July 1 start date for funding contracts with housing and human service agencies who rely on City funding to deliver their services. The adoption of the resolution authorizing the 2020 Action Plan is a necessary and routine activity of the City of Bellingham.

The City's annual HUD entitlement funding comes through the Community Development Block Grant (CDBG) and HOME Investment Partnership Program (HOME). This year, additional funding is included from the CARES Act CDBG appropriation (CDBG-CV), as well as a Section 108 loan (more on this below).

Information about the process to determine funding recommendations and the role of the Community Development Advisory Board (CDAB) in that process is included at the end of this memo, and is done in accordance with the [Community Participation Plan](#).

Revenue

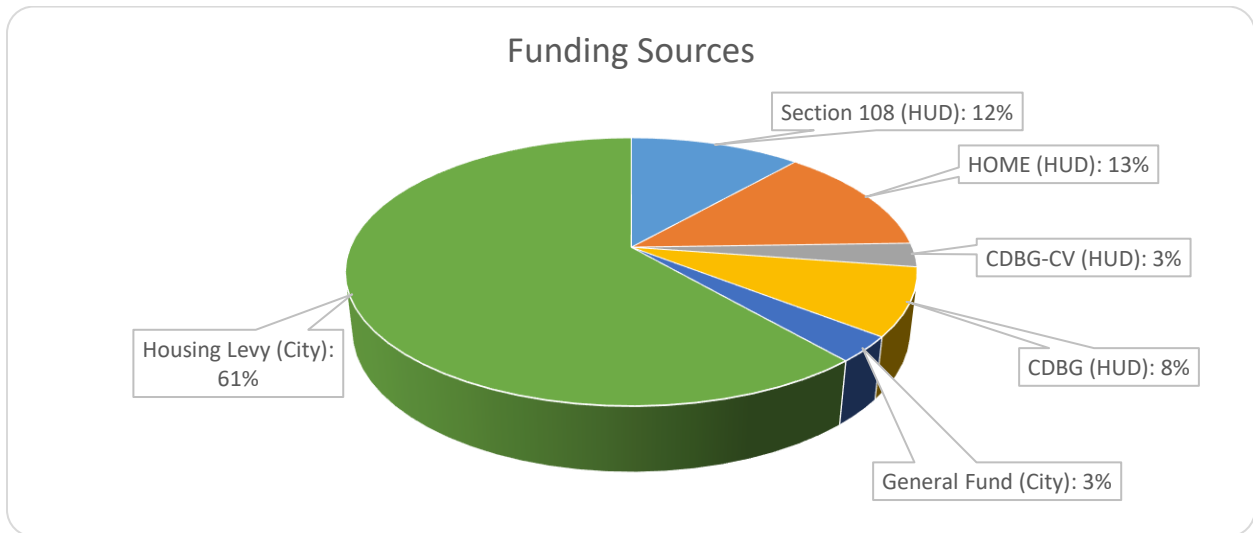
Total revenue reflected in the 2020 Action Plan is \$17,330,085. About one-third of this is carry-over funding from prior years. Here is a depiction of the sources of that revenue.

	HUD				City		TOTAL
	Section 108	HOME	CDBG-CV	CDBG	Gen Fund	Housing Levy	
New Allocations	2,000,000	929,442	495,646	1,308,631	353,100	6,826,518	11,913,337
Existing Commitments	-	1,317,020	-	105,050	184,860	3,809,817	5,416,747
							17,330,085

Planning
210 Lottie Street
Bellingham, WA 98225
Phone: (360) 778-8300
Fax: (360) 778-8302
TTY: (360) 778-8382
Email: planning@cob.org
www.cob.org/planning

Community Development
210 Lottie Street
Bellingham, WA 98225
Phone: (360) 778-8300
Fax: (360) 778-8302
TTY: (360) 778-8382
Email: cd@cob.org
www.cob.org/planning

Building Services / Permit Center
210 Lottie Street
Bellingham, WA 98225
Phone: (360) 778-8300
Fax: (360) 778-8301
TTY: (360) 778-8382
Email: permits@cob.org
www.cob.org/permits



Two new sources of funding are included that have not been reflected in recent annual Action Plans: COVID-19 related CDBG (CDBG-CV) allocated through the federal CARES Act, and the contemplation of a Section 108 loan from HUD.

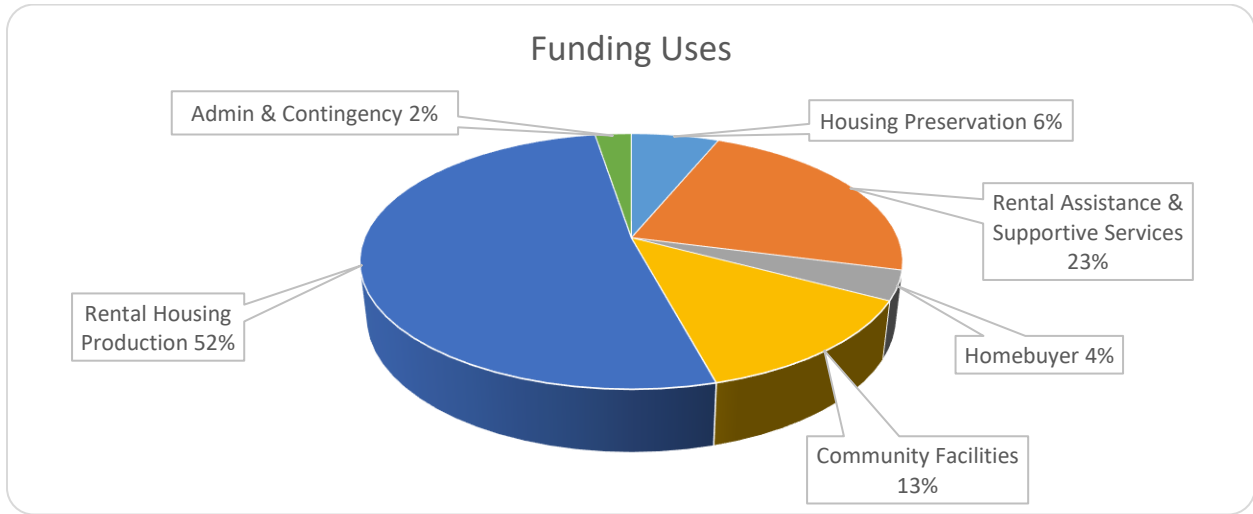
Tara has spoken with you about the City's Housing and Human Service COVID response. This Action Plan includes the CDBG-CV allocation, as well as funds from our standard annual sources (CDBG and Housing Levy) that total \$1.35m for our Housing and Human Service COVID response.

The Section 108 loan would allow the City to access a significant amount of funds up front, in exchange for dedicating a portion of future CDBG (or other) funding for loan repayment over time. This may make sense if an opportunity arises to address the shortage of childcare in our community in a substantial way. Note that further staff work and public review would be required prior to moving forward with a Section 108 loan application request to HUD; including this funding source in the Action Plan supports our pursuit and further research of this opportunity as part of our HUD administrative funding.

Expenses

Expenses for activities in the 2020 Action Plan are as follows, which include both existing and new commitments:

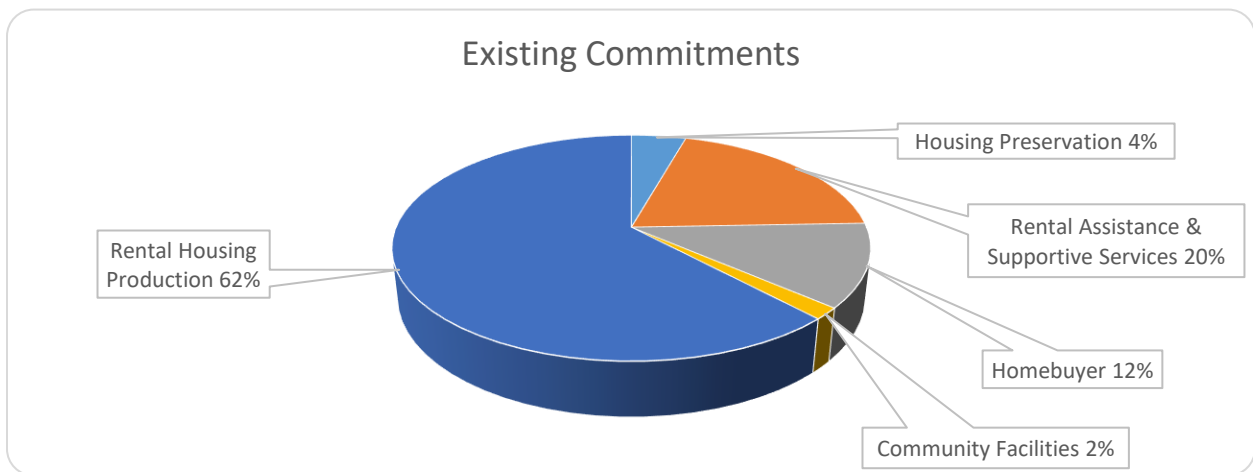
Housing Preservation	Rental Assistance & Supportive Services	Homebuyer	Community Facilities	Rental Housing Production	Admin & Contingency	
1,080,924	3,952,139	643,821	2,259,179	8,947,565	446,457	17,330,085



Existing Commitments

Commitments already made in prior years which are carried over and continuing are referred to as existing commitments. Funds listed in the Action Plan for these commitments are what is estimated as unexpended as of July 1, 2020, including continuing contracts.

Housing Preservation	Rental Assistance & Supportive Services	Homebuyer	Community Facilities	Rental Housing Production	
238,284	1,084,382	643,821	90,050	3,360,210	5,416,747



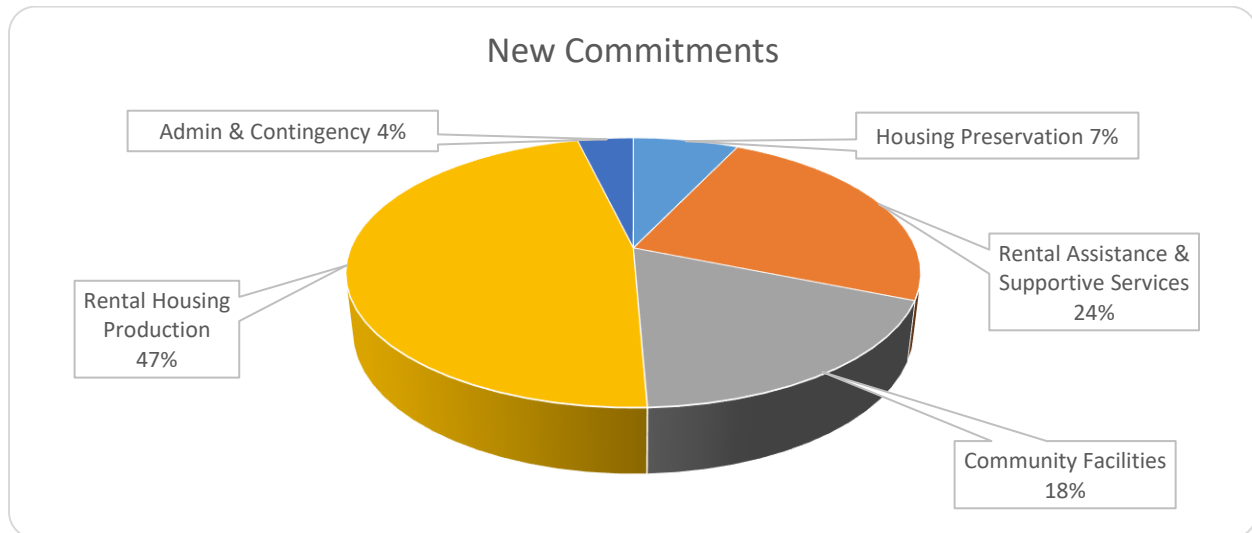
Key existing commitments include:

- Rental Housing Production – Lydia Place’s Heart House (11 units) has all funding sources committed and is within a few months of groundbreaking; Bellingham Housing Authority (BHA)’s Samish Way development, phase 1 (69 units), is currently under construction; and the last 2 purchases of BHA single family homes by nonprofit agencies are nearing closeout (2, 3-bedroom homes, both for homeless-on-entry households).
- Preservation of Housing - The City continues its commitment to repairs of manufactured homes through the Opportunity Council, and the rehabilitation of owner-occupied housing through the City’s Home Rehabilitation program; and work continues on two projects nearing closeout: DVSAS Baker Place shelter and Sean Humphrey house repairs.
- Public (Nonprofit) Community Facilities – The Foundation for the Challenged is nearing occupancy and closeout of a 3-bedroom home as housing for developmentally disabled adults; Max Higbee Center has a new location secured and under substantial rehabilitation, allowing for expansion of services when complete.
- Homebuyer Program - The City continues to work with the Washington State Housing Finance Commission (WSHFC) on two homebuyer downpayment assistance programs - one in partnership with Kulshan Community Land Trust (KCLT) with restrictions in place to maintain affordability over time, and the other in partnership with WSHFC and local banks that offers unrestricted downpayment assistance for low income households. Funding supporting the first 8 Telegraph Road townhomes (a partnership between KCLT and Habitat for Humanity) will likely be complete or nearing closeout at the time of the June 8 meeting.
- Rental Assistance and Supportive Services - The City continues the commitment to the Homeless Outreach Team (HOT), Ground Floor drop-in center for homeless youth (NWYS), and administrative support to the Homeless Service Center; commitments to housing services at Reggie’s House and Nevada St (Sun Community Services), Francis Place (Catholic Housing Services), 22 North (Opportunity Council), and Heart House (Lydia Place); the GRACE program, and the second year of two-year grant commitments to a variety of housing services and human services agencies are also reflected here.

New Commitments

New Commitments reflect new competitive funding and some ongoing annual programs. Notices of funding availability (NOFAs) were announced this past winter for the invitation of new competitive applications for housing production or preservation, and community facilities (specifically targeting childcare).

Housing Preservation	Rental Assistance & Supportive Services	Community Facilities	Rental Housing Production	Admin & Contingency	
842,640	2,867,757	2,169,129	5,587,355	446,457	11,913,338



Key new commitments include:

- Rental Housing Production – The Bellingham Housing Authority’s Samish Way redevelopment, phase 2 (54 units), is proposed to begin construction within a year; Mercy Housing’s 80-unit family housing project in the Barkley neighborhood, is proposed to begin construction within a year and a half (this project also has a childcare component in partnership with the YMCA as described below).
- Preservation of Housing – Additional funds are committed to the Mount Baker apartments to help address lintel repairs to prevent water damage to the building; and continuing annual preservation programs are reflected: repairs of manufactured homes through the Opportunity Council, the rehabilitation of owner-occupied housing through the City’s Home Rehabilitation program, and limited emergency repair funding reserved if needed.
- Public (Nonprofit) Community Facilities – Multiple childcare facilities projects are contemplated in this line item. These range from minor repairs to meet licensing requirements at existing facilities, to assistance with the YWCA new facility in Barkley, to potential help with acquisitions and/or development of new facilities. The pursuit of major new facility funding through the Section 108 loan option would require further review and deliberation, with a clear plan for loan repayment over time.
- Rental Assistance and Supportive Services –
 - Rental Assistance – Continuing annual programs including Tenant-based Rental Assistance, Rapid Rehousing, and Diversion support through Opportunity Council programs; rental assistance and rapid rehousing support through Lydia Place; and annual funds for emergency motel vouchers when more stable housing placements are not possible. It also includes a placeholder for additional rental assistance or project-based housing supports if needed as we continue to work on a coordinated COVID-19 response.
 - Housing Services – The budget reflects continued contracts for eight programs in the community that provide housing services for low-income persons and households. It

also includes a placeholder for additional housing services supports if needed as we continue to work on a coordinated COVID-19 response.

- Human and Social Services – The budget reflects continued contracts for multiple programs in the second year of a 2-year City commitment, and one replacement childcare program (Skookum kids was not able to move forward with their program last year, and Generations Childcare through the St. Francis Foundation was able to step in with expanded childcare services). It also includes placeholders for additional food security, childcare, and other social services supports if needed as we continue to work on a coordinated COVID-19 response.

A more detailed Action Plan budget is included with the proposed resolution in the packet. This reflects the recommendation of the Mayor, Community Development Advisory Board (CDAB), and staff. CDAB is very involved in this process, reviewing the NOFA announcements prior to publication, reviewing preliminary staff recommendations, holding a public hearing when a draft Action Plan is published, and recommending funding allocations to the Mayor. The draft Action Plan was released on March 12. CDAB held a public hearing on that evening, and the public comment period closed on April 16; no written or verbal comments were received from the public. CDAB discussed their recommendations on May 14, and voted unanimously to move the Action Plan forward.

If you have any further questions, please feel free to contact me at 360-778-8385 or email at sklutz@cob.org.

RESOLUTION NO. _____

A RESOLUTION RELATING TO THE 2020 ACTION PLAN, THE USE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), FEDERAL CARES ACT CDBG (CDBG-CV), HOME INVESTMENT PARTNERSHIP PROGRAM (HOME) AND BELLINGHAM HOUSING LEVY FUNDS, THE ALLOCATION OF FUNDS TO SUPPORT SELECTED CITY HOUSING AND HUMAN SERVICES AGENCIES AND DIRECTING THE MAYOR TO SUBMIT THE 2020 ACTION PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

WHEREAS, the City of Bellingham receives annual block grants from the U.S. Department of Housing and Urban Development (HUD) for community development and affordable housing needs;

WHEREAS, every five years, as a condition of receiving this federal financial assistance, HUD requires the City to prepare a "Consolidated Plan" following HUD's required elements and template;

WHEREAS, the City Council authorized the Mayor to submit the 2018-2022 Consolidated Plan to HUD on May 7, 2018 (Resolution No. 2018-07);

WHEREAS, each year, as a condition of receiving HUD financial assistance, the City must prepare an annual Action Plan to submit to HUD;

WHEREAS, the Federal CARES Act allocated additional CDBG funding (CDBG-CV) for use specific to the community's response to the COVID-19 public health emergency;

WHEREAS, the City's housing and community development program includes additional funding dedicated to low-income housing approved by voters, known as the "Housing Levy" or "Home Fund";

WHEREAS, the City also contributes other City general funds for services and activities that benefit low-income persons;

WHEREAS, after holding a public hearing on March 12, 2020, with a comment period open through April 16, 2020, and further discussion at their May 14, 2020 public meeting, the Community Development Advisory Board has recommended that the Mayor and City Council adopt the 2020 Action Plan; and

WHEREAS, the City Council finds that the best interests of the citizens of Bellingham will be served by submitting the 2020 Action Plan to HUD that will guide the use of federal grant funds.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BELLINGHAM:

THAT the Mayor is authorized to submit the 2020 Action Plan to the U.S. Department of Housing and Urban Development (HUD) and to commit the City of Bellingham to all certifications and assurances contained therein; and

BE IT FURTHER RESOLVED that the 2020 Action Plan component of the Consolidated Plan shall be substantially consistent with the funding distribution shown in Exhibit A, 2020 Action Plan Budget Summary, attached hereto and by this reference incorporated herein; and

BE IT FURTHER RESOLVED that the Mayor is authorized to contract with agencies to carry out the activities to low income citizens of Bellingham as set forth in the 2020 Action Plan; and

BE IT FURTHER RESOLVED that the 2020 Rental Assistance and Services allocation shall be substantially consistent with the funding distribution shown in Exhibit B, attached hereto and by this reference incorporated herein; and

BE IT FURTHER RESOLVED that upon acceptance of this plan and budget by HUD, the Mayor is hereby designated as the representative of the City who is authorized to enter into grant agreements for financial assistance from HUD; and

BE IT FINALLY RESOLVED that the Mayor is authorized to perform all duties and execute all documents and do all other things required to be done in order to obtain payment of the grants authorized herein.

PASSED by the COUNCIL this _____ day of _____ 2020:

Council President

APPROVED by me this _____ day of _____ 2020:

Mayor

Attest: _____
Finance Director

Approved as to Form:

Office of City Attorney

**EXHIBIT A
2020 ACTION PLAN BUDGET SUMMARY**

RESOURCES ANTICIPATED	SECTION 108	CDBG	CDBG-CV	HOME	CITY GF	HOUSING LEVY	TOTAL
2020 Grant/Allocation		842,553	495,646	586,798	353,100		2,278,097
Section 108 loan	2,000,000						2,000,000
Program Income (Loan Paybacks)		210,000		120,000	-		330,000
Prior Year Uncommitted/Deobligated Funds		256,078		222,644	-		478,722
EXISTING COMMITMENTS (AWARDS)		105,050		1,317,020	184,860	3,809,817	5,416,747
HOUSING LEVY New Allocations:							-
Levy Production & Preservation		-		-	-	5,287,246	5,287,246
Levy RASS		-		-	-	1,374,004	1,374,004
Levy Admin		-		-	-	165,268	165,268
TOTAL:	\$ 2,000,000	\$ 1,413,681	\$ 495,646	\$ 2,246,462	\$ 537,960	\$ 10,636,335	\$ 17,330,085

ACTIVITIES	Section 108	CDBG	CDBG-CV	HOME	CITY GF	HOUSING LEVY	TOTAL
Production Program							
Previous (Unspent) Commitments							
Lydia Place Hearthouse				911,197		740,350	1,651,547
Lydia Place - A Place for Dads		-				374,700	374,700
BHA Samish Way Redevelopment - Phase 1						1,300,298	1,300,298
Sun Nevada St PSH						33,665	33,665
2020 Requests:							
BHA Samish Way redevelopment - Phase 2						2,025,000	2,025,000
Mercy HNW - Barkley Family Housing				628,244		2,283,737	2,911,980
OppCo Recovery House						562,355	562,355
CHDO Set Aside (min. 15% of HOME Grant)							
Mercy HNW - Barkley Family Housing				88,020			88,020
Preservation Program							
Previous Commitments							
2019 City Rehabilitation Program		15,000					15,000
2019 Manufactured Housing Repair						8,845	8,845
DVSAS Baker Place (buy down)						214,439	214,439
2020 Requests:							
Mt Baker Apts - lintel repair						250,000	250,000
2020 Program:							
City Rehabilitation Program		417,640					417,640
Manufactured Housing Repair						125,000	125,000
2020 Emergency Repair						50,000	50,000
Acquisition and Opportunity Program							
Acquisition and Opportunity Fund							-
Rental Assistance and Supportive Services Program (see Ex. B for details)							
Previous Commitments							
2019 FY Tenant Based Rental Assistance						16,500	16,500
Housing Project-Based Services		-		-	-	554,382	554,382
Homeless Service Center Admin		-		-	44,860	33,640	78,500
Project Homeless Connect		-		-	2,000	-	2,000
Homeless Outreach Team		-		-	-	210,000	210,000
NWYS Ground Floor day center for hmls youth		-		-	-	85,000	85,000
GRACE		-		-	140,000	-	140,000
2020 Program:							
TBRA & other rental assistance		-		142,500	-	659,500	802,000
Emergency Motel Stays		-		-	50,000	-	50,000
Housing Services		104,214		-	-	705,659	809,873
Human & Social Services		427,138	495,646	-	281,100	-	1,203,884
Public Facility Program							
Previous Commitments							
Foundation for the Challenged - DD Housing		20,050					20,050
Max Higbee Center		70,000					70,000
2020 Requests:							
Childcare Facilities - Acquisition/Development/repair	2,000,000	149,129			20,000		2,169,129
Community Facilities							-
Homebuyer Program							
Previous Commitments							
Housing Finance Commission				90,076		233,745	323,821
KCLT Telegraph Rd				315,747		4,253	320,000
Contingency Projects							
HOME - WSHFC, TBRA, Multifamily housing, CHDO operating							-
CDBG- Rehab program, Public Facilities							-
Administration							
City Expenses		210,510		58,179		165,268	433,957
TBRA Administration (contract)				12,500			12,500
TOTAL:	\$2,000,000	\$1,413,681	\$495,646	\$2,246,462	\$537,960	\$10,636,335	\$17,330,085
BALANCE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

EXHIBIT B
2020 RENTAL ASSISTANCE AND SERVICES

	CDBG	CDBG-CV	HOME	CITY GF	HOUSING LEVY	TOTAL
Existing Commitments:	-		-	\$184,860	\$899,522	\$ 1,084,382
New Revenue:						
Housing Services	\$104,214				\$705,659	\$ 809,873
Human and Social Services	\$427,138	\$495,646		\$283,100		\$ 1,205,884
Tenant-Based Rental Assistance			\$142,500		\$659,500	\$ 802,000
Project-based Rent and Services						\$ -
Emergency Shelter Services				\$50,000		\$ 50,000
TOTALS	\$ 531,352	\$ 495,646	\$ 142,500	\$ 517,960	\$ 2,264,681	\$ 3,952,139

2020 PROGRAM

PROGRAM	CDBG	CDBG-CV	HOME	CITY GF	HOUSING LEVY	TOTAL
Rental Assistance						
Existing Commitments:						
2019 FY Tenant Based Rental Assistance					\$16,500	\$16,500
2020 Program:						
Tenant Based Rental Assistance Program			\$142,500		\$16,500	\$159,000
Additional tenant or project-based support					\$300,000	\$300,000
Rental Assistance tied to Housing Services programs					\$343,000	\$343,000
Housing Services						
Existing Commitments:						
Homeless Service Center Admin				\$44,860	\$33,640	\$78,500
NWYS Ground Floor day center for hmls youth					\$85,000	\$85,000
Homeless Outreach Team					\$210,000	\$210,000
2019-21 Competitive:						
HSC - Housing Lab addition					\$54,000	\$54,000
Lydia Place - Family Services					\$93,500	\$93,500
Lydia Place - Transitional Housing					\$28,500	\$28,500
OC - Rapid Re-Housing & Diversion for Families & Seniors	\$54,219				\$238,959	\$293,178
NWYS - Transitional Living Program					\$36,000	\$36,000
NWYS - PAD Program	\$49,995				\$0	\$49,995
DVSAS - Safe Shelter	\$0				\$29,700	\$29,700
YWCA - Larrabee Residence					\$25,000	\$25,000
Additional Housing Services					\$200,000	\$200,000
Held for Emergency Motel Stays				\$50,000		\$50,000
Project-Based Rental Assistance & Housing Services						
Existing Commitments:						
Francis Place Housing Services					\$237,518	\$237,518
Greggie's House Housing Services					\$67,914	\$67,914
Opportunity Council / NWYS 22 North Housing Services					\$142,000	\$142,000
Lydia Place - Heart House					\$75,460	\$75,460
Sun - Nevada St PSH					\$31,490	\$31,490
Human & Social Services						
Existing Commitments:						
GRACE				\$140,000		\$140,000
2020 Project Homeless Connect				\$2,000		\$2,000
2019-21 Competitive:						
Lydia - Mental Health Counseling	\$12,784			\$9,660		\$22,444
BFB - Free Grocery Program				\$26,900		\$26,900
DVSAS - Safe Start Program				\$21,350		\$21,350
NWYS - Vocational Readiness Program				\$25,900		\$25,900
OC - Volunteer Chore Program				\$29,600		\$29,600
NWYS - Teen Court				\$24,300		\$24,300
WLC - Gaining Jobs & Improving Self-Sufficiency Through Literacy				\$12,490		\$12,490
BCFSC - Target Intensive Case Management	\$30,000			\$0		\$30,000
St Francis Foundation - Generations Tuition				\$15,000		\$15,000
WDRC - Parent / Teen Mediation				\$15,000		\$15,000
OC - Maple Alley Inn				\$22,100		\$22,100
WCOA - Meals on Wheels Bellingham	\$30,000			\$0		\$30,000
Rebound Roots				\$22,000		\$22,000
BCELC - Childcare & Early Learning Services				\$30,000		\$30,000
SHH - Residential Services for Adults Living with AIDS				\$12,000		\$12,000
MNW - Farm Worker & Senior Support Services				\$14,800		\$14,800
Additional Childcare support	\$350,000					\$350,000
Additional Food Security support	\$4,354	\$295,646				\$300,000
Additional Social Services support		\$200,000				\$200,000
TOTAL ALLOCATIONS	\$531,352	\$495,646	\$142,500	\$517,960	\$2,264,681	\$3,952,139
BALANCE:	\$ -138 -		\$ -	\$ -	\$ -	\$ -

CONSOLIDATED PLAN PRIORITIES

CITY AS LEAD

Tier 1

Support the **acquisition and development** of additional housing units affordable for low-income residents.

Increase the City's **proactive role** in affordable housing development.

Support the development of **emergency shelter** in a safe, permanent location.

Offer **rental assistance** for vulnerable households, prioritizing homeless families and adults, and severely cost burdened families with young children.

Support programs to prevent chronic homelessness through intervention services like **diversion and light-touch case management**.

Offer **home rehabilitation loans** with favorable terms for low income homeowners – especially for those who are elderly & disabled.

Allow for **infill, multifamily, and group housing** in more neighborhoods.

Tier 2

Conduct a housing **equity audit** by neighborhood.

Address community and public **infrastructure** needs in underserved neighborhoods, and/or for the benefit of special needs populations.

Involve partner agencies, tenants, landlords, and the broader community in **education and advocacy efforts** involving homelessness, fair housing, cost burdened households, and neighborhood equity. Coordinate local strategies to assist those experiencing and at risk of homelessness.

Raise awareness with upstream funding and finance agencies about local needs and priorities.

Support owners of rental housing that offer units to residents who pay some or all of their rent with a voucher/subsidy by pursuing a **rehabilitation loan** program that offers favorable terms or a **damage mitigation fund** for owners who rent to these households.

Improve **disaster preparedness** and response efforts, particularly for special needs populations.

Support **homeownership** and down payment assistance for low to moderate income households, especially for minority households and households with young children.

PARTNERS AS LEAD

Support intensive case management for those experiencing chronic homelessness.

Support social inclusion programs for those reentering housing from homelessness.

Support additional services to those experiencing unsheltered homelessness like storage and sanitation facilities.

Support the expansion of affordable childcare opportunities.

Support the coordination and expansion of mobile health and peer health services that serve special needs populations.

Address the “benefits cliff”: pursue opportunities to ease the transition off housing assistance to encourage more households using assistance to embrace upward mobility.

Prioritize housing and services to special needs populations: elderly, families with young children, developmentally disabled, victims of DV, homeless, or with behavioral or physical health issues.

Support local economic development: especially job training for those who are exiting homelessness, and microenterprise development.

Geographic Priorities:

Diversify urban villages.

New subsidized housing units in higher income neighborhoods.

Acquisition of existing ‘naturally occurring’ rental units in higher poverty neighborhoods.



2020 Action Plan

Covering the period from July 1, 2020 – June 30, 2021

a component of the
2018 – 2022 CONSOLIDATED PLAN

City of Bellingham

Washington

May 14, 2020

Executive Summary

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

The City of Bellingham approved the 2018-2022 Consolidated Plan on May 17, 2018 (Resolution No. 2018-07). Since its adoption, the following has occurred:

- On July 20, 2018, the U.S. Department of Housing and Urban Development (HUD) approved the Consolidated Plan and 2018 Action Plan.
- On May 6, 2019, the 2019 Action Plan was approved by the City Council (Resolution No. 2019-14).

2020 is the third action plan year under the 2018-2022 Consolidated Plan. New activities selected for funding in the Plan are based on solicitation of proposals. Funding sources for these activities include federal HOME and CDBG funds (including the potential use of Section 108), as well as local City funds (Housing Levy and General Fund). Specifically, the City sought applications for the following:

- **Rental Housing Development** – released on December 6, 2019, with applications due by February 7, 2020. Three applications were received.
- **Housing Preservation and Shelter** – released on December 6, 2019, with applications due by February 7, 2020. One application was received.
- **Community Facilities and Improvements** – released on December 6, 2019, with applications due by February 7, 2020. Four applications were received.
- **Rental Assistance and Supportive Services** – survey released in May 2020 for additional COVID-19 related social service needs. Nineteen agencies participated.

Several existing commitments from previous years are carried forward, including the homebuyer program, tenant based rental assistance, public facility improvements, preservation and rehabilitation projects, and rental housing development. One existing commitment from 2019 was unable to go forward, so one Human Services grant resubmission was requested from an applicant who was not awarded funding in the previous funding cycle. Numerous housing services and social services agencies were committed two years of funding through a review process leading up to the 2019 Action Plan year.

2. Summarize the objectives and outcomes identified in the Plan

The City continues to prioritize housing development, preservation, homebuyer support and community facilities and services. The City has also developed a response to the economic crisis due to the COVID-19 pandemic, with related services identified in the Plan. The City's priorities are in keeping with the 2018 Consolidated Plan.

Within the community facilities program, the City has a specific priority of increasing the availability of affordable childcare facilities. In keeping with this, the City contemplates utilizing a Section 108 loan in order to support the acquisition and/or development of additional childcare facilities, essentially allowing greater use of funds in the short-term in exchange for dedicating a portion of CDBG funds for

repayment over the long term.

New Project Funding:

- Three housing construction/development projects would add affordable housing units to the inventory: an 80-unit housing facility for low-income families; a 54-unit housing facility for low-income seniors; and a 16-bed housing facility for those in recovery related to substance use.
- One housing preservation project would receive additional investment for emergency repairs: Mount Baker Apartments that has 84 low-income units.
- Childcare facilities would be supported with community facilities funds for development, acquisition, or improvements.
- New services funding is allocated for one human and social services agency providing low income childcare services, and for multiple agencies responding to the COVID-19 crisis through addressing housing security, food security, childcare and other social services that address or prevent homelessness.

Carryover and Continuing Projects: Activities funded prior to 2020, or ongoing programs, are adjusted for remaining amounts anticipated to be spent in 2020-21 and/or adjustments in funding sources. These activities include: the homebuyer down payment assistance program, homebuyer new construction (Telegraph Rd project), housing production projects (FFC, Housing for Developmentally Disabled adults; Lydia Place, Heart House; Lydia Place, A Place for Dads; Sun, Nevada St PSH; Bellingham Housing Authority, Samish Way Redevelopment phase 1), general public facilities, housing preservation activities (manufactured home repair and City owner-occupied rehabilitation program), and rental assistance and supportive services (Tenant Based Rental Assistance, housing services programs, human & social services programs). This is the second year of a two-year commitment for services grants, some of which have CDBG funding (agencies provide case management, counseling, childcare, nutritious food, vocational readiness and literacy, chores for disabled and elderly, supportive services to special needs populations, and mediation – all to low income persons and households). Ongoing programs in the rental assistance and supportive services program that are levy-funded include the Homeless Outreach Team, Homeless Service Center, NWYS Ground Floor day center, and project-based housing assistance.

Contingency Projects: In the event that appropriations are greater or less than anticipated, or planned activities are cancelled, the following activities are proposed as contingencies: Tenant Based Rental Assistance (HOME), Housing Rehabilitation (CDBG and/or HOME), Housing Finance Commission Homebuyer (HOME), Public Facilities (CDBG), and Human Services (CDBG), as well as modified funding amounts or sources for listed projects, in accordance with the Community Participation Plan.

3. Evaluation of past performance

This Action Plan is for the third year of the 2018-2022 Consolidated Plan. The City has completed one performance evaluation report under the new Consolidated Plan, reporting on the July 1, 2018 – June 30, 2019 Action Planning year. This performance report showed some early progress toward goals, including:

- The goal of ‘Increase affordable housing supply for rental and interim housing’ showed thirteen percent progress;
- The goal of ‘Rehabilitation of existing units’ showed thirty-four percent progress;

- The goal of 'Increase affordable housing supply for homeownership' showed three percent progress;
- The goal of 'Promote neighborhood equity' showed eleven percent progress; and
- The goal of 'Address and prevent homelessness' showed seventy-seven percent progress.

4. Summary of Citizen Participation Process and consultation process

The public consultation process for the 2020 Action Plan included a 30-day public comment period, and a public hearing before the Community Development Advisory Board (CDAB) (on March 12, 2020). The public was invited to comment on the Action Plan during the written comment period, which was held from March 12, 2020 through April 16, 2020.

The display ad providing notice of the public hearing and plan publication was published in Bellingham Herald on February 16, 2020. All public participation and consultation was done in accordance with the City's Community Participation Plan that was adopted as part of the 2018 Consolidated Plan development process.

Additional consultation occurred with CDAB on May 14 and the Bellingham City Council on June 8, both of which were open public meetings.

5. Summary of public comments

No one from the public chose to speak at the March 12 public hearing, and no written comments were received.

6. Summary of comments or views not accepted and the reasons for not accepting them

Not applicable.

7. Summary

The 2020 Action Plan is intended to implement the priorities and strategies set forth in the 2018-2022 Consolidated Plan.

Lead & Responsible Agencies

PR-05 Lead & Responsible Agencies – 91.200(b)

The following describes the agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
Lead Agency	BELLINGHAM	
CDBG Administrator	BELLINGHAM	Planning and Community Development
HOPWA Administrator	N/A	
HOME Administrator	BELLINGHAM	Planning and Community Development
HOPWA-C Administrator	N/A	

Table 1 – Responsible Agencies

Consolidated Plan Public Contact Information:

Samya Lutz, Housing & Services Program Manager
Planning and Community Development Department
City of Bellingham
210 Lottie Street - Bellingham, WA 98225

Phone: 360-778-8385 or E-mail: slklutz@cob.org

Consultation

AP-10 Consultation – 91.100, 91.200(b), 91.215(l)

The City of Bellingham works in partnership with other agencies, nonprofit organizations, the public housing authority and other citizens and stakeholders to identify the needs for affordable housing, community development and homelessness. These needs are documented in the 2018-2022 Consolidated Plan. Based on these needs, the Consolidated Plan consultation process included setting priorities based on the financial resources available through HUD and local sources.

The consultation process for an Annual Action Plan is to align resources with the goals and strategies outlined in the Consolidated Plan. The City provided an opportunity for agencies and nonprofits to submit proposals for funding assistance that would work to implement the goals and strategies of the 2018-2022 Consolidated Plan. The process to accept proposals resulted in numerous activities.

Additional consultation and discussion followed the COVID-19 disruption and announcement of CDBG-CV funding for response activities related to the impacts of the pandemic, including with philanthropic and county staff to coordinate available funding and responses to community needs.

Funding requests exceeded the amount of anticipated resources in most categories. Where additional resources are available, it is within the City's local Housing Levy. CDBG (including CDBG-CV) and HOME grants, including program income, are fully allocated in the 2020 Action Plan.

Including the listed agencies that were consulted, 167 individuals from at least 90 agencies were contacted to provide them with an advance opportunity to know that applications for funding assistance to implement the 2018-2022 Consolidated Plan were being accepted.

Enhancing Coordination (91.215(l))

The public and assisted housing providers, as well as governmental health, mental health and service agencies, and the philanthropic community all have close working relationships in Bellingham and Whatcom County. The Whatcom County Health Department is the lead agency for homeless housing, as well as public health, mental health and veteran's needs in our community. The City is an active member of the Whatcom County Coalition to End Homelessness and its Steering Committee, as well as a member of the Whatcom County Housing Advisory Committee and Whatcom County's Community Health Improvement Plan workgroup. The City also sits on the steering committee of the Whatcom Housing Alliance, a multi-sector group that advocates for equitable housing policies. The City's Community Development Advisory Board includes membership that represents housing and social service providers, including a representative of the Housing Authority.

Continuum of Care

Whatcom County is the lead agency for the Continuum of Care and the Plan to End Homelessness. The Whatcom Homeless Service Center is the coordinating entity for homelessness, including a single point of entry. The City has incorporated the goals, strategies, activities and outcomes for addressing homelessness in our community into the plan, ensuring consistency in policies and efforts.

The City participates in the local Coalition to End Homelessness, including the Steering Committee for this group, which strives to actively engage people who have experienced or are experiencing homelessness, identify their needs, and respond accordingly.

The City has coordinated with Whatcom County and has incorporated their goals, strategies, activities and outcomes in the Consolidated Plan. The City helps fund the Whatcom Homeless Service Center, which administers the Homeless Management Intake System (HMIS) for the community. City staff meet regularly with County staff and staff from the Whatcom Homeless Services Center (WHSC), as well as other partner agencies who participate in taking WHSC and Coordinated Entry referrals. The City and County strive to align their performance standards and expectations as much as possible and are in regular communication about funding allocations and changes over time. The City has a seat on the Whatcom County Housing Advisory Committee, which makes recommendations on County funding allocations.

Participating agencies, groups, organizations and others

Including the listed agencies that were consulted, more than 90 agencies and organizations were contacted to provide them with an advance opportunity to know that applications were being accepted for funding assistance to implement the 2018-2022 Consolidated Plan. In addition, discussion about the 2020 Action Plan process was included at Whatcom Coalition to End Homelessness steering committee meetings, and at the Whatcom County Housing Advisory Committee meetings, both of which include representatives from many local housing-related agencies as well as public representatives. The City also continues to follow its Community Participation Plan; specifically, the elements relevant to Action Plan development or modifications.

1	Agency/Group/Organization	BELLINGHAM HOUSING AUTHORITY
	Agency/Group/Organization Type	Housing PHA
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Public Housing Needs Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy Market Analysis
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The Executive Director of the Bellingham Housing Authority is a member of the city's Advisory Board which recommends priorities and funding of the Action Plan.

2	Agency/Group/Organization	OPPORTUNITY COUNCIL
	Agency/Group/Organization Type	Housing Services - Housing Services-Children Services-Elderly Persons Services-Persons with Disabilities Services-Victims of Domestic Violence Services-homeless Services-Education Services-Employment Service-Fair Housing
	What section of the Plan was addressed by Consultation?	Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy CHDO-eligible Activities
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The Opportunity Council was consulted and participated in development of the action items. In addition, because the Homeless Service Center is hosted by the Opportunity Council, strategies regarding homelessness were coordinated with them. A representative of the Opportunity Council is a member of the City's advisory board.

Table 2 – Agencies, groups, organizations who participated

Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	Whatcom County	Whatcom County drafted the Homelessness Strategy, and reviewed and commented on the Consolidated Plan. They also developed and continue to update the Countywide Health Improvement Plan. Whatcom County and City staff frequently assist one another in coordinated review of agency funding and activities.

Table 1 – Other local / regional / federal planning efforts

Participation

AP-12 Participation – 91.105, 91.200(c)

1. Summary of citizen participation process

A public display ad for this Action Plan was published in the Bellingham Herald on Sunday, February 16, 2020 notifying the public of an opportunity to comment on the Action Plan and attend a public hearing. Notices were also sent out to stakeholders and the media and posted on the city's web site. In addition, multiple Notices of Funding Availability (NOFAs) were published in December and distributed broadly, as discussed elsewhere in this plan. Responses to these NOFAs were what primarily impacted the goal setting. The public hearing was held on March 12, and the public comment period was open through April 16. Additional discussion took place at open public (virtual) meetings with CDAB on May 14 and City Council on June 8.

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	Public Hearing & comment period	Non-targeted/broad community	CDAB and public attendance; no speakers during public hearing	None	None	
2	Newspaper Ad	Non-targeted/broad community	Display ad - no direct response requested	Display ad - no direct response requested	Display ad - no direct response requested	
3	Public Meetings	Non-targeted/broad community	Regular meeting - no direct response requested			https://www.cob.org/gov/public/bc/cda-board/Pages/meeting-materials.aspx

Table 4 – Citizen Participation Outreach

Expected Resources

AP-15 Expected Resources – 91.220 (c) (1, 2)

HUD's 2020 formula allocation to the City of Bellingham was released on February 18, 2020. HUD's additional COVID-19 response allocation was released on April 3, 2020. If allocations change, adjustments will be made in accordance with the contingency funding plan and the Community Participation Plan. The City also is including the possibility of utilizing a Section 108 loan for childcare facilities.

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available				Expected Amount Avail Remainder of ConPlan (\$)	Narrative Description
			Annual Allocation: (\$)	Program Income: (\$)	Prior Year Resources: (\$)	Total: (\$)		
CDBG	Public - Federal	Acquisition Admin and Planning Housing Public Improvements Public Services	\$842,553	\$210,000	\$256,078	\$1,308,631	\$2,105,106	Funds used for priority needs, including preservation of housing stock, lead-based paint, public improvements, public services and administration and planning.
HOME	Public - Federal	Acquisition Homebuyer assistance Homeowner rehab Multifamily rental new construction TBRA	\$586,798	\$120,000	\$222,644	\$929,442	\$1,413,596	Funds used for homebuyer assistance, tenant-based rental assistance, housing development (including CHDOs) and administration.
CDBG-CV	Public - Federal	Public Services	\$495,646			\$495,646		Funds used for human services response to the COVID-19 pandemic.
Section 108	Federal	Acquisition Development Community Facilities	\$2,000,000			\$2,000,000		Loan funds used for capital acquisition/development for childcare facilities.

Program	Source of Funds	Uses of Funds	Expected Amount Available				Expected Amount Avail Remainder of ConPlan (\$)	Narrative Description
			Annual Allocation: (\$)	Program Income: (\$)	Prior Year Resources: (\$)	Total: (\$)		
Other	Public - Local	Acquisition Admin and Planning Homebuyer assistance Housing Multifamily rental new construction Multifamily rental rehab New construction for ownership Public Services TBRA	\$6,826,518		\$3,809,817	\$10,636,335	\$8,000,000	The City of Bellingham has a voter-approved housing levy that supports development and preservation of housing, as well as rental assistance and housing services.
Other	Public - Local	Public Services TBRA Childcare improvements	\$353,100		\$184,860	\$537,960	\$706,200	This is the city's investment in housing, human and social services.

Table 5 - Expected Resources – Priority Table

Federal Funds / Additional Resources

In 2018, for every dollar of federal funds the City expended on activities that were completed, the City leveraged over \$14 of non-federal funds. In particular, rental housing development and human (public) service funding leverage considerable funding from non-federal sources, tapping into the local commitment of nonprofit agencies delivering critical housing and services to our community.

Discussion

Bellingham voters approved a Housing Levy renewal in 2018, assessing \$4 million per year to address housing development/preservation and housing services. These funds are used to help support capital costs, rent and services for some federally funded projects, thus contributing to the matching requirements. The needs, priorities and strategies of the Consolidated Plan are assisted by these additional resources in the community, and aligned with the priorities of the local Housing Levy.

Annual Goals and Objectives

AP-20 Annual Goals and Objectives - 91.420, 91.220(c)(3)&(e)

Goals Summary Information

The following table is a summary of the 2020 goals.

Sort Order	Goal Name	Start Year	End Year	Category	Needs Addressed	Funding	Goal Outcome Indicator
1	Increase affordable housing rental supply	2018	2022	Affordable Housing Homeless Non-Homeless Special Needs	MORE AFFORDABLE RENTAL HOUSING	HOME \$716,263 Local Housing Levy \$4,871,092	Rental Units Constructed:150
2	Address and prevent homelessness	2018	2022	Affordable Housing Homeless Non-Homeless Special Needs Non-Housing Community Development	ADEQUATE RESPONSE TO HOMELESS CRISIS	CDBG \$531,352 CDBG-CV \$495,646 HOME \$142,500 General Fund \$517,960 Local Housing Levy \$1,365,159	Public service activities other than Low/Moderate Income Housing Benefit: 1,206 Public service activities for Low/Moderate Income Housing Benefit: 202 Tenant-based rental assistance / Rapid Rehousing: 146 Homeless Person Overnight Shelter: 50
3	Preserve existing housing	2018	2022	Affordable Housing Non-Homeless Special Needs	REHABILITATION OF EXISTING UNITS	CDBG \$417,640 Local Housing Levy \$425,000	Rental units rehabilitated: 84 Homeowner housing rehabilitated: 16

Sort Order	Goal Name	Start Year	End Year	Category	Needs Addressed	Funding	Goal Outcome Indicator
4	Increase affordable homeowner housing supply	2018	2022	Affordable Housing	MORE MODERATE INCOME RESIDENTS AS HOMEOWNERS	HOME (already committed) Local Housing Levy (already committed)	Direct Financial Assistance to Homebuyers: 8 Homeowner Housing Added: 8
5	Promote neighborhood equity	2018	2022	Non-Homeless Special Needs Non-Housing Community Development	EQUITY AND ECONOMIC MOBILITY	CDBG \$149,129 Section 108 \$2,000,000 General Fund \$20,000	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 1,085
6	Coordinate and improve delivery of services	2018	2022	Other	EDUCATION AND OUTREACH ON HOUSING ISSUES	CDBG \$210,510 HOME \$70,679 Local Housing Levy \$165,268	Other (Administrative and coordination functions, as well as education and technical assistance to agencies.)

Goal Descriptions

1	Goal Name	Increase affordable housing rental supply
	Goal Description	The private market is unable to meet the demand for affordable housing units without assistance. The rise in housing costs, together with historically low vacancy rates and sluggish wage growth, makes it very difficult to find affordable housing. This need is the result of several contributing factors: lack of affordable, accessible housing in a range of unit sizes; low vacancy rate; and displacement of residents due to economic pressures.

2	Goal Name	Address and prevent homelessness
	Goal Description	Support low barrier shelter, rental assistance, and case management and diversion programs, as well as basic needs and assistance to very low income households. One of the contributing factors to this problem is lack of assistance for transitioning from institutional settings to integrated housing.
3	Goal Name	Preserve existing housing
	Goal Description	Rehabilitate owner-occupied and rental housing for low-income residents. The contributing factors this goal addresses are: displacement of residents due to economic pressures; and lack of assistance for housing accessibility modifications.
4	Goal Name	Increase affordable homeowner housing supply
	Goal Description	Support down-payment assistance and new homeownership opportunities. The contributing factor this addresses are: impediments to (economic) mobility and displacement of residents due to economic pressures. This goal is implemented through the City's homebuyer program administered by the Housing Finance Commission and support for new homeownership development.
5	Goal Name	Promote neighborhood equity
	Goal Description	Improve infrastructure and connectivity, equity of affordable housing distribution, and investments in facilities in low-income neighborhoods. The contributing factors this goal addresses are: lack of investment in specific neighborhoods, including services or amenities; land use zoning laws; disparities in access to opportunity.
6	Goal Name	Coordinate and improve delivery of services
	Goal Description	This goal is about education and administration supports. This includes public education on Fair Housing and housing issues, disaster preparedness, outreach to funding decision makers and policy makers. The contributing factor this goal addresses is disproportionate housing needs.

Estimate the number of extremely low-income, low-income, and moderate-income families to whom the jurisdiction will provide affordable housing as defined by HOME 91.215(b):

271 Extremely low-income

277 Low-income

16 Moderate income

Projects

AP-35 Projects – 91.220(d)

Introduction

The 2020 Action Plan includes continuation of existing activities, renewal of ongoing activities, and new projects.

Projects

#	Project Name
1	Rental Housing Development
2	Human and Social Services
3	Housing Services
4	Rental Assistance
5	Renter/transitional housing preservation
6	Owner-occupied rehab and repair
7	Homebuyer Program
8	Public Facilities and Improvements
9	Planning and Management

Table 2 - Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

These allocations selected for funding were primarily based on solicitation of proposals which used the City's priorities identified in the 2018-2022 Consolidated Plan. Priorities reflect the goals in the Consolidated Plan, as combined with the local capacity to deliver housing and services. Bellingham continues to need a drastic increase in the supply of housing as the vacancy rate is very low. Human services needs are great due in part to the economic impacts of the COVID-19 epidemic.

AP-38 Project Summary

Project Summary Information

1	Project Name	Rental Housing Development
	Goals Supported	Increase affordable housing rental supply
	Needs Addressed	MORE AFFORDABLE RENTAL HOUSING
	Funding	HOME: \$716,264 Local Housing Levy: \$4,871,092
	Description	This project includes multiple activities to increase the supply of affordable housing for families, special needs, the general low-income population, and homeless-on-entry.
	Target Date	June 30, 2021
	Estimate the number /type of families that will benefit from the proposed activities	150 units of housing are estimated to be established through these project activities - all serving low and very low income households
	Location Description	Samish Way, phase 2 – 315 Samish Way Barkley Family Housing – Rimland Drive Recovery House – 1211 Girard Street
	Planned Activities	Two projects are new construction of affordable housing for a mix of families, seniors, those with special needs, and general low-income; the other is a major renovation that will serve those actively engaged in recovery from substance use disorders.
2	Project Name	Human and Social Services
	Goals Supported	Address and prevent homelessness
	Needs Addressed	ADEQUATE RESPONSE TO HOMELESSNESS CRISIS
	Funding	CDBG: \$427,138 CDBG-CV: \$495,646 General Fund: \$423,100
	Description	This human and social service funding opportunity is limited to those services that meet one or more of the following goals: Increase access to affordable childcare; Increase economic security and reduce vulnerability; Increase access to mental health services, including case management; Increase access to basic needs (excluding housing); Promote integration and coordination between systems.
	Target Date	June 30, 2021

	Estimate the number /type of families that will benefit from the proposed activities	1,206 general and special needs low-income individuals, including those experiencing or at risk of homelessness
	Location Description	scattered
	Planned Activities	Project Name, Allocation: GRACE project, 140,000 Lydia Mental Health Counseling, 22,444 Free Grocery Program, 26,900 Providing Help & Healing for Children of DV Victims 'Safe Start', 21,350 Vocational Readiness, 25,900 Volunteer Chore Program, 29,600 Teen Court, 24,300 Gaining Jobs through Literacy, 12,490 Target Intensive Case Management, 30,000 Generations Childcare & Early Learning, 15,000 Parent / Teen Mediation, 15,000 Maple Alley Inn meal program, 22,100 Meals on Wheels, 30,000 Rebound Roots, 22,000 Childcare & Early Learning Center, 30,000 Services for Adults Living with AIDS / HIV, 12,000 Farm Worker & Senior Support Services, 14,800 Additional COVID-related food security support, 300,000 Additional COVID-related childcare support, 350,000 Additional COVID-related social services support, 200,000 Project Homeless Connect, 2,000
3	Project Name	Housing Services
	Goals Supported	Address and prevent homelessness
	Needs Addressed	ADEQUATE RESPONSE TO HOMELESSNESS CRISIS
	Funding	CDBG: \$104,214 General Fund: \$94,860 Local Housing Levy: \$1,034,299

	Description	The housing services' program is limited to those services that meet one or more of the following goals: Reduce the number of homeless (including reduce those who newly enter homelessness); Reduce the length of time spent homeless; Increase the number of people moving into permanent housing after receiving assistance; Reduce the number of people who return to homelessness after obtaining permanent housing.
	Target Date	June 30, 2021
	Estimate the number /type of families that will benefit from the proposed activities	252 general and special needs low-income households, including those experiencing or at risk of homelessness
	Location Description	scattered
	Planned Activities	Project Name, Allocation: Homeless Service Center and Housing Lab assistance, \$132,500 Lydia Place - Family Services, \$93,500 Transitional Housing - Homeless Women with Children, \$28,500 RRH and Diversion for Families & Seniors, \$195,727 Transitional Living, \$36,000 Positive Adolescent Development, \$49,995 Domestic Violence Safe Shelter, \$29,700 Larrabee Residence, \$25,000 OC - Homeless Outreach Team, \$210,000 Additional COVID-related housing support, \$200,000 NWYS – Ground Floor youth \$85,000 Winter emergency shelter/vouchers for cold weather needs for homeless families and special needs populations, \$50,000
4	Project Name	Rental Assistance
	Goals Supported	Tenant-based rental assistance/rapid rehousing
	Needs Addressed	ADEQUATE RESPONSE TO HOMELESSNESS CRISIS
	Funding	HOME: \$142,500 Local Housing Levy: \$659,500 (+previously committed funds)
	Description	This project includes tenant-based rental assistance, rapid re-housing vouchers & housing assistance, and project-based housing assistance.
	Target Date	June 30, 2021
	Estimate the number /type of families that will benefit from the proposed activities	146 households - all low income or very low income.

	Location Description	Scattered sites for tenant-based rental assistance and rapid rehousing vouchers. Project-based housing assistance is previously dedicated to Francis Place, 22 North, Gregg's House, Nevada St PSH, and Lydia Place Heart House.
	Planned Activities	The activities in this project include: • Tenant-based rental assistance - HOME and local Levy funds are provided to the Opportunity Council and Lydia Place to provide tenant-based rental assistance, with the priority being families that are homeless. • Rapid re-housing vouchers and diversion - Local Levy funds are provided to the Opportunity Council and Lydia Place to support rapid re-housing of homeless persons & associated services, or assistance that diverts households from homelessness. • Project-based Housing Assistance - Local Levy funds are provided to projects to support operating costs (rent payments or services). • Additional COVID-related project- or tenant-based rental assistance
5	Project Name	Shelter/rental/transitional housing preservation
	Goals Supported	Preserve Existing Housing
	Needs Addressed	REHABILITATION OF EXISTING UNITS
	Funding	Local Housing Levy: \$300,000
	Description	Includes repair of existing shelter, rental and transitional housing facilities
	Target Date	June 30, 2021
	Estimate the number /type of families that will benefit from the proposed activities	88 low and very low-income households will benefit from these activities (including use of previously committed funds).
	Location Description	Mt. Baker Apartments – 308 W. Champion St Emergency repair – locations TBD (scattered)
	Planned Activities	Repair of Mt Baker Apartment window lintels (84 unit building); Annual offering of funds for emergency repair of transitional, permanent housing or shelter facilities.
6	Project Name	Owner-occupied rehab and repair
	Goals Supported	Preserve Existing Housing
	Needs Addressed	REHABILITATION OF EXISTING UNITS
	Funding	CDBG: \$417,640 Local Housing Levy: \$125,000
	Description	This project includes both the city's owner-occupied rehabilitation program and a manufactured home repair program sponsored by the Opportunity Council.
	Target Date	June 30, 2021

	Estimate the number /type of families that will benefit from the proposed activities	16 households are estimated to benefit over the Action Plan year - mostly low-income, with some very low and moderate income.
	Location Description	scattered sites
	Planned Activities	This project consists of two activities: City of Bellingham Homeowner Rehabilitation Program - the City offers financial assistance to owner-occupied homes that need critical repairs to meet minimum housing standards. The City uses CDBG funding to meet this need. Manufactured Home Repair Program - the City provides local housing levy funds to the Opportunity Council to repair and weatherize owner-occupied manufactured homes.
7	Project Name	Homebuyer Program
	Goals Supported	Increase supply-affordable owner-occupied housing Direct financial assistance to homebuyers
	Needs Addressed	AFFORDABLE HOMEOWNER HOUSING IN A RANGE OF UNIT SIZES
	Funding	All funding for this is carried over from prior years; no new funding is allocated (prior HOME remaining commitment: \$405,823; prior remaining Local Housing Levy commitment: \$237,998)
	Description	The City supports financial assistance to low-income homebuyers through downpayment assistance programs with the WA State Housing Finance Commission, as well as new homebuyer acquisition and construction projects.
	Target Date	June 30, 2021
	Estimate the number /type of families that will benefit from the proposed activities	16 low-income households
	Location Description	Scattered sites and Telegraph Road new home development project
	Planned Activities	Two activities supported by this program are managed through the WA State Housing Finance Commission for low-income and very-low income households on a scattered site basis: Restricted downpayment assistance program (in partnership with Kulshan Community Land Trust); and Unrestricted downpayment assistance program. In addition, the Telegraph Road new construction project managed jointly by Kulshan CLT and Habitat for Humanity was a previously supported project of this program.
8	Project Name	Public Facilities and Improvements
	Goals Supported	Promote Neighborhood Equity
	Needs Addressed	EQUITY AND ECONOMIC MOBILITY

	Funding	Section 108 loan: \$2,000,000 CDBG: \$149,129 General Fund: \$20,000
	Description	Continuing and new community/public facilities projects.
	Target Date	June 30, 2021
	Estimate the number /type of families that will benefit from the proposed activities	56 households - all low-income - are estimated to benefit from these activities, increasing to about 723 households if the Section 108 loan is utilized.
	Location Description	Scattered
	Planned Activities	Support for improvements and acquisitions of childcare facilities, including those serving low-income and special needs individuals and households.
9	Project Name	Planning and Management
	Goals Supported	Coordinate and improve delivery of services
	Needs Addressed	EDUCATION AND OUTREACH ON HOUSING ISSUES
	Funding	CDBG: \$210,510 HOME: \$70,679 Local Housing Levy: \$165,268
	Description	Planning, management and administration of the CDBG and HOME program (and City levy).
	Target Date	June 30, 2021
	Estimate the number /type of families that will benefit from the proposed activities	N/A – Planning & management activity
	Location Description	Throughout Bellingham – Planning & management activity
	Planned Activities	Planning & management activities for CDBG, HOME, and Housing Levy.

Geographic Distribution

AP-50 Geographic Distribution – 91.220(f)

Funds are distributed throughout the City. The City does not have any target areas nor areas of minority concentration. Many projects are delivered city-wide or are in scattered locations. The Central Business District and urban village areas include land that is compatible with multi-family development with access to services.

Geographic Distribution

Target Area	Percentage of Funds
City of Bellingham	100

Table 4 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

The City encourages equity in affordable housing and services throughout the geographic area. This includes diversifying urban village areas, investment of public facilities and improvements in low-income neighborhoods, adding new subsidized housing units in higher income neighborhoods, and acquiring existing ‘naturally occurring’ rental units in higher poverty neighborhoods.

Discussion

Program activities are not strictly limited to serving any areas but are instead designed to promote geographic equity of housing and services throughout the City.

Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Affordable housing support includes rental assistance, new rental construction, homebuyer program and housing services.

One Year Goals for the Number of Households to be Supported	
Homeless	252
Non-Homeless	381
Special-Needs	30
Total	663

Table 6 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance and Services	398
The Production of New Units	158
Rehab of Existing Units	99
Acquisition of Existing Units	8
Total	663

Table 7 - One Year Goals for Affordable Housing by Support Type

Discussion

Leveraging local levy and federal dollars has helped create more opportunities for housing locally, yet there is still a vacancy rate hovering close to 2%, high homeless population, and severe need for additional affordable housing.

Public Housing

AP-60 Public Housing – 91.220(h)

The Bellingham Housing Authority provides public housing and affordable housing in Bellingham. The Housing Authority has been innovative in their pursuit of projects to meet the needs of the community.

Action to address Public Housing Needs

The City will continue to work with the Bellingham Housing Authority (BHA) to address their needs.

1. The City will continue to support the Bellingham Housing Authority's program to involve residents in the management of the Housing Authority and their property.
2. The City will involve public housing residents in future updates to Fair Housing plans and provide them with Fair Housing information.
3. The City will encourage the Housing Authority to provide information about homeownership opportunities to public housing residents.
4. The City continues to collaborate with the Housing Authority on the development of the Samish Way site which was sold by the City to the Housing Authority with flexible terms. Phase I is now under construction with the development of 69 units, and phase II is included in this Action Plan with 54 additional units anticipated. The full build out (through phase III) will offer 178 affordable housing units.

Actions to encourage public housing residents to become more involved in management and participate in homeownership

The City will continue to share educational information about the City's homeownership downpayment assistance program, and about Kulshan CLT's and Habitat for Humanity's homeownership programs. The City is collaborating with the BHA on the disposition of over 20 single family homes that was approved by HUD OPH, and distributed information on first time homebuyer assistance to the BHA to share with impacted residents. The City also assisted in the transfer of some of these properties to nonprofits and/or first time homebuyers.

If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

N/A

Discussion

The City is fortunate to have a well-managed public housing authority. The City will work to support their efforts to meet the needs of their residents, whether in their inventory of public housing or their multifamily (tax credit) projects.

Homeless and Other Special Needs Activities

AP-65 Homeless and Other Special Needs Activities – 91.220(i)

The Whatcom Homeless Service Center (HSC), a program of the Opportunity Council (OC), operates a centralized and coordinating homeless housing service center that serves the homeless population in the City of Bellingham. This Center serves as a hub for all homeless housing related activity in the community, including the coordination of homeless housing service providers and the management of the local homeless management information system (HMIS) by operating a single-point of entry.

One-Year Goals and Actions for Reducing & Ending Homelessness

The City's two highest priorities regarding addressing homelessness are to: support the development of emergency shelter in a safe, permanent location; and support programs to prevent chronic homelessness through intervention services like diversion and light touch case management. This Action Plan reflects increased support for agency programs that provide diversion and rapid rehousing for families and seniors. The City is also working with partner agencies to locate a permanent emergency shelter (or multiple small shelter) location(s).

People who are homeless or at risk of becoming homeless enter the housing system and are assigned case management as available from an array of partnering, non-profit housing agencies. Housing counseling and advocacy become a significant part of the case management support provided. More general counseling and advocacy services are also available to low-income people at the Community Resource Center (drop-in service center) of the Opportunity Council which offers information and referral services to help people seeking a variety of services in addition to housing services. Bellingham has a variety of outreach services targeting the homeless population. The City continues to support the Homeless Outreach Team ("HOT team") using local Housing Levy funds, operated through the Opportunity Council. The City is also part of a program in coordination with the County, and with the support of health care providers, called Ground Level Response and Coordinated Engagement (GRACE). The GRACE program targets both housed and unhoused individuals who are frequent users of emergency services and offers additional assistance through embedded case workers within the Fire and Police departments. Both the HOT team and GRACE will continue their operations this Action Plan year.

Other services available to assist those experiencing or at risk of homelessness include: Hope House, a program of Catholic Community Services; the Homeless Disability Benefits Advocacy Program; the Drop-In Center and shelter and program services run by Lighthouse Mission Ministries including a Mobile Outreach Team; the CORES program targeting mental health needs; and several meal programs. UnityCare Community Health Center provides on-site medical care services at the Lighthouse Mission Drop-In Center one day per week and offers dental services at their downtown site. The Project Homeless Connect event brings in mobile dental clinics once a year for homeless and low-income people to receive free dental services. Seasonal mobile vaccine clinics are provided by the County Health Department for low-income residents. All of these programs may look different with the advent of COVID-19, but services are adapting and continuing, despite the added challenges that the pandemic has brought forward.

Emergency Shelter / Transitional Housing

The City's strategy on homelessness encourages rapid rehousing of those that are homeless and targeted prevention for those that are at risk of becoming homeless. The City supports existing emergency shelter and transitional housing in the community through the city's public (human) service grant program, and a partnership with the Opportunity Council to provide overflow winter emergency shelter capacity.

As seen across the State, the number of homeless persons in Bellingham and Whatcom County is not subsiding. The City administration is seeking ways to partner with agencies to increase the number of beds available to persons living unsheltered, including looking at the feasibility of emergency shelters. City funds supported two seasonal winter shelters in 2019-20. This work will continue in the 2020 Action Plan year.

Helping homeless persons make the transition to permanent housing and independent living

The Homeless Service Center (HSC) administers rental subsidies (local funds) to homeless and at-risk households and matches the subsidy with case management support provided by one of several partnering, nonprofit housing agencies. Families with children, youth, and veteran households are among the populations that are supported by rental subsidies and case management. Additionally, the HSC administers Supportive Housing Program (SHP) subsidies to people who are chronically homeless. HSC also operates the Rapid Rehousing program for families with moderate housing barriers who are homeless, including survivors of domestic violence. The following are some of the employment and job training programs that serve people who are homeless in Bellingham: WorkSource One-Stop Center, Opportunity Council employment specialist, Lake Whatcom Treatment Center and Compass Health employment specialists, Northwest Youth Services jobs training, and Department of Vocational Rehabilitation.

Helping low-income individuals and families avoid becoming homeless

The Homeless Service Center (HSC) helps to coordinate housing placements for people re-entering the community from institutions and implements a housing program for people on State disability assistance. Pioneer Human Services operates a 37-unit apartment (City Gate) that includes units for offenders re-entering from jail, as well as units for veterans. The City's increased support for diversion services targeting families with children and seniors offers assistance for those at risk of homelessness, with referrals coming both through the HSC and through the school district homeless liaisons. This year, the City's strategy also includes a focus on providing more support to childcare facilities that provide services to low-and moderate-income families. Low-income families who have reliable and affordable childcare are more resilient to homelessness as parents can further their careers, providing more stability for their families.

Discussion

Despite past strides in bringing down the numbers of homeless families awaiting housing, Bellingham has struggled to maintain low numbers. The most significant barrier to accomplishing the goal to end homelessness in the community is funding and the constraint in the supply of housing. With additional funding, the community has shown that it can have a significant effect on the number of homeless families in our community. Targeted outreach to families from Whatcom County, the Homeless Service Center and others has led to dramatic reductions in the time spent on the street for families, and we strive to get close to functional zero for families experiencing homelessness.

Barriers to Affordable Housing

AP-75 Barriers to affordable housing – 91.220(j)

The foundation of the City's Consolidated Plan was built on a variety of public outreach activities aimed at understanding barriers to affordable housing and fair housing. Specifically, the City convened a Community Solutions Workgroup (CSW) with multi-disciplinary stakeholders to tackle these issues and make recommendations that fed into the Consolidated Plan. The City also continues to review Countywide Housing Affordability Task Force (CHAT) 2007 recommendations that were targeted at countywide affordable housing goals. Three of CHAT's six goals addressed strategies to remove barriers to affordable housing: 1) Create a housing trust fund; 2) Strive to reduce land and building costs; and 3) Provide incentives for the creation of affordable housing. Most of these measures have been implemented, though the City annually reviews what is still needed to be done. In addition, the current County Health Improvement Plan (CHIP) process has identified housing for families with children as one of three top priorities for improving community health. The City is an active participant in implementation efforts related to the CHIP.

Barriers to households attempting to find housing are often related to health or past housing or behavioral issues. Nearly three-quarters of those experiencing homelessness who are searching for housing have one of the following barriers to finding housing: no rental history, past pay or vacate notice, past eviction notice, past money owed to a landlord, one or more felonies in past 5 years, four or more misdemeanors in past 5 years, arson conviction, someone in the household with open cases/warrants, someone in household with meth charge, arrest, or conviction, registered sex offender, someone with a history of arrest, charge, or conviction for a violent criminal act. Forty-three percent of the households searching have two or more barriers.

Actions planned to remove barriers

The City continues to work with developers to encourage utilization of multifamily tax exemption incentives, and partners with developers on low income tax credit and bond financed projects. City staff are currently working on an analysis of the menu of incentives available to housing developers, to determine the most effective way to encourage more for-profit developers to build additional affordable housing units. The city also analyzes any unutilized or underutilized land that may be able to be used for housing development partnerships. The City also offers reductions for low-income housing in certain fees and charges that affect affordability. The recovery housing being developed in this Action Plan year will offer housing for those with some of the barriers mentioned earlier.

Discussion

The City remains committed to removing or ameliorating the negative effects of public policies that serve as barriers to affordable housing.

Other Actions

AP-85 Other Actions – 91.220(k)

The City will undertake, or support the efforts of other agencies, that meet the needs of low-income persons and households.

Actions planned to address obstacles to meeting underserved needs

- The City will work with other funding agencies, including Whatcom County, United Way of Whatcom County and private foundations, to coordinate funding to more effectively meet the needs of the community.
- The City will seek opportunities to increase funding available for affordable housing, and for more types of housing.
- The City will work to inform lenders and households regarding Fair Housing laws, and in particular, to encourage greater participation by minorities and ethnic groups disproportionately represented in homeownership.

Actions planned to foster and maintain affordable housing

- Most of the city's affordable housing inventory is owned and managed by non-profit housing providers. There is very little risk that projects will be lost from the affordable housing inventory. Regardless, the City will work with these providers when time comes to renew tax credits or pursue other strategies to ensure continued viability of the housing.

Actions planned to reduce lead-based paint hazards

- All housing rehabilitation efforts on homes that were built before 1978 will include lead-based paint hazard evaluations. All hazards will be addressed, either through abatement or interim controls to minimize the hazards.
- The City will continue to provide educational information about the hazards of lead-based paint. Information is available on the City's web site, and City staff provides information targeted to parents of young children through specific outreach to day care centers.

Actions planned to reduce the number of poverty-level families

- The City will support the efforts of non-profit agencies that are working to reduce the number of poverty-level families. These efforts include the Asset Building Coalition sponsored by the Opportunity Council, and the work of United Way, the Whatcom Community Foundation, and Chuckanut Health Foundation of Whatcom County.
- The City will support the efforts of other public agencies that work to reduce the number of people in poverty. Whatcom County and Washington State's WorkFirst Program work towards this end, as well as WorkSource and GoodWill Industries.

Actions planned to develop institutional structure

- The City will continue to work with public and nonprofit funding agencies to identify ways to coordinate and improve the effectiveness of the institutional system of funding housing and low-income community development needs in the community.
- The City will continue to work with all housing and human service agencies to coordinate and improve communications. The Community Development Advisory Board will be one mechanism for hearing other program and institutional issues, and addressing ways to improve the system in Bellingham.

Actions planned to enhance coordination between public and private housing and social service agencies

- The City will continue to support the efforts of the Whatcom County Coalition to End Homelessness Steering Committee, which coordinates the actions of housing and social service agencies in the community; as well as participate in committees focused on addressing supportive services in all housing where it's needed.

Discussion

Voters in the City of Bellingham approved a Low-income Housing Levy in 2012, and again in 2018. This levy is now providing \$4 million per year over ten years. The City began implementation of this levy in 2013, using the needs and priorities identified in the Consolidated Plan as a baseline for this program. As a result of this levy passage, significant attention is able to be paid to addressing obstacles, affordable housing supply, institutional structure and coordination.

Program Specific Requirements

AP-90 Program Specific Requirements – 91.220(l)(1,2,4)

The 2020 Action Plan continues proven programs that the City has implemented for many years, including rehabilitation of homeowner units, homebuyer assistance, public (human) services, tenant-based rental assistance and housing development. The entirety of the anticipated CDBG program income has already been reprogrammed through projects included in this action plan (and tied to this or previous years).

The City is proposing the utilization of the Section 108 loan program this year for the acquisition, (re)development, and/or expansion of childcare facilities serving low-income households.

Community Development Block Grant Program (CDBG)

Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	0
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
Total Program Income:	0

Other CDBG Requirements

1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan: 2020, 2021, 2022	75.00%

HOME Investment Partnership Program (HOME)

Reference 24 CFR 91.220(l)(2)

1. A description of other forms of investment being used beyond those identified in Section 92.205 is as

follows:

No other forms of investment are used beyond those identified in Section 92.205.

2. A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:

The City of Bellingham has selected the resale and recapture provisions that comply with HOME statutory and regulatory requirements. These policies are selected based on program, and not on a case-by-case basis. The City's Resale and Recapture policies are included by reference, and also in the unique appendices to this Action Plan.

3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:

The City has a monitoring policy and procedure to ensure affordability of units acquired with HOME funds. Annual notices are provided to HOME-funded properties regarding new income determinations, HOME rents and utility allowances. Annual income certifications are received from the properties, a desk review is completed, and on-site inspection is completed based on a risk-assessment schedule and HOME rules for monitoring.

4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:

HOME funds are not proposed to assist in the refinancing of existing debt secured by multifamily housing that is rehabilitated with HOME funds.

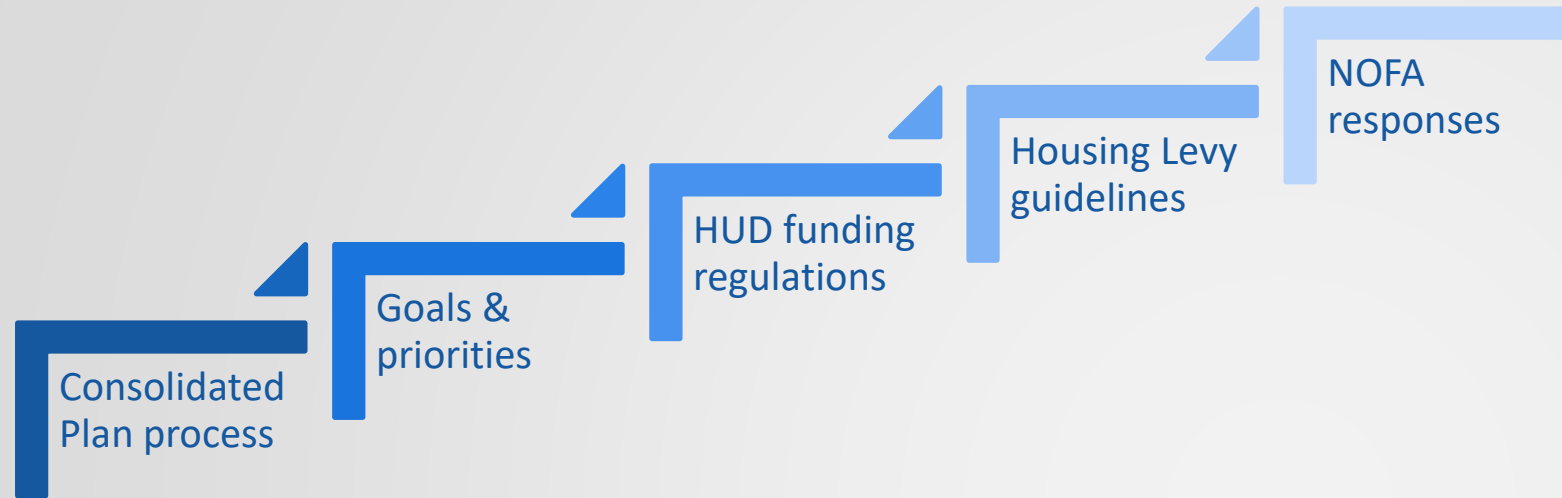
2020 HUD Action Plan

July 1, 2020 – June 30, 2021

City Council Meeting: June 8, 2020



Summary of Action Plan Process



Through the **Consolidated Plan** process and **Assessment of Fair Housing** the City, the public, and community partners identified many priorities that **underscore all Action Plan activities.**

Increase the Supply of Affordable Housing

Preserve Existing Housing

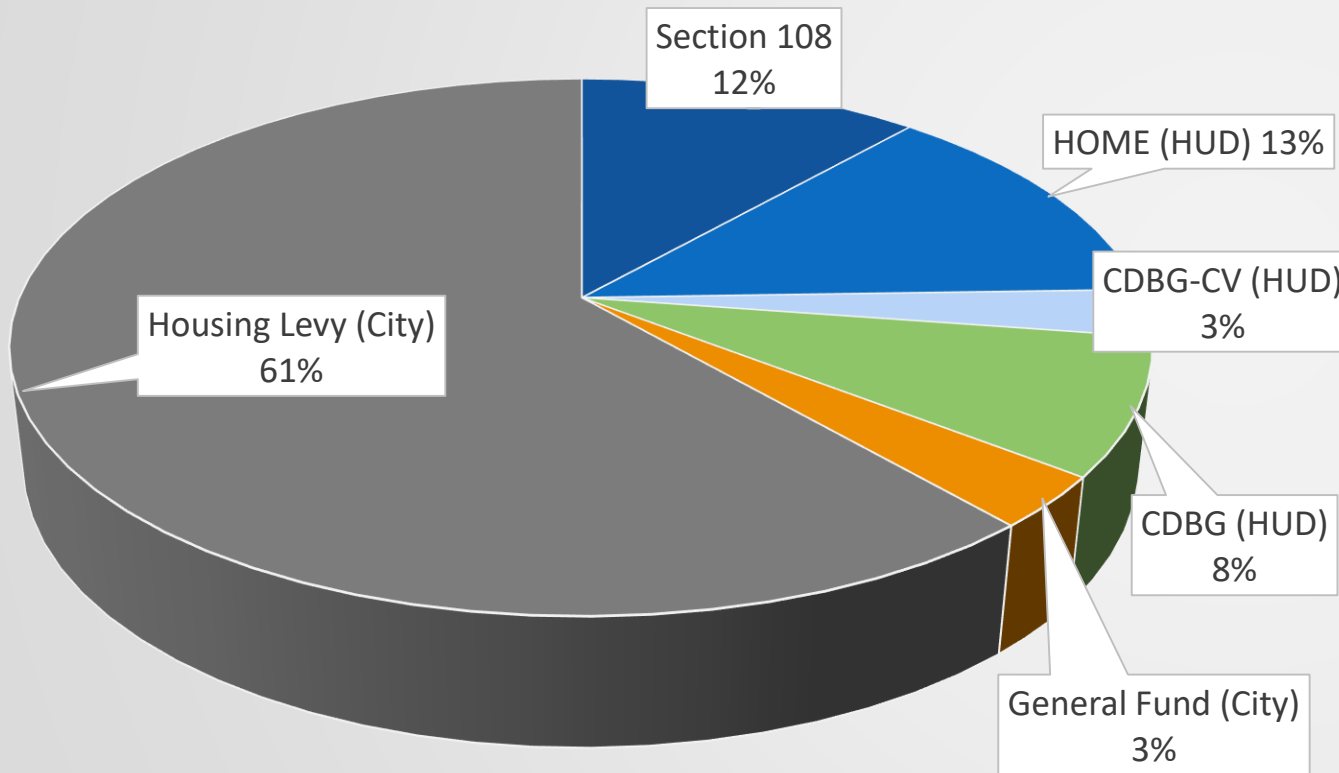
Address & Prevent Homelessness

Promote Neighborhood Equity

Coordinate Effective Delivery of Services



2020 Action Plan Funding Sources



City Housing Levy new	\$6,826,518
City Levy carryover	\$3,809,817
City General Fund	\$537,960
HUD (HOME + CDBG) carryover	\$1,422,070
HUD (HOME + CDBG) new	\$2,238,073
CDBG-CV	\$495,646
Section 108	2,000,000
TOTAL	\$17,330,085

Note: all carryover funds include prior commitments to projects that are not yet contracted or complete

Relationship between goals & programs

CONSOLIDATED PLAN GOAL

PROGRAM (Funding) CATEGORY

Increase the supply
of affordable housing

- Rental housing development loans
- Low-income homebuyer assistance loans & homeownership development

Preserve existing
housing

- Home rehabilitation loans
- Rental housing preservation loans

Address & prevent
homelessness

- Rental assistance and supportive services (rent, diversion, case management, basic needs, prevention, etc.)

Promote
neighborhood equity

- Address community & public infrastructure needs
- Administration (staff time for proactive opportunities)

Coordinate effective
delivery of services

- Administration (staff time for public education and coordination between agencies)

INCREASE THE SUPPLY OF AFFORDABLE HOUSING

- **RENTAL HOUSING** development loans
- Low-income **HOMEBUYER** assistance loans & **HOMEOWNERSHIP** development

Newly Committed Funding	HUD Goal Outcome Indicator
HOME \$716,263 Local Housing Levy \$4,871,092	Rental Units Constructed:150
HOME (already committed) Local Housing Levy (already committed)	Direct Financial Assistance to Homebuyers: 8 Homeowner Housing Added: 8

New Projects

- Samish Way – Phase 2 (54 units)
- Mercy Housing NW – Barkley Family Housing (80 units)
- Opportunity Council – Recovery House (16 beds)

Continuing Projects - Rental

- Samish Way – Phase 1 (69 units)
- Lydia Place – Heart House (11 units)
- Lydia Place – A Place for Dads (3 bedrooms)
- Sun – Nevada St PSH (3 bedrooms)

Continuing Projects - Ownership

- WA State Housing Finance Commission – Downpayment Assistance Program – Restricted (in partnership w/Kulshan CLT) & Unrestricted options
- Kulshan CLT Telegraph Road project (8 new homes)

- 175 -

PRESERVE EXISTING HOUSING

- Home rehabilitation loans
- Rental housing preservation loans

Funding	HUD Goal Outcome Indicator
CDBG \$417,640 Local Housing Levy \$425,000	Rental units rehabilitated: 84 Homeowner housing rehabilitated: 16

New Projects

- Mt Baker Apartments – 84 units, rental housing

2020 Program

- City home rehab program (HRP)
- Manufactured housing repair
- Emergency (rental) repair

Continuing Projects

- DVSAS Baker Place, Sean Humphrey House
- Prior year continuing HRP & Manufactured housing repair projects

ADDRESS & PREVENT HOMELESSNESS

- **Rental assistance and supportive services** (rent, diversion, case management, basic needs, prevention, etc.)

Funding	HUD Goal Outcome Indicator
CDBG \$531,352	Public service activities other than Low/Moderate Income Housing Benefit: 1,206
CDBG-CV \$495,646	
HOME \$142,500	Public service activities for Low/Moderate Income Housing Benefit: 202
General Fund \$517,960	
Local Housing Levy \$1,365,159	Tenant-based rental assistance / Rapid Rehousing: 146
	Homeless Person Overnight Shelter: 50

Ongoing Programs

- Tenant Based Rental Assist & other related
- Emergency winter hotel stays
- Homeless Outreach Team
- Homeless Service Center
- NWYS Ground Floor Day Center
- Project based assistance in 5 properties
- GRACE program
- 2nd year of Human & Social Services grants
- 2nd year of Housing Services grants

+ COVID-19 response...

Housing Security

- Tenant or project-based rental assistance & services (\$500k Housing Levy)

Food Security

- Food security support (\$300k CDBG-CV)

Social Services

- Social services support (\$200k CDBG-CV)

Childcare

- Childcare services (\$350k CDBG) + facilities...

PROMOTE NEIGHBORHOOD EQUITY

- **Address community & public infrastructure needs**
- Administration (staff time for proactive opportunities)

Funding	HUD Goal Outcome Indicator
CDBG \$149,129 Section 108 \$2,000,000 General Fund \$20,000	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 1,085

New Projects

- Section 108 loan (potential)
- Childcare facilities –
acquisition/development/repair

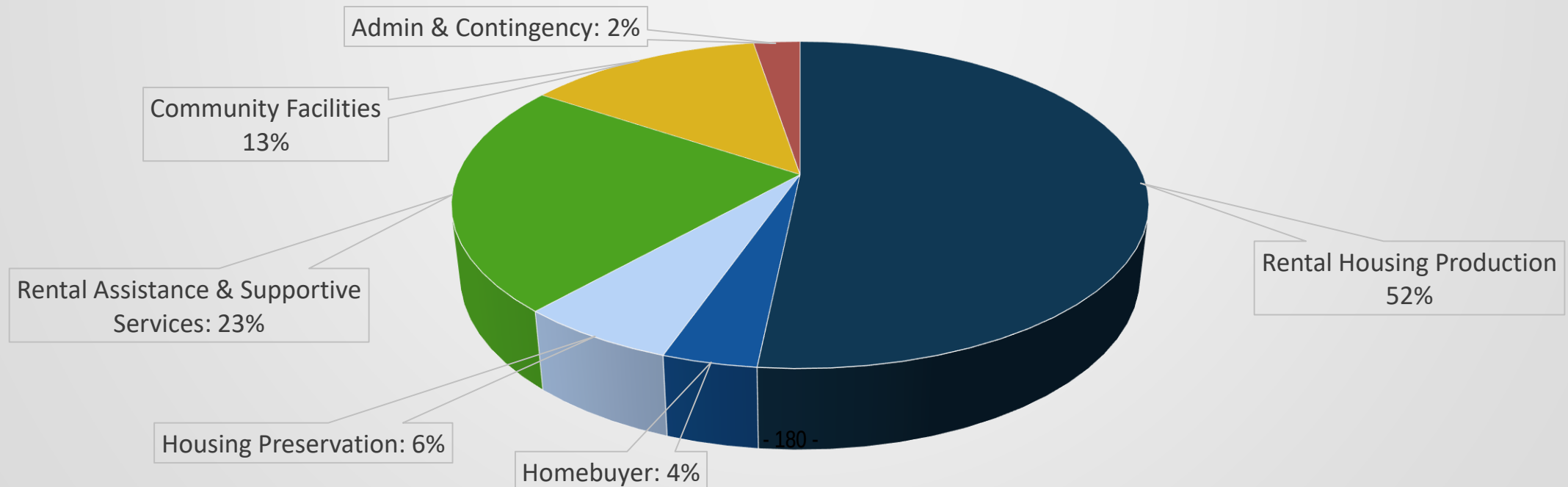
Continuing Community Facilities Projects

- FFC – housing for developmentally disabled adults
- Max Higbee center – move & expansion

Action Plan Overview

Funding Uses (new & existing/carryover commitments)

Rental Housing Production	Homebuyer	Housing Preservation	Rental Assistance & Supportive Services	Community Facilities	Admin & Contingency	TOTAL
8,947,565	643,821	1,080,924	3,952,139	2,259,179	446,457	\$17,330,085



2020 HUD Action Plan

July 1, 2020 – June 30, 2021

Presented 6/8/20 by: Tara Sundin & Samya Lutz
Planning & Community Development Department
tsundin@cob.org | slklutz@cob.org





City Council Agenda Bill

22653

Bill Number

Subject: A Resolution Setting the Date and Time for a Public Hearing Before the Hearing Examiner for Consideration of a Street Vacation Petition for a Portion of Douglas Avenue in the Happy Valley Neighborhood

Summary Statement: The petitioner has submitted the vacation petition in order to facilitate future use of undeveloped right-of-way for access alternatives and potentially an increase in density.

The City Council is required to pass a Resolution that sets a Public Hearing date before the Hearing Examiner. The date for this Public Hearing before the Hearing Examiner is July 8, 2020 in the City Council Chambers at 6:00 P.M.

Previous Council Action: **None**

Fiscal Impact: **None**

Funding Source: **N/A**

Attachments: 1. RESOLUTION
2. SITE PLAN

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	6/08/2020	Pass Resolution	Steve Sundin, Planning and Community Development	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Steve Sundin, Planning and Community Development, 360-778-8300

Council Action:

Reviewed By	Department	Date
<i>Rick M. Sepler</i>	Planning & Community Development	5/29/2020
<i>Alan A. Marriner</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020

RESOLUTION NO. _____

A RESOLUTION FIXING THE TIME FOR A PUBLIC HEARING TO CONSIDER A STREET VACATION PETITION FOR THE FULL WIDTH OF DOUGLAS AVENUE IMMEDIATELY WEST OF 21ST STREET WITHIN AREA 1A OF THE HAPPY VALLEY NEIGHBORHOOD IN BELLINGHAM.

WHEREAS, on October 16, 2019 the agent for the petitioner submitted a street vacation petition in order to be considered by the City's Technical Review Committee; and

WHEREAS, on November 6, 2019 the Technical Review Committee reviewed the subject petition and recommended approval of the vacation petition subject to reserving the entire width of the subject right-of-way for existing public and private utilities; and

WHEREAS, on March 18, 2020 the Petitioner submitted a complete street vacation petition that includes signatures of more than two-thirds of the property owners abutting the subject right-of-way; and,

WHEREAS, the City of Bellingham provided notice to private utility companies on April 22, 2020. At the time of this Resolution two private utilities specified that they have existing facilities within the subject right-of-way petitioned for vacation.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BELLINGHAM:

That a public hearing be held before the Hearing Examiner in the Council chambers of City Hall at 210 Lottie Street on July 8, 2020 at the hour of 6:00 P.M., or there soon after, and that any protests in writing or oral to the vacation be considered at said time and place.

BE IT FURTHER RESOLVED that the City Council delegates the duty of conducting the public hearing on the street vacation petition to the Hearing Examiner, who shall forward findings of fact, conclusions of law and a recommendation to the City Council for final action. The Hearing Examiner shall also make available to the Council a transcript of the hearing together with exhibits.

BE IT FURTHER RESOLVED that the Finance Director shall post notices of said hearing as required by law.

PASSED by the Council this _____ day of _____, 2020.

Council President

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-676-6903

APPROVED by me this _____ day of _____, 2020.

Mayor

ATTEST: _____
Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

(2)

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-676-6903



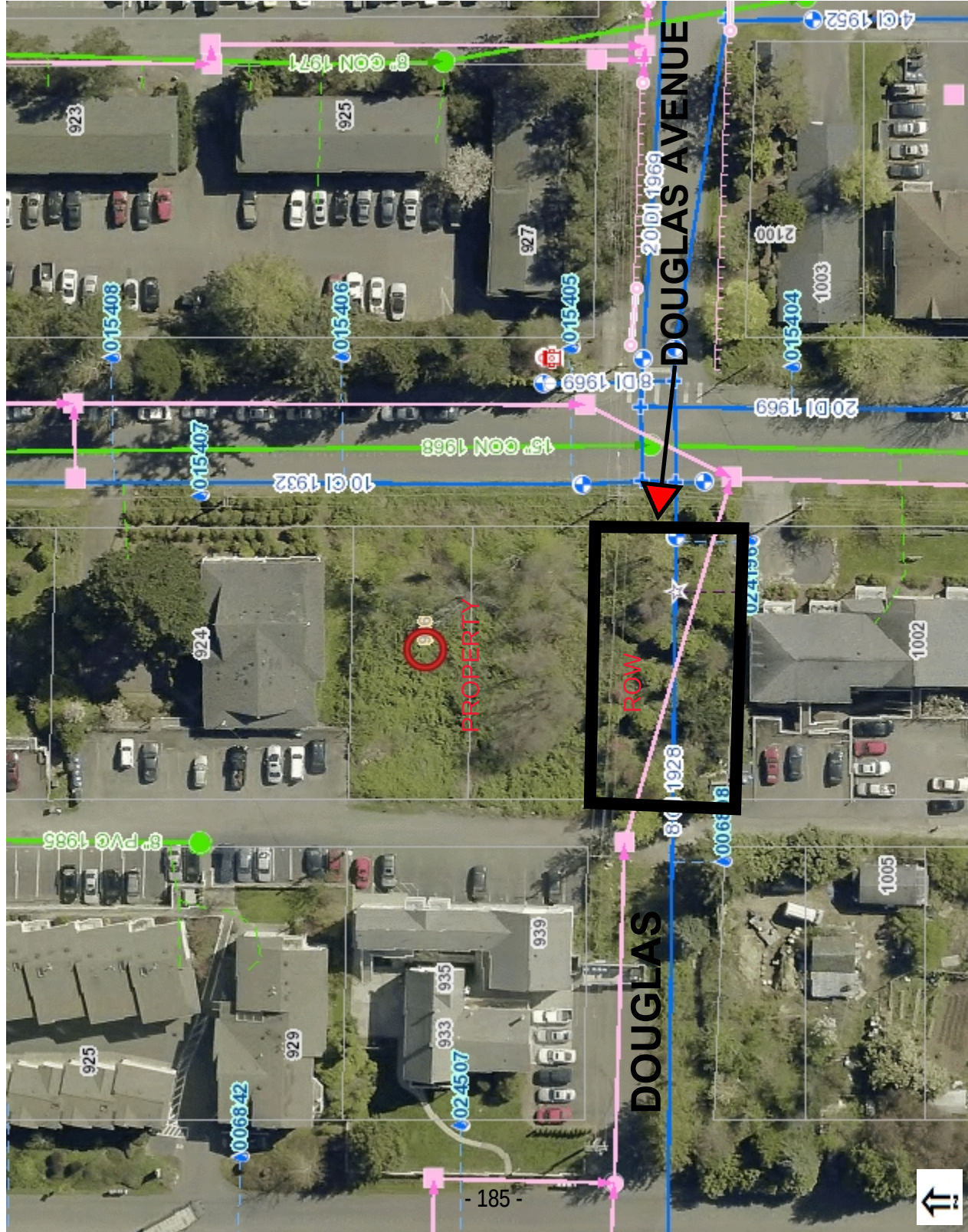
Legend

- Catch Basins
- Manhole
- Clean Out
- Pipe End
- Fitting
- Lateral Line
- Collector
- Drain Line
- Storm Service Line
- Culvert
- Storm Main
- City Mains, Active
- City Mains, Under Construction
- Private Mains, Active
- Private Mains, Under Construction
- Ditch
- Open Channel Streams
- Water Access Points
- Service Valve
- Fireline Valve
- Hydrant Valve
- Fitting
- Control Valve
- Air Release
- Blow Off
- Meters
- Water Customer
- Critical Water Customer
- Hydrants
- COB
- City Filling Station
- Private Hydrants
- Water System Valve
- Bypass Valve
- Inline Valve
- Tapping Valve
- Zone Valve

ATTACHMENT 1

Notes

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124 Feet

62

0

124

THIS MAP IS NOT TO BE USED FOR NAVIGATION

The City of Bellingham has compiled this information for its own use and is not responsible for any use of this information by others. The information found herein is provided simply as a courtesy to the public and is not intended for any third party use in any official, professional or other authoritative capacity. Persons using this information do so at their own risk and by such use agree to defend, indemnify and hold harmless the City of Bellingham as to any claims, damages, liability, losses or suits arising out of such use. Contact the Whatcom County Assessors office (360-778-5050) for the most up to date parcel information.



City Council Agenda Bill

22654

Bill Number

Subject: Resolution Authorizing the City to Apply for and Enter into a Recreation and Conservation Office-Managed Grant for Funding the Little Squalicum Estuary Project (Grant 1 of 3)

Summary Statement: The Public Works Department is preparing three separate grant applications to the Washington State Recreation and Conservation Office (RCO) to partially fund the Little Squalicum Estuary Project. This agenda bill addresses grant one of three. The grant application seeks funding from RCO's Aquatic Lands Enhancement Account. The RCO requires a Council resolution authorizing the City to submit the application. The attached resolution authorizes the City to submit the grant application and execute the attached grant agreement if the application is successfully funded.

Previous Council Action: **AB 22588 PRO Plan including Little Squalicum Estuary, AB 21940 authorizing SRFB grant application**

Fiscal Impact: **Estimated \$500,000 grant funding and estimated \$50,000 City match**

Funding Source: **Fund 430 (Storm) Grant, Fund 720 (Natural Res. Protect & Restore) Match**

Attachments: 1. STAFF MEMO: RCO GRANT - ALEA
2. RESOLUTION - RCO GRANT - ALEA
3. SAMPLE RCO AGREEMENT: ALEA

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	6/08/2020	Pass Resolution	Eric Johnston, PW Director	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Analiese Burns, Habitat & Restoration Manager, 360-778-7968

Reviewed By

Department

Date

Eric C. Johnston

Public Works

6/01/2020

Council Action:

Matthew T. Stamps

Legal

6/02/2020

Seth M. Fleetwood

Executive

6/02/2020



City of Bellingham
210 Lottie Street
Bellingham, WA 98225

MEMORANDUM

TO: BELLINGHAM CITY COUNCIL
FROM: ERIC JOHNSTON, INTERIM PUBLIC WORKS DIRECTOR
CC: MAYOR SETH FLEETWOOD
SUBJECT: DETERMINATION OF NECESSARY AND ROUTINE
DATE: JUNE 8, 2020

This agenda item has been determined to be both “necessary and routine” and, therefore, appropriate for consideration during the COVID-19 health crisis. It is necessary due to the time-sensitive need to establish the process that will direct the ongoing expenditure of staff resources. This agenda item is routine because it does not implicate a change in policy, but is instead focused on the process for the ongoing work of staff.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY OF BELLINGHAM TO APPLY FOR AND ENTER INTO AN AQUATIC LANDS ENHANCEMENT ACCOUNT GRANT FOR ASSISTING WITH THE LITTLE SQUALICUM ESTUARY PROJECT

WHEREAS, the City of Bellingham desires to apply to the Washington State Recreation and Conservation Office (“RCO”) for grant assistance for Little Squalicum Estuary (the “Project”); and

WHEREAS, this resolution authorizes the persons identified below in Section 2 to act as the City’s authorized representative/agent and to legally bind the City with respect to the City’s application for RCO grant assistance for the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM THAT:

1. The City has applied for or intends to apply for funding assistance managed by the RCO for the Project.
2. The Bellingham City Council hereby authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding the City on the above projects:

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

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

3. City staff have reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's website at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. The City understands and acknowledges that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the City if the City's representative/agent enters into an Agreement on the City's behalf. The Office reserves the right to revise the Agreement prior to execution.
4. The City acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.
5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on the City's part.
6. The City understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.
7. The City further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.
8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
9. The City acknowledges that if it receives grant funds managed by the RCO, the RCO will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The RCO may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.
10. The City acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the

purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.

11. The City acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.
12. The City certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.
13. This resolution is deemed to be part of the formal grant application to the Office.
14. The City warrants and certifies that this resolution was properly and lawfully adopted following the requirements of the City and applicable laws and policies and that the City has full legal authority to commit to the warranties, certifications, promises and obligations set forth herein.

PASSED by the Council this _____ day of _____, 2020.

Council President

APPROVED by me this _____ day of _____, 2020

Mayor

ATTEST:

Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

RESOLUTION - 3

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

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

RCO reserves the right to make updates to this template.

RCO GRANT AGREEMENT

Project Name: _____

Project Number: _____

Issuance Date: _____

A. PARTIES OF THE GRANT AGREEMENT.

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

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

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

B. PURPOSE OF AGREEMENT.

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

C. DESCRIPTION OF PROJECT.

{ProjectDescription}

D. PERIOD OF PERFORMANCE.

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

E. STANDARD TERMS AND CONDITIONS INCORPORATED.

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

F. LONG-TERM OBLIGATIONS.

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

G. PROJECT FUNDING.

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

{FundingTable}

H. FEDERAL FUND INFORMATION.

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

{FederalFundingInfo}

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

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

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

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

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

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

The following Exhibits are attached as part of this Agreement:

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

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

J. AMENDMENTS TO AGREEMENT.

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

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

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

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

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

{CustomApplicableManuals}

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

L. SPECIAL CONDITIONS.

{CustomSpecialConditionsAsMayApply}

M. AGREEMENT CONTACTS.

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

{CustomProjectContacts}

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

N. ENTIRE AGREEMENT.

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

O. EFFECTIVE DATE.

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

Signatures:

Sponsor/Date

Recreation and Conservation Office/Date

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Example

STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT

Last Updated: February 12, 2020

1. CITATIONS, HEADINGS AND DEFINITIONS.

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

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

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

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

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

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

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

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

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

C.F.R. – Code of Federal Regulations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Office – Means the Recreation and Conservation Office or RCO.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RCFB – Recreation and Conservation Funding Board

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

RCW – Revised Code of Washington

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

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

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

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

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

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

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

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

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

SRFB – Salmon Recovery Funding Board

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

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

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

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

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

WAC – Washington Administrative Code.

2. PERFORMANCE BY THE SPONSOR.

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

3. ASSIGNMENT.

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

4. RESPONSIBILITY FOR PROJECT.

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

5. INDEMNIFICATION.

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

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

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

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

6. INDEPENDENT CAPACITY OF THE SPONSOR.

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

7. CONFLICT OF INTEREST.

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

8. COMPLIANCE WITH APPLICABLE LAW.

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

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

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

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

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

9. ARCHAEOLOGICAL AND CULTURAL RESOURCES RESPONSIBILITIES

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

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

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

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

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

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

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

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

where project mitigation shall occur, or any other areas that may be affected by project implementation.

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

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

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

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

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

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

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

- h. Discovery. If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.

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

- 9. Costs. Costs associated with Sponsor's responsibilities under this section of the Agreement are eligible for reimbursement under this Agreement. Costs that exceed the budget grant amount shall be the responsibility of the Sponsor.

10. RECORDS.

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

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

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

11. PROJECT FUNDING.

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

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

12. PROJECT REIMBURSEMENTS.

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

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

13. ADVANCE PAYMENTS.

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

14. RECOVERY OF PAYMENTS.

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

15. COVENANT AGAINST CONTINGENT FEES.

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

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

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

Income.

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

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

17. PROCUREMENT REQUIREMENTS.

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

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

b. Requirements for Federal Subawards.

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

18. TREATMENT OF EQUIPMENT AND ASSETS.

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

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

19. RIGHT OF INSPECTION.

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

20. STEWARDSHIP AND MONITORING.

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

21. PREFERENCES FOR RESIDENTS.

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

22. ACKNOWLEDGMENT AND SIGNS.

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

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

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

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

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

24. PROVISIONS APPLYING TO ACQUISITION PROJECTS.

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

- state, or federal agency, or other organization. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
- v. Deed of Right. The Deed of Right as described in RCO Manual #3 conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. Sponsors shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the Sponsor has acquired a perpetual easement for public purposes.
 - vi. Assignment of Rights. The Assignment of Rights as described in RCO Manual #3 document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 - vii. Easements and Leases. The Sponsor may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
 - viii. Real Property Acquisition and Relocation Assistance. In the event that housing and relocation costs and procedures are required by local, state, tribal, or federal law, or rule; the Sponsor agrees to provide such housing and relocation assistance as a condition of the Agreement and receiving grant funds.
- b. Buildings and Structures. In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with COMPLIANCE WITH APPLICABLE LAW SECTION, Archeological and Cultural Resources paragraph.
- c. Hazardous Substances.
- i. Certification. The Sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(13), and certify:
 - ii. No hazardous substances were found on the site, or
 - iii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
 - iv. Responsibility. Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
 - v. Hold Harmless. The Sponsor will defend, protect and hold harmless the State and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss

of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The Funding Entity and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

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

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

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

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

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

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

27. RECORDED NOTICE OF GRANT.

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

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

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

29. PROVISIONS FOR FEDERAL SUBAWARDS.

The following provisions shall be in force for this agreement:

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

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

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

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

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

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

30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS.

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

31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS.

The following provisions shall be in force for this agreement:

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

32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS.

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

33. PROVISIONS FOR FARMLAND AND FORESTLAND PRESERVATION PROJECTS.

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

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

34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS.

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

35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS.

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

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

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

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

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

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

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

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

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

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

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

- z. Light Refreshments And/Or Meals.

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

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

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

- aa. State grant cybersecurity.

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

36. ORDER OF PRECEDENCE.

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

- i. Federal law and binding executive orders;

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

37. LIMITATION OF AUTHORITY.

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

38. WAIVER OF DEFAULT.

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

39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH.

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

40. SPECIFIC PERFORMANCE.

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

41. TERMINATION AND SUSPENSION.

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

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

is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

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

42. DISPUTE HEARING.

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

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

43. ATTORNEYS' FEES.

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

44. GOVERNING LAW/VENUE.

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

45. SEVERABILITY.

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

46. END OF AGREEMENT.

This is the end of the agreement.



City Council Agenda Bill

22655

Bill Number

Subject: Resolution Authorizing the City to Apply for and Enter into a Recreation and Conservation Office-Managed Grant for Funding for the Little Squalicum Estuary Project (Grant 2 of 3)

Summary Statement: The Public Works Department is preparing three separate grant applications to the Washington State Recreation and Conservation Office (RCO) to partially fund the Little Squalicum Estuary Project. This agenda bill addresses grant two of three. This grant application seeks funding from RCO's Estuary and Salmon Restoration Program. The RCO requires a Council resolution authorizing the City to submit the application. The attached resolution authorizes the City to submit the grant application and execute the attached grant agreement if the application is successfully funded.

Previous Council Action: **AB 22588 PRO Plan including Little Squalicum Estuary, AB 21940 authorizing SRFB grant application**

Fiscal Impact: **Estimated \$400,000**

Funding Source: **Fund 430 (Stormwater)**

Attachments: 1. STAFF MEMO RCO GRANT - ESRP
2. RESOLUTION RCO GRANT - ESRP
3. SAMPLE RCO GRANT: ESRP

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	6/08/2020	Pass Resolution	Eric Johnston, PW Director	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Analiese Burns, Habitat & Restoration Manager, 360-778-7968

Reviewed By

Department

Date

Eric C. Johnston

Public Works

6/01/2020

Council Action:

Matthew T. Stamps

Legal

6/02/2020

Seth M. Fleetwood

Executive

6/02/2020



City of Bellingham
210 Lottie Street
Bellingham, WA 98225

MEMORANDUM

TO: BELLINGHAM CITY COUNCIL
FROM: ERIC JOHNSTON, INTERIM PUBLIC WORKS DIRECTOR
CC: MAYOR SETH FLEETWOOD
SUBJECT: DETERMINATION OF NECESSARY AND ROUTINE
DATE: JUNE 8, 2020

This agenda item has been determined to be both “necessary and routine” and, therefore, appropriate for consideration during the COVID-19 health crisis. It is necessary due to the time-sensitive need to establish the process that will direct the ongoing expenditure of staff resources. This agenda item is routine because it does not implicate a change in policy, but is instead focused on the process for the ongoing work of staff.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY OF BELLINGHAM TO APPLY FOR AND ENTER INTO AN ESTUARY AND SALMON RESTORATION PROGRAM GRANT FOR ASSISTING WITH THE LITTLE SQUALICUM ESTUARY RESTORATION PROJECT (No. 20-1463)

WHEREAS, the City of Bellingham desires to apply to the Washington State Recreation and Conservation Office (“RCO”) for grant assistance for Little Squalicum Estuary (the “Project”); and

WHEREAS, this resolution authorizes the persons identified below in Section 2 to act as the City’s authorized representative/agent and to legally bind the City with respect to the City’s application for RCO grant assistance for the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM THAT:

1. The City has applied for or intends to apply for funding assistance managed by the RCO for the Project.
2. The Bellingham City Council hereby authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding the City on the above projects:

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

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

3. City staff have reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's website at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. The City understands and acknowledges that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the City if the City's representative/agent enters into an Agreement on the City's behalf. The Office reserves the right to revise the Agreement prior to execution.
4. The City acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.
5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on the City's part.
6. The City understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.
7. The City further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.
8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
9. The City acknowledges that if it receives grant funds managed by the RCO, the RCO will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The RCO may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.
10. The City acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the

purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.

11. The City acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.
12. The City certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.
13. This resolution is deemed to be part of the formal grant application to the Office.
14. The City warrants and certifies that this resolution was properly and lawfully adopted following the requirements of the City and applicable laws and policies and that the City has full legal authority to commit to the warranties, certifications, promises and obligations set forth herein.

PASSED by the Council this _____ day of _____, 2020.

Council President

APPROVED by me this _____ day of _____, 2020

Mayor

ATTEST:

Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

RESOLUTION - 3

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

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

RCO reserves the right to make updates to this template.

RCO GRANT AGREEMENT

Project Name: _____

Project Number: _____

Issuance Date: _____

A. PARTIES OF THE GRANT AGREEMENT.

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

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

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

B. PURPOSE OF AGREEMENT.

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

C. DESCRIPTION OF PROJECT.

{ProjectDescription}

D. PERIOD OF PERFORMANCE.

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

E. STANDARD TERMS AND CONDITIONS INCORPORATED.

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

F. LONG-TERM OBLIGATIONS.

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

G. PROJECT FUNDING.

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

{FundingTable}

H. FEDERAL FUND INFORMATION.

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

{FederalFundingInfo}

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

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

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

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

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

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

The following Exhibits are attached as part of this Agreement:

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

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

J. AMENDMENTS TO AGREEMENT.

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

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

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

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

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

{CustomApplicableManuals}

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

L. SPECIAL CONDITIONS.

{CustomSpecialConditionsAsMayApply}

M. AGREEMENT CONTACTS.

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

{CustomProjectContacts}

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

N. ENTIRE AGREEMENT.

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

O. EFFECTIVE DATE.

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

Signatures:

Sponsor/Date

Recreation and Conservation Office/Date

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Example

STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT

Last Updated: February 12, 2020

1. CITATIONS, HEADINGS AND DEFINITIONS.

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

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

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

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

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

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

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

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

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

C.F.R. – Code of Federal Regulations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Office – Means the Recreation and Conservation Office or RCO.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RCFB – Recreation and Conservation Funding Board

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

RCW – Revised Code of Washington

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

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

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

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

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

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

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

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

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

SRFB – Salmon Recovery Funding Board

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

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

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

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

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

WAC – Washington Administrative Code.

2. PERFORMANCE BY THE SPONSOR.

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

3. ASSIGNMENT.

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

4. RESPONSIBILITY FOR PROJECT.

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

5. INDEMNIFICATION.

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

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

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

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

6. INDEPENDENT CAPACITY OF THE SPONSOR.

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

7. CONFLICT OF INTEREST.

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

8. COMPLIANCE WITH APPLICABLE LAW.

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

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

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

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

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

9. ARCHAEOLOGICAL AND CULTURAL RESOURCES RESPONSIBILITIES

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

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

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

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

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

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

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

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

where project mitigation shall occur, or any other areas that may be affected by project implementation.

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

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

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

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

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

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

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

- h. Discovery. If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.

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

- 9. Costs. Costs associated with Sponsor's responsibilities under this section of the Agreement are eligible for reimbursement under this Agreement. Costs that exceed the budget grant amount shall be the responsibility of the Sponsor.

10. RECORDS.

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

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

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

11. PROJECT FUNDING.

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

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

12. PROJECT REIMBURSEMENTS.

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

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

13. ADVANCE PAYMENTS.

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

14. RECOVERY OF PAYMENTS.

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

15. COVENANT AGAINST CONTINGENT FEES.

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

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

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

Income.

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

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

17. PROCUREMENT REQUIREMENTS.

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

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

b. Requirements for Federal Subawards.

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

18. TREATMENT OF EQUIPMENT AND ASSETS.

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

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

19. RIGHT OF INSPECTION.

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

20. STEWARDSHIP AND MONITORING.

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

21. PREFERENCES FOR RESIDENTS.

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

22. ACKNOWLEDGMENT AND SIGNS.

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

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

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

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

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

24. PROVISIONS APPLYING TO ACQUISITION PROJECTS.

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

- state, or federal agency, or other organization. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
- v. Deed of Right. The Deed of Right as described in RCO Manual #3 conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. Sponsors shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the Sponsor has acquired a perpetual easement for public purposes.
 - vi. Assignment of Rights. The Assignment of Rights as described in RCO Manual #3 document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 - vii. Easements and Leases. The Sponsor may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
 - viii. Real Property Acquisition and Relocation Assistance. In the event that housing and relocation costs and procedures are required by local, state, tribal, or federal law, or rule; the Sponsor agrees to provide such housing and relocation assistance as a condition of the Agreement and receiving grant funds.
- b. Buildings and Structures. In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with COMPLIANCE WITH APPLICABLE LAW SECTION, Archeological and Cultural Resources paragraph.
- c. Hazardous Substances.
- i. Certification. The Sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(13), and certify:
 - ii. No hazardous substances were found on the site, or
 - iii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
 - iv. Responsibility. Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
 - v. Hold Harmless. The Sponsor will defend, protect and hold harmless the State and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss

of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The Funding Entity and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

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

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

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

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

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

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

27. RECORDED NOTICE OF GRANT.

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

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

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

29. PROVISIONS FOR FEDERAL SUBAWARDS.

The following provisions shall be in force for this agreement:

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

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

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

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

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

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

30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS.

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

31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS.

The following provisions shall be in force for this agreement:

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

32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS.

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

33. PROVISIONS FOR FARMLAND AND FORESTLAND PRESERVATION PROJECTS.

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

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

34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS.

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

35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS.

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

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

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

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

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

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

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

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

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

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

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

- z. Light Refreshments And/Or Meals.

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

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

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

- aa. State grant cybersecurity.

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

36. ORDER OF PRECEDENCE.

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

- i. Federal law and binding executive orders;

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

37. LIMITATION OF AUTHORITY.

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

38. WAIVER OF DEFAULT.

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

39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH.

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

40. SPECIFIC PERFORMANCE.

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

41. TERMINATION AND SUSPENSION.

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

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

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

42. DISPUTE HEARING.

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

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

43. ATTORNEYS' FEES.

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

44. GOVERNING LAW/VENUE.

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

45. SEVERABILITY.

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

46. END OF AGREEMENT.

This is the end of the agreement.



City Council Agenda Bill

22656

Bill Number

Subject: Resolution Authorizing the City to Apply for and Enter into a Recreation and Conservation Office-Managed Grant for Assisting with the Little Squalicum Estuary Project (Grant 3 of 3)

Summary Statement: The Public Works Department is preparing three separate grant applications to the Washington State Recreation and Conservation Office (RCO) to partially fund the Little Squalicum Estuary Project. This agenda bill addresses grant three of three. This grant application seeks funding from RCO's Washington Wildlife and Recreation Program. The RCO requires a Council resolution authorizing the City to submit the application. The attached resolution authorizes the City to submit the grant application and execute the attached grant agreement if the application is successfully funded.

Previous Council Action: **AB 22588 PRO Plan including Little Squalicum Estuary, AB 21940 authorizing SRFB Grant application**

Fiscal Impact: **Estimated \$500,000 grant and estimated \$50,000 City match**

Funding Source: **Fund 430 (Stormwater) grant, Fund 720 (Natural Res. Protect & Restoration) match**

Attachments: 1. STAFF MEMO RCO GRANT - WWRP
2. RESOLUTION RCO GRANT - WWRP
3. SAMPLE RCO AGREEMENT - WWRP

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	6/08/2020	Pass Resolution	Eric Johnston, PW Director	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Analiese Burns, Habitat & Restoration Manager, 360-778-7968

Reviewed By	Department	Date
<i>Eric C. Johnston</i>	Public Works	6/01/2020

Council Action:

<i>Matthew T. Stamps</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



City of Bellingham
210 Lottie Street
Bellingham, WA 98225

MEMORANDUM

TO: BELLINGHAM CITY COUNCIL
FROM: ERIC JOHNSTON, INTERIM PUBLIC WORKS DIRECTOR
CC: MAYOR SETH FLEETWOOD
SUBJECT: DETERMINATION OF NECESSARY AND ROUTINE
DATE: JUNE 8, 2020

This agenda item has been determined to be both “necessary and routine” and, therefore, appropriate for consideration during the COVID-19 health crisis. It is necessary due to the time-sensitive need to establish the process that will direct the ongoing expenditure of staff resources. This agenda item is routine because it does not implicate a change in policy, but is instead focused on the process for the ongoing work of staff.

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE CITY OF BELLINGHAM TO APPLY FOR
AND ENTER INTO A WASHINGTON WILDLIFE AND RECREATION PROGRAM
GRANT FOR ASSISTING WITH THE LITTLE SQUALICUM ESTUARY PROJECT**

WHEREAS, the City of Bellingham desires to apply to the Washington State Recreation and Conservation Office (“RCO”) for grant assistance for Little Squalicum Estuary (the “Project”); and

WHEREAS, this resolution authorizes the persons identified below in Section 2 to act as the City’s authorized representative/agent and to legally bind the City with respect to the City’s application for RCO grant assistance for the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM THAT:

1. The City has applied for or intends to apply for funding assistance managed by the RCO for the Project.
2. The Bellingham City Council hereby authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding the City on the above projects:

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

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

3. City staff have reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's website at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. The City understands and acknowledges that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the City if the City's representative/agent enters into an Agreement on the City's behalf. The Office reserves the right to revise the Agreement prior to execution.
4. The City acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.
5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on the City's part.
6. The City understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.
7. The City further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.
8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
9. The City acknowledges that if it receives grant funds managed by the RCO, the RCO will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The RCO may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.
10. The City acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the

purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.

11. The City acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.
12. The City certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.
13. This resolution is deemed to be part of the formal grant application to the Office.
14. The City warrants and certifies that this resolution was properly and lawfully adopted following the requirements of the City and applicable laws and policies and that the City has full legal authority to commit to the warranties, certifications, promises and obligations set forth herein.

PASSED by the Council this _____ day of _____, 2020.

Council President

APPROVED by me this _____ day of _____, 2020

Mayor

ATTEST:

Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

RESOLUTION - 3

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

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

RCO reserves the right to make updates to this template.

RCO GRANT AGREEMENT

Project Name: _____

Project Number: _____

Issuance Date: _____

A. PARTIES OF THE GRANT AGREEMENT.

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

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

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

B. PURPOSE OF AGREEMENT.

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

C. DESCRIPTION OF PROJECT.

{ProjectDescription}

D. PERIOD OF PERFORMANCE.

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

E. STANDARD TERMS AND CONDITIONS INCORPORATED.

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

F. LONG-TERM OBLIGATIONS.

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

G. PROJECT FUNDING.

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

{FundingTable}

H. FEDERAL FUND INFORMATION.

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

{FederalFundingInfo}

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

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

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

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

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

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

The following Exhibits are attached as part of this Agreement:

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

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

J. AMENDMENTS TO AGREEMENT.

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

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

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

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

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

{CustomApplicableManuals}

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

L. SPECIAL CONDITIONS.

{CustomSpecialConditionsAsMayApply}

M. AGREEMENT CONTACTS.

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

{CustomProjectContacts}

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

N. ENTIRE AGREEMENT.

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

O. EFFECTIVE DATE.

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

Signatures:

Sponsor/Date

Recreation and Conservation Office/Date

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Example

STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT

Last Updated: February 12, 2020

1. CITATIONS, HEADINGS AND DEFINITIONS.

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

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

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

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

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

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

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

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

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

C.F.R. – Code of Federal Regulations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Office – Means the Recreation and Conservation Office or RCO.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RCFB – Recreation and Conservation Funding Board

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

RCW – Revised Code of Washington

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

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

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

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

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

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

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

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

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

SRFB – Salmon Recovery Funding Board

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

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

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

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

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

WAC – Washington Administrative Code.

2. PERFORMANCE BY THE SPONSOR.

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

3. ASSIGNMENT.

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

4. RESPONSIBILITY FOR PROJECT.

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

5. INDEMNIFICATION.

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

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

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

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

6. INDEPENDENT CAPACITY OF THE SPONSOR.

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

7. CONFLICT OF INTEREST.

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

8. COMPLIANCE WITH APPLICABLE LAW.

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

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

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

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

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

9. ARCHAEOLOGICAL AND CULTURAL RESOURCES RESPONSIBILITIES

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

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

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

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

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

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

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

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

where project mitigation shall occur, or any other areas that may be affected by project implementation.

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

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

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

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

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

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

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

- h. Discovery. If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.

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

- 9. Costs. Costs associated with Sponsor's responsibilities under this section of the Agreement are eligible for reimbursement under this Agreement. Costs that exceed the budget grant amount shall be the responsibility of the Sponsor.

10. RECORDS.

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

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

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

11. PROJECT FUNDING.

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

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

12. PROJECT REIMBURSEMENTS.

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

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

13. ADVANCE PAYMENTS.

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

14. RECOVERY OF PAYMENTS.

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

15. COVENANT AGAINST CONTINGENT FEES.

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

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

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

Income.

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

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

17. PROCUREMENT REQUIREMENTS.

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

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

b. Requirements for Federal Subawards.

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

18. TREATMENT OF EQUIPMENT AND ASSETS.

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

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

19. RIGHT OF INSPECTION.

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

20. STEWARDSHIP AND MONITORING.

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

21. PREFERENCES FOR RESIDENTS.

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

22. ACKNOWLEDGMENT AND SIGNS.

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

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

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

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

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

24. PROVISIONS APPLYING TO ACQUISITION PROJECTS.

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

- state, or federal agency, or other organization. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
- v. Deed of Right. The Deed of Right as described in RCO Manual #3 conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. Sponsors shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the Sponsor has acquired a perpetual easement for public purposes.
 - vi. Assignment of Rights. The Assignment of Rights as described in RCO Manual #3 document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 - vii. Easements and Leases. The Sponsor may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
 - viii. Real Property Acquisition and Relocation Assistance. In the event that housing and relocation costs and procedures are required by local, state, tribal, or federal law, or rule; the Sponsor agrees to provide such housing and relocation assistance as a condition of the Agreement and receiving grant funds.
- b. Buildings and Structures. In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with COMPLIANCE WITH APPLICABLE LAW SECTION, Archeological and Cultural Resources paragraph.
- c. Hazardous Substances.
- i. Certification. The Sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(13), and certify:
 - ii. No hazardous substances were found on the site, or
 - iii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
 - iv. Responsibility. Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
 - v. Hold Harmless. The Sponsor will defend, protect and hold harmless the State and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss

of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The Funding Entity and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

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

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

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

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

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

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

27. RECORDED NOTICE OF GRANT.

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

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

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

29. PROVISIONS FOR FEDERAL SUBAWARDS.

The following provisions shall be in force for this agreement:

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

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

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

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

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

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

30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS.

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

31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS.

The following provisions shall be in force for this agreement:

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

32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS.

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

33. PROVISIONS FOR FARMLAND AND FORESTLAND PRESERVATION PROJECTS.

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

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

34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS.

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

35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS.

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

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

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

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

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

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

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

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

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

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

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

- z. Light Refreshments And/Or Meals.

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

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

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

- aa. State grant cybersecurity.

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

36. ORDER OF PRECEDENCE.

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

- i. Federal law and binding executive orders;

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

37. LIMITATION OF AUTHORITY.

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

38. WAIVER OF DEFAULT.

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

39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH.

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

40. SPECIFIC PERFORMANCE.

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

41. TERMINATION AND SUSPENSION.

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

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

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

42. DISPUTE HEARING.

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

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

43. ATTORNEYS' FEES.

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

44. GOVERNING LAW/VENUE.

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

45. SEVERABILITY.

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

46. END OF AGREEMENT.

This is the end of the agreement.



City Council Agenda Bill

22657

Bill Number

Subject: **Resolution Authorizing the City to Apply for and Enter into a Recreation and Conservation Office-Managed Grant for the Padden Creek at 30th Street Fish Passage Project**

Summary Statement: The Public Works Natural Resources Division is preparing a grant application for Brian Abbott Fish Barrier Removal Board funding managed by the Washington State Recreation and Conservation Office (RCO). The grant will help fund the Padden Creek at 30th Street Fish Passage restoration project. The RCO requires a Council resolution authorizing the City to submit the application. The attached resolution authorizes the City to submit the grant application and execute the attached grant agreement if the application is successfully funded.

Previous Council Action: **N/A**

Fiscal Impact: **Estimated \$170,400**

Funding Source: **Fund 430 (Stormwater)**

Attachments: 1. STAFF MEMO RCO GRANT - FBRB
2. RESOLUTION RCO GRANT - FBRB
3. SAMPLE RCO AGREEMENT - FBRB

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	6/08/2020	Pass Resolution	Eric Johnston, PW Director	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Analiese Burns, Habitat & Restoration Manager, 360-778-7968

Reviewed By

Department

Date

Eric C. Johnston

Public Works

6/01/2020

Council Action:

Matthew T. Stamps

Legal

6/02/2020

Seth M. Fleetwood

Executive

6/02/2020



City of Bellingham
210 Lottie Street
Bellingham, WA 98225

MEMORANDUM

TO: BELLINGHAM CITY COUNCIL
FROM: ERIC JOHNSTON, INTERIM PUBLIC WORKS DIRECTOR
CC: MAYOR SETH FLEETWOOD
SUBJECT: DETERMINATION OF NECESSARY AND ROUTINE
DATE: JUNE 8, 2020

This agenda item has been determined to be both “necessary and routine” and, therefore, appropriate for consideration during the COVID-19 health crisis. It is necessary due to the time-sensitive need to establish the process that will direct the ongoing expenditure of staff resources. This agenda item is routine because it does not implicate a change in policy, but is instead focused on the process for the ongoing work of staff.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY OF BELLINGHAM TO APPLY FOR AND ENTER INTO A BRIAN ABBOTT FISH BARRIER REMOVAL BOARD GRANT FOR ASSISTING WITH THE PADDEN CREEK AT 30TH STREET FISH PASSAGE PROJECT (No. 20-1706)

WHEREAS, the City of Bellingham desires to apply to the Washington State Recreation and Conservation Office (“RCO”) for grant assistance for the Padden Creek at 30th Street Fish Passage Project (the “Project”); and

WHEREAS, this resolution authorizes the persons identified below in Section 2 to act as the City’s authorized representative/agent and to legally bind the City with respect to the City’s application for RCO grant assistance for the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM THAT:

1. The City has applied for or intends to apply for funding assistance managed by the RCO for the Project.
2. The Bellingham City Council hereby authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding the City on the above projects:

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

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

3. City staff have reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's website at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. The City understands and acknowledges that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the City if the City's representative/agent enters into an Agreement on the City's behalf. The Office reserves the right to revise the Agreement prior to execution.
4. The City acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.
5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on the City's part.
6. The City understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.
7. The City further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.
8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
9. The City acknowledges that if it receives grant funds managed by the RCO, the RCO will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The RCO may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.
10. The City acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the

purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.

11. This resolution is deemed to be part of the formal grant application to the Office.

12. The City warrants and certifies that this resolution was properly and lawfully adopted following the requirements of the City and applicable laws and policies and that the City has full legal authority to commit to the warranties, certifications, promises and obligations set forth herein.

PASSED by the Council this _____ day of _____, 2020.

Council President

APPROVED by me this _____ day of _____, 2020

Mayor

ATTEST:

Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

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

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

RCO reserves the right to make updates to this template.

RCO GRANT AGREEMENT

Project Name: _____

Project Number: _____

Issuance Date: _____

A. PARTIES OF THE GRANT AGREEMENT.

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

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

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

B. PURPOSE OF AGREEMENT.

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

C. DESCRIPTION OF PROJECT.

{ProjectDescription}

D. PERIOD OF PERFORMANCE.

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

E. STANDARD TERMS AND CONDITIONS INCORPORATED.

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

F. LONG-TERM OBLIGATIONS.

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

G. PROJECT FUNDING.

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

{FundingTable}

H. FEDERAL FUND INFORMATION.

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

{FederalFundingInfo}

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

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

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

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

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

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

The following Exhibits are attached as part of this Agreement:

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

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

J. AMENDMENTS TO AGREEMENT.

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

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

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

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

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

{CustomApplicableManuals}

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

L. SPECIAL CONDITIONS.

{CustomSpecialConditionsAsMayApply}

M. AGREEMENT CONTACTS.

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

{CustomProjectContacts}

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

N. ENTIRE AGREEMENT.

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

O. EFFECTIVE DATE.

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

Signatures:

Sponsor/Date

Recreation and Conservation Office/Date

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Example

STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT

Last Updated: February 12, 2020

1. CITATIONS, HEADINGS AND DEFINITIONS.

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

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

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

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

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

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

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

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

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

C.F.R. – Code of Federal Regulations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Office – Means the Recreation and Conservation Office or RCO.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RCFB – Recreation and Conservation Funding Board

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

RCW – Revised Code of Washington

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

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

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

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

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

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

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

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

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

SRFB – Salmon Recovery Funding Board

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

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

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

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

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

WAC – Washington Administrative Code.

2. PERFORMANCE BY THE SPONSOR.

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

3. ASSIGNMENT.

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

4. RESPONSIBILITY FOR PROJECT.

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

5. INDEMNIFICATION.

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

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

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

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

6. INDEPENDENT CAPACITY OF THE SPONSOR.

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

7. CONFLICT OF INTEREST.

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

8. COMPLIANCE WITH APPLICABLE LAW.

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

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

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

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

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

9. ARCHAEOLOGICAL AND CULTURAL RESOURCES RESPONSIBILITIES

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

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

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

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

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

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

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

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

where project mitigation shall occur, or any other areas that may be affected by project implementation.

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

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

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

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

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

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

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

- h. Discovery. If any archeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify the property owner, RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.

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

- 9. Costs. Costs associated with Sponsor's responsibilities under this section of the Agreement are eligible for reimbursement under this Agreement. Costs that exceed the budget grant amount shall be the responsibility of the Sponsor.

10. RECORDS.

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

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

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

11. PROJECT FUNDING.

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

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

12. PROJECT REIMBURSEMENTS.

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

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

13. ADVANCE PAYMENTS.

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

14. RECOVERY OF PAYMENTS.

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

15. COVENANT AGAINST CONTINGENT FEES.

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

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

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

Income.

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

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

17. PROCUREMENT REQUIREMENTS.

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

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

b. Requirements for Federal Subawards.

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

18. TREATMENT OF EQUIPMENT AND ASSETS.

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

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

19. RIGHT OF INSPECTION.

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

20. STEWARDSHIP AND MONITORING.

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

21. PREFERENCES FOR RESIDENTS.

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

22. ACKNOWLEDGMENT AND SIGNS.

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

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

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

- a. The following provisions shall be in force:
 - i. Operations and Maintenance. Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted per this Agreement and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration. It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
 - ii. Document Review and Approval. Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.
- b. Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the RCO must receive prior written approval of the RCO.

- c. Control and Tenure. The Sponsor must provide documentation that shows appropriate tenure and term (such as long-term lease, perpetual or long-term easement, or perpetual or long-term fee simple ownership, or landowner agreement or interagency agreement for the land proposed for construction, renovation, or restoration. The documentation must meet current RCO requirements identified in this Agreement as of the effective date of this Agreement unless otherwise provided in any applicable manual, RCW, WAC, or as approved by the RCO.
- d. Use of Best Management Practices. Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include “Integrated Streambank Protection Guidelines”, 2002; “Land Use Planning for Salmon, Steelhead and Trout: A land use planner’s guide to salmonid habitat protection and recovery”, 2009”, “Protecting Nearshore Habitat and Functions in Puget Sound”, 2010; “Stream Habitat Restoration Guidelines”, 2012; “Water Crossing Design Guidelines”, 2013; and “Marine Shoreline Design Guidelines”, 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in “Reducing Accidental Introductions of Invasive Species” which is available on the WISC Web site.
- e. At no time shall the Sponsor design, construct, or operate this grant funded project in a way that unreasonably puts the public, itself, or others at risk of injury or property damage. The Sponsor agrees and acknowledges that the Sponsor is solely responsible for safety and risk associated with the project, that RCO does not have expertise, capacity, or a mission to review, monitor, or inspect for safety and risk, that no expectation exists that RCO will do so, and that RCO is in no way responsible for any risks associated with the project.

24. PROVISIONS APPLYING TO ACQUISITION PROJECTS.

- a. The following provisions shall be in force:
 - i. Evidence of Land Value. Before disbursement of funds by RCO as provided under this Agreement, the Sponsor agrees to supply documentation acceptable to RCO that the cost of the property rights acquired has been established according to all applicable manuals and RCWs or WACs.
 - ii. Evidence of Title. The Sponsor agrees to provide documentation that shows the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
 - iii. Legal Description of Real Property Rights Acquired. The legal description of any real property rights purchased with funding assistance provided through this Agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be delivered to RCO before final payment.
 - iv. Conveyance of Rights to the State of Washington. When real property rights (both fee simple and lesser interests) are acquired, the Sponsor agrees to execute an appropriate document (provided or approved by RCO) conveying certain rights and responsibilities to RCO or the Funding Entity on behalf of the State of Washington or another agency of the

- state, or federal agency, or other organization. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
- v. Deed of Right. The Deed of Right as described in RCO Manual #3 conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. Sponsors shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the Sponsor has acquired a perpetual easement for public purposes.
 - vi. Assignment of Rights. The Assignment of Rights as described in RCO Manual #3 document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 - vii. Easements and Leases. The Sponsor may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
 - viii. Real Property Acquisition and Relocation Assistance. In the event that housing and relocation costs and procedures are required by local, state, tribal, or federal law, or rule; the Sponsor agrees to provide such housing and relocation assistance as a condition of the Agreement and receiving grant funds.
- b. Buildings and Structures. In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with COMPLIANCE WITH APPLICABLE LAW SECTION, Archeological and Cultural Resources paragraph.
- c. Hazardous Substances.
- i. Certification. The Sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(13), and certify:
 - ii. No hazardous substances were found on the site, or
 - iii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
 - iv. Responsibility. Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
 - v. Hold Harmless. The Sponsor will defend, protect and hold harmless the State and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss

of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The Funding Entity and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

- d. Requirements for Federal Subawards. The non-federal entity (Sponsor) must submit reports the federal funding agency, through RCO, at least annually on the status of real property in which the federal government retains an interest, unless the federal interest in the real property extends 15 years or longer. In those instances where the federal interest attached is for a period of 15 years or more, the federal awarding agency or the pass-through entity (RCO), at its option, may require the Sponsor to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a federal awarding agency or RCO may require annual reporting for the first three years of a federal award and thereafter require reporting every five years) (2 C.F.R § 200.329 (2013)).
- e. Developing and Restoring Purchased Property. If the Sponsor intends to develop or restore the property acquired it shall do so within the timeline and deadline provided by the funding program or board policies that apply to the grant funded project, or as provided for in this Agreement.

25. LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS.

- a. Long-Term Obligations. This section applies to completed projects only.
- b. Perpetuity. For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by applicable manual, policy, program rules, or this Agreement, or approved in writing by RCO. The RCO requires that the project area continue to function for the purposes for which these grant funds were approved, in perpetuity.
- c. Conversion. The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/ or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property (or a portion of it) to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policies or unless a transfer or change in use is approved by the RCO through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon all terms of the Agreement, and all applicable state or federal laws or regulation.

- i. For acquisition projects that are expressly term-limited in the Agreement, the restriction on conversion shall apply only for the length of the term, unless otherwise provided by this Agreement and incorporated documents, WACs, or any applicable state or federal law or regulation.
- ii. When a conversion has been determined to have occurred, the Sponsor shall remedy the conversion as set forth in this Agreement (with incorporated documents) and as required by all applicable policies, manuals, WACs and laws that exist at the time the remedy is implemented or the right to the remedy is established by a court or other decision-making body, and the RCO may pursue all remedies as allowed by the Agreement or law.

26. CONSTRUCTION, OPERATION, USE, AND MAINTENANCE OF ASSISTED PROJECTS.

- a. The following provisions shall be in force for this agreement:
 - i. Property and facility operation and maintenance. Sponsor must ensure that properties or facilities assisted with the grant funds, including undeveloped sites, are built, operated, used, and maintained:
 - a. According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
 - b. In a reasonably safe condition for the project's intended use;
 - c. Throughout its estimated useful service life so as to prevent undue deterioration;
 - d. In compliance with all federal and state nondiscrimination laws, regulations and policies.
 - ii. Open to the public. Unless otherwise specifically provided for in the Agreement, and in compliance with applicable statutes, rules, and applicable WACs and manuals, facilities must be open and accessible to the general public, and must:
 - a. Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
 - b. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
 - c. Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals or, by a decision of the RCO director in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

27. RECORDED NOTICE OF GRANT.

At the request of RCO, another state agency, or a federal agency, Sponsor shall record a notice of grant on property subject to this Agreement and shall submit to the RCO a recorded and registry stamped copy of such notice. The purpose of the notice of grant is to provide constructive notice of the grant and project and to ensure that the present and future use of the project area is and shall remain subject to the terms and conditions described in this Agreement. The notice of grant shall be in a format specified by RCO.

28. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS.

- a. A corporate Sponsor, including any nonprofit Sponsor, shall:
 - i. Maintain corporate status with the state, including registering with the Washington Secretary of State's office, throughout the Sponsor's obligation to the project as identified in the Agreement.
 - ii. Notify RCO before corporate dissolution at any time during the period of performance or long-term obligations. Within 30 days of dissolution the Sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities, and transfer all property and assets to the successor. A qualified successor is any party eligible to apply for funds in the subject grant program and capable of complying with the terms and conditions of this Agreement. RCO will process an amendment transferring the Sponsor's obligation to the qualified successor if requirements are met.
 - iii. Maintain sites or facilities open to the public and may not limit access to members.

29. PROVISIONS FOR FEDERAL SUBAWARDS.

The following provisions shall be in force for this agreement:

- a. Sub-Recipient (Sponsor) must comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement to include match and any in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.
- b. Binding Official. Per 2 CFR 200.415, Sponsor certifies through its actions or those of authorized staff, at the time of a request for reimbursement, the following: "To the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."
- c. Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319,

12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, paragraph C.

- d. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- e. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.
- f. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities (Sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity (Sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (Sponsor) must report all suspected or reported violations to the federal awarding agency identified in the Federal Fund Information Section. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U. S. C. 3145), as supplemented by Department of Labor regulations (29 C.F.R Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient (Sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (Sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION.

- g. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-federal entity (Sponsor) in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- h. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 C.F.R § 401.2(a) and the recipient or subrecipient (Sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient (Sponsor) must comply with the requirements of 37 C.F.R Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- i. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION and the Regional Office of the Environmental Protection Agency (EPA).
- j. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). By signing this Agreement, the Sponsor certifies (per the certification requirements of 31 U.S.C.) that none of the funds that the Sponsor has (directly or indirectly) received or will receive for this project from the United States or any agency thereof, have been used or shall be used to engage in the lobbying of the Federal Government or in litigation against the United States. Such lobbying includes any influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this project. Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying

with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier-to-tier up to the non-federal award.

- k. **Procurement of Recovered Materials.** A non-federal entity (Sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- l. **Required Insurance.** The non-federal entity (Sponsor) must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R § 200.310 (2013)).
- m. **Debarment and Suspension (Executive Orders 12549 and 12689).** The Sponsor must not award a contract to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R § 180 that implement Executive Orders 12549 (3 C.F.R part 1986 Comp., p. 189) and 12689 (3 C.F.R part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- n. **Conflict of Interest.** Sponsor agrees to abide by the conflict of interest policy and requirements of the federal funding agency established pursuant to 2 C.F.R 200.

30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS.

Use of Sport Fish Restoration Logo. Per 50 CFR 86 Sec 75 and 76, the user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from; any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo. No one may use any part of the logo in any other manner unless the United States Fish and Wildlife Service's Assistant Director for Wildlife and Sport Fish Restoration or Regional Director approves in writing.

31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS.

The following provisions shall be in force for this agreement:

- a. **Liability Insurance.** The Sponsor of a firearms or archery range recreation project shall procure an endorsement, or other addition, to liability insurance it carries, or shall procure a new policy of liability insurance, in a total coverage amount the Sponsor deems adequate to ensure it will have resources to pay successful claims of people who may be killed or injured, or suffer damage to property, while present at the range facility to which this grant is related, or by reason of being in the vicinity of that facility; provided that the coverage shall be at least one million dollars (\$1,000,000) for the death of, or injury to, each person.
- b. **Insurance Endorsement.** The liability insurance policy, including any endorsement or addition, shall name Washington State, the funding board, and RCO as additional insured and shall be in a form approved by the funding board or director.
- c. **Length of Insurance.** The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the Sponsor's obligation to the project as identified in this Agreement.
- d. **Notice of Cancellation.** The policy, as modified by any endorsement or other addition, shall provide that the issuing company shall give written notice to RCO not less than thirty (30) calendar days in advance of any cancellation of the policy by the insurer, and within ten (10) calendar days following any termination of the policy by the Sponsor.
- e. **Government Agencies.** The requirement of Subsection a through d above shall not apply if the Sponsor is a federal, state, or municipal government which has established an adequate program of self-insurance or a policy of self-insurance with respect to claims arising from its facilities or activities generally, including such facilities as firearms or archery ranges, when the applicant declares and describes that program or policy to the RCO.
- f. **Sole Duty of the Sponsor.** By this requirement, the funding board and RCO does undertake to review, approve, or monitor the safety of the design, construction, or operation of the project and does not assume any duty to any individual person with respect to death, injury, or damage to property which that person may suffer as a result of the project which this grant relates. Any such person, or any other person making claims based on such death, injury, or damage, must look to the Sponsor, or others, for any and all remedies that may be available by law.

32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS.

This project has been approved by the National Park Service, US Department of the Interior, for funding assistance from the federal Land and Water Conservation Fund (LWCF), therefore the "Land and Water Conservation Fund General Provisions" are made part of this Agreement and incorporated herein. The Sponsor shall abide by these LWCF General Provisions, in addition to this Agreement, as they now exist or are hereafter amended. Further, the Sponsor agrees to provide RCO with reports or documents needed to meet the requirements of the LWCF General Provisions.

33. PROVISIONS FOR FARMLAND AND FORESTLAND PRESERVATION PROJECTS.

The following sections of this Agreement shall not apply if they are included and covered separately in a recorded RCO-approved Agricultural Conservation Easement, or Forest Conservation Easement (or other method):

- a. Income and Income Use; Stewardship and Monitoring; Acknowledgement and Signs; Provisions Applying To Acquisition Projects: Conveyance of Rights to the State of Washington, Building and Structures, and Hazardous Substances; Long-Term Obligations of the Projects and Sponsors: Perpetuity; and Construction, Operation, Use and Maintenance of Assisted Projects.

34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS.

For habitat restoration projects funded in part or whole with federal funds administered by the SRFB the Sponsor shall not commence with clearing of riparian trees or in-water work unless either the Sponsor has complied with 50 C.F.R. § 223.203 (b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this Agreement. This section shall not be the basis for any enforcement responsibility by RCO.

35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS.

The following provisions shall be in force for this Agreement if the project is funded in part or wholly from the Puget Sound Acquisition and Restoration program. The Sponsor agrees to the following terms and conditions:

- a. Cost Principles/Indirect Costs For State Agencies. GRANT RECIPIENT agrees to comply with the cost principles of 2 CFR 200 Subpart E as appropriate to the award. In addition to the US Environmental Protection Agency's General Terms and Conditions "Indirect Cost Rate Agreements," if the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.
- b. Credit and Acknowledgement. In addition to the ACKNOWLEDGEMENT AND SIGNS section, materials produced must display both the Environmental Protection Agency (EPA) and Puget Sound Partnership (PSP) logos and the following credit line: "This project has been funded wholly or in part by the United States Environmental Protection Agency. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use." This requirement is for the life of the product, whether during or after the Agreement period of performance.
- c. Hotel Motel Fire Safety Act. Sponsor agrees to ensure that all conference, meeting, convention, or training space funded in whole or part with federal funds, complies with the federal Hotel and Motel Fire Safety Act (PL 101-391, as amended). Sponsors may search the Hotel-Motel National Master List @ <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance or to find other information about the Act.

- d. Drug Free Workplace Certification. Sub-recipient (Sponsor) shall make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 2 C.F.R. Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization shall identify all known workplaces under its federal awards, and keep this information on file during the performance of the award. Sponsors who are individuals must comply with the drug-free provisions set forth in 2 C.F.R. Part 1536 Subpart C. The consequences for violating this condition are detailed under 2 C.F.R. Part 1536 Subpart E.
- e. Management Fees. Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term “management fees or similar charges” refers to the expenses added to direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities or for other similar costs that are not allowable. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except for the extent authorized as a direct cost of carrying out the scope of work.
- f. Trafficking in Persons and Trafficking Victim Protection Act of 2000 (TVPA). This provision applies only to a sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor), if any. Sub-recipient (Sponsor) shall include the following statement in all sub-awards made to any private entity under this Agreement: “You as the sub-recipient, your employees, sub-awardees under this award, and sub-awardees’ employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under this Award.” The sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor) must inform RCO immediately of any information you receive from any source alleging a violation of this prohibition during the award term. The federal agency funding this Agreement may unilaterally terminate, without penalty, the funding award if this prohibition is violated, Section 106 of the Trafficking Victims Protection Act of 2000, as amended.
- g. Lobbying. The chief executive officer of this recipient agency (Sponsor) shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States, unless authorized under existing law. The recipient (Sponsor) shall abide by its respective Cost Principles (OMB Circulars A-21, A-87, and A-122), which generally prohibits the use of federal grant funds for litigation against the United States, or for lobbying or other political activities. The Sponsor agrees to comply with 40 C.F.R. Part 34, New Restrictions on Lobbying. Sponsor shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly. In accordance with the Byrd Anti-Lobbying Amendment, any Sponsor who makes a prohibited expenditure under 40 C.F.R. Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure. All contracts awarded by Sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at 40 C.F.R. Part 30. Pursuant to Section 18 of the Lobbying Disclosure Act, Sponsor

affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c)(4) of the code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

- h. Reimbursement Limitation. If the Sponsor expends more than the amount of RCO funding in this Agreement in anticipation of receiving additional funds from the RCO, it does so at its own risk. RCO is not legally obligated to reimburse the Sponsor for costs incurred in excess of the RCO approved budget.
- i. Disadvantaged Business Enterprise Requirements. The Sponsor agrees to comply with the requirements of EPA's Utilization of Small, Minority and Women's Business Enterprises in procurements made under this award.
- j. Minority and Women's Business Participation. Sponsor agrees to solicit and recruit, to the maximum extent possible, certified minority owned (MBE) and women owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement.

These goals are expressed as a percentage of the total dollars available for purchase or agreement and are as follows: Purchased Goods 8% MBE 4% WBE; Purchased Services 10% MBE 4% WBE; Professional Services 10% MBE 4% WBE. Meeting these goals is voluntary and no agreement award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and Sponsor and ALL prospective bidders or people submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement:
 - i. Include qualified minority and women's businesses on solicitation lists.
 - ii. Assure that qualified minority and women's business are solicited whenever they are potential sources of services or supplies.
 - iii. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
 - iv. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
 - v. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.
- k. MBE/WBE Reporting. In accordance with the deviation from 40 C.F.R. §33.502, signed November 8, 2013, DBE reporting is limited to annual reports and only required for assistance agreements where one or more the following conditions are met:
 - l. There are any funds budgeted in the contractual/services, equipment or construction lines of the award; and/or \$3,000 or more is included for supplies; or there are funds budgeted for subawards or loans in which the expected budget(s) meet the conditions as described in items

(a) and (b). When completing the form, recipients (Sponsors) should disregard the quarterly and semi-annual boxes in the reporting period Section 1B of the form. For annual submissions, the reports are due by October 30th of each year or 90 days after the end of the project period, whichever comes first. The reporting requirement is based on planned procurements. Recipients (Sponsors) with funds budgeted for non-supply procurement and/or \$3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in Section 5B when completing the form. MBE/WBE reports should be sent to the DBE Coordinator in the Sponsor's region. Contact information can be found at <http://www.epa.gov/osbp/contactpage.htm>. The coordinators also can answer any questions. Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. To be in compliance with regulations, the Sponsor must submit a final MBE/WBE report. Non-compliance may impact future competitive grant proposals. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

- m. Procurement involving an EPA Financial Assistance Agreement. Pursuant to 40 C.F.R. § 33.301, the Sponsor agrees to make the following six good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients (Sponsors), and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained.
- n. Ensure Disadvantaged Business Enterprise (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For State and Local and Government Sponsors, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- o. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- p. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For State and local Government Sponsors, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- q. Encourage contracting with a consortium of DBEs when an agreement is too large for one of these firms to handle individually.
- r. Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development of the Department of Commerce.

- s. If the Sponsor awards subcontracts, require the Sponsor to take the steps in paragraphs (a) through (e) of this section.
- t. Lobbying & Litigation. By signing this Agreement, the Sponsor certifies that none of the funds received from this Agreement shall be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The chief executive officer of this Sponsor agency shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The Sponsor shall abide by its respective Attachment in 2 C.F.R. Part 200, which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities. For subawards exceeding \$100,000, EPA requires the following certification and disclosure forms:
 - I. Certification Regarding Lobbying, EPA Form 6600-06:
http://www.epa.gov/ogd/AppKit/form/Lobbying_sec.pdf
 - II. Disclosure of Lobbying Activities, SF LLL:
http://www.epa.gov/ogd/AppKit/form/sflllin_sec.pdf
- u. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.
- v. Payment to Consultants. EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients (Sponsors) or by a recipients' (Sponsor's) contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with his/her normal travel reimbursement practices). Subagreements with firms for services that are awarded using the procurement requirements in 40 C.F.R. Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient (Sponsor) with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 C.F.R. § 30.27(b) or 40 C.F.R. § 31.369(j), as applicable, for additional information. As of January 1, 2020, the limit is \$654.71 per day \$81.83 per hour.
- w. Peer Review. Where appropriate, prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review, and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.
- x. International Travel (Including Canada). All International Travel must be approved by the US Environmental Protection Agency's Office of International and Tribal Affairs (OITA) BEFORE

travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your Partnership Project manager as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can submit a request to the EPA Project Officer if they approve of such travel.

- y. Unliquidated Obligations (ULO). Sub-recipients, and all sub-awardees of Sub-Recipients, if any, should manage their agreement and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are unspent (not yet drawn down through disbursements to sub-recipients and sub-awardees).

- z. Light Refreshments And/Or Meals.

Unless the event(s) and all of its components are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops, and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- 1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- 2) A description of the purpose, agenda, location, length and timing for the event; and,
- 3) An estimated number of participants in the event and a description of their roles.

Cost for light refreshments and meals for recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements.

- aa. State grant cybersecurity.

- (a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.
- (b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.
(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the AGecy using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange.

36. ORDER OF PRECEDENCE.

- a. This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

- i. Federal law and binding executive orders;

- ii. Code of federal regulations;
- iii. Terms and conditions of a grant award to the state from the federal government;
- iv. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
- v. State Constitution, RCW, and WAC;
- vi. Agreement Terms and Conditions and Applicable Manuals
- vii. Applicable deed restrictions, and/or governing documents.

37. LIMITATION OF AUTHORITY.

Only RCO's Director or RCO's delegate authorized in writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

38. WAIVER OF DEFAULT.

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH.

The Funding Entity (if different from RCO) and RCO rely on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

40. SPECIFIC PERFORMANCE.

RCO may enforce this Agreement by the remedy of specific performance, which means Sponsors' completion of the project and/or its completion of long-term obligations as described in this Agreement. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

41. TERMINATION AND SUSPENSION.

- a. The RCO requires strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.
- b. For Cause.

- i. The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a. If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b. If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
 - c. If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;
 - d. Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
 - ii. RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.
- c. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:
- i. The Sponsor was not in default; or
 - ii. Failure to perform was outside Sponsor's control, fault or negligence.
- d. Rights of Remedies of the RCO.
- i. The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
 - ii. In the event this Agreement is terminated by the director, after any portion of the grant amount has been paid to the Sponsor under this Agreement, the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.
 - iii. Non-Availability of Funds. The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation

- is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.
- iv. **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.
 - v. **No Waiver.** The failure or neglect of RCO to require strict compliance with any term of this Agreement or to pursue a remedy provided by this Agreement or by law shall not act as or be construed as a waiver of any right to fully enforce all rights and obligations set forth in this Agreement and in applicable state or federal law and regulations.

42. DISPUTE HEARING.

- a. Except as may otherwise be provided in this Agreement , when a dispute arises between the Sponsor and the RCO, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:
 - i. The disputed issues;
 - ii. The relative positions of the parties;
 - iii. The Sponsor's name, address, project title, and the assigned project number.
- b. In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the persons chosen by the Sponsor and director shall be dismissed and an alternate person chosen by the Sponsor, and one by the director shall be appointed and they shall agree on a third person. This process shall be repeated until a three person panel is established.
- c. Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.
- d. The parties shall be bound by the majority decision of the dispute panelists, unless the remedy directed by that panel is beyond the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

- e. Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.
- f. All costs associated with the implementation of this process shall be shared equally by the parties.

43. ATTORNEYS' FEES.

In the event of litigation or other action brought to enforce the terms of this Agreement each party agrees to bear its own attorney fees and costs.

44. GOVERNING LAW/VENUE.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in the Superior Court of a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

45. SEVERABILITY.

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

46. END OF AGREEMENT.

This is the end of the agreement.



City Council Agenda Bill

22658

Bill Number

Subject: **Interlocal Jail Facility Use Agreement**

Summary Statement: Amendment #2 of the Interlocal Jail Facility Use Agreement for Correctional Services between Whatcom County and the City of Bellingham. This amendment extends the agreement to June 30, 2022 and updates names of current county Executive and Mayor of Bellingham. Amendment #2 effective July 1, 2020.

Previous Council Action: **Passed**

Fiscal Impact: **No**

Funding Source: **General Fund**

Attachments: 1. INTERLOCAL AGREEMENT

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	6/08/2020	Vote to Approve	David Doll, Chief of Police	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

David Doll, Chief of Police 360-778-8663

Council Action:

Reviewed By	Department	Date
<i>David G. Doll</i>	Police Department	5/28/2020
<i>Peter M. Ruffatto</i>	Legal	6/02/2020
<i>Peter M. Ruffatto</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020

INTERLOCAL JAIL FACILITY USE AGREEMENT FOR
CORRECTIONAL SERVICES BETWEEN WHATCOM COUNTY
AND THE CITY OF BELLINGHAM

AMENDMENT #2

THIS AMENDMENT is to the Contract between Whatcom County and the City of Bellingham, dated June 20, 2018 and designated "Whatcom County Contract No. 201806020". In consideration of the mutual benefits to be derived, the parties agree to the following:

This Amendment extends the term of this Agreement through June 30, 2022 and changes the County Executive on Page 2, #3 to: Satpal Sidhu and the Mayor of Bellingham to: Seth Fleetwood.

Unless specifically amended by this agreement, all other terms and conditions of the original contract and any previous amendments shall remain in full force and effect.

This Amendment takes effect: July 1, 2020 regardless of the date of signature.

IN WITNESS WHEREOF, Whatcom County and the City of Bellingham have executed this Amendment on the date and year below written.

DATED this _____ day of _____, 20 ____.

CONTRACTOR:

The City of Bellingham

210 Lottie St.
Bellingham, WA 98225
360-778-8100
mayorsoffice@cob.org

Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and to bind the party thereto.

Mayor Seth Fleetwood

*See attached
Signature block.*

DATED this _____ day of _____, 2020, for the **CITY OF BELLINGHAM.**

Mayor

Attest:

Approved as to Form:

Finance Director

Office of the City Attorney

Department Approval



WHATCOM COUNTY:

Recommended for Approval:

Bill Elfo, Sheriff 05/26/20
Date

Approved as to form:

approved by email/BW/LR 5-21-20
Brandon Waldron, Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Sidhu, Whatcom County Executive



City Council Agenda Bill

22642

Bill Number

Subject: **WSDOT Agreement for Contribution to the North End Regional Pond (NERP)**

Summary Statement: In 2013, the City constructed the North End Regional Pond (NERP), a public regional stormwater facility to provide stormwater runoff treatment and flow control for a large basin in the north end of the City. The intent was to create a single, publicly owned facility providing stormwater control instead of multiple small on-site facilities. WSDOT would like to utilize the NERP to provide stormwater mitigation for their proposed I-5/Northbound On-Ramp at Bakerview project. An agreement has been prepared which would allow WSDOT to use the facility in exchange for a pro rata share of the original cost of construction. Maintenance of the facility is done by the City and is paid for by stormwater utility charges.

Previous Council Action: **Approval of 2013 budget that authorized construction of the North end regional stormwater facility**

Fiscal Impact: **Approval of the agreement will result in a single new revenue payment of approximately \$60,000 into the Stormwater Fund**

Funding Source: **Stormwater Fund (430)**

Attachments: 1. STAFF REPORT
2. WSDOT AGREEMENT FOR CONTRIBUTION TO STORMWATER FACILITY

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	5/18/2020	Authorize Contract	Eric Johnston, Interim PW Director	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Chad Schulhauser, City Engineer, 360-778-7910

Council Action:

Reviewed By	Department	Date
<i>Eric C. Johnston</i>	Public Works	5/11/2020
<i>Matthew T. Stamps</i>	Legal	5/12/2020
<i>Seth M. Fleetwood</i>	Executive	5/12/2020



City of Bellingham
210 Lottie Street
Bellingham, WA 98225

STAFF REPORT

TO: CITY COUNCIL
FROM: ERIC JOHNSTON, INTERIM PUBLIC WORKS DIRECTOR
CC: MAYOR SETH FLEETWOOD
SUBJECT: WSDOT AGREEMENT FOR CONTRIBUTION TO NORTH END REGIONAL POND (NERP)
DATE: 18 May 2020

This agenda item has been determined to be both “necessary and routine” and, therefore, appropriate for consideration during the COVID-19 health crisis. The agreement for WSDOT contribution to the NERP is necessary in order to facilitate WSDOT’s construction of the I-5/Northbound On-Ramp at Bakerview project due to the time sensitive nature of the Connecting Washington funding attached to the project. This agenda item is routine because it does not implicate a change in policy but is instead focused on maintaining our interagency coordination on capital projects.

BACKGROUND:

In 2016, the City of Bellingham completed construction of the North End Regional Pond (NERP). The NERP provides stormwater runoff treatment and flow control for a larger stormwater basin in the north end of the City. Staff have established a rate at which development projects within the basin can buy-in to the NERP in lieu of constructing site specific stormwater mitigation facilities.

WSDOT has been working on design of a new northbound on-ramp to Interstate 5 at Bakerview for a number of years. City staff has been greatly involved in this process. The impervious areas created by the new northbound on-ramp require stormwater runoff mitigation. This WSDOT project is in the property acquisition phase and anticipates advertising for construction later this year. WSDOT is requesting to utilize the NERP for their stormwater mitigation and have agreed to pay the City’s established rate for their proportional share of utilization.

EVALUATION:

Public Works and Legal staff have reviewed the agreement and find it to be acceptable for signature.

RECOMMENDATION ACTION:

Authorize staff to execute the agreement through approval of the consent agenda.

GCB 3173

Agreement for Contribution to Regional Stormwater Facility

The City of Bellingham (City) and Washington State Department of Transportation (WSDOT), individually referred to as the "Party" and collectively referred to as the "Parties" enter into this Agreement for Contribution to Regional Stormwater Facility (the "Agreement").

RECITALS

- A. WSDOT intends to construct a new on-ramp connecting Bakerview Road to I-5 between MP 257.65 and MP 258.38 and re-channelize part of Bakerview Road within the City. This project is described in Exhibit A.
- B. The City has established a regional stormwater facility sited to detain and treat stormwater from a number of new developments within a catchment basin or sub-basin in lieu of each new development providing stormwater detention and treatment onsite.
- C. The program is available for qualified new development projects to mitigate for stormwater impacts.
- D. WSDOT may request to use this regional stormwater facility instead of constructing an onsite stormwater facility by paying its proportionate share of the cost of constructing the regional stormwater facility.
- E. This regional stormwater facility provides a lower cost alternative to providing stormwater detention and treatment onsite.
- F. The City constructed this regional stormwater facility (Regional Stormwater Facility) on the property depicted on Exhibit B. The Regional Stormwater Facility is intended to serve future development in the area. WSDOT normally constructs facilities for stormwater detention and treatment for drainage from the I-5 Interchange to meet the WSDOT Highway Runoff Manual.
- G. WSDOT desires to utilize the City's Regional Stormwater Facility to treat the drainage resulting from the new on-ramp to meet its WSDOT Highway Runoff Manual identified stormwater flow control and treatment requirements.
- H. The WSDOT project is proposing to direct approximately 1.17 acres (about 78% impervious) towards the Regional Stormwater Facility through the Mahogany Ave storm system. This equates to approximately 0.098 acre-feet for the 24 HR Water Quality Volume.
- I. The City has reviewed WSDOT's request and has capacity to, and has agreed to treat the drainage resulting from WSDOT's improvement, based on the proportional share of their actual cost to develop the Regional Stormwater Facility.
- J. WSDOT has agreed to pay WSDOT's proportional share of the costs to the City for constructing their Regional Stormwater Facility, including the cost of acquiring the property, designing,

engineering, permitting, and constructing the facility and the cost of acquiring the wetland mitigation site and mitigating for wetland impacts.

- K. The City will be responsible for the operation and maintenance of the Regional Stormwater Facility in furtherance of the general public health and safety pursuant to its general police powers, RCW 36.70B, and Bellingham Municipal Code (BMC) Chapters 15.16 and 15.42 and to enter into this Agreement pursuant to its general contracting authority and BMC Chapter 15.42.

NOW THEREFORE, pursuant to the authority granted by RCW 47.28.140, the above recitals that are incorporated herein as if fully set forth below, and in consideration of the terms, conditions and performance contained herein and the attached Exhibits A and B which are incorporated and made a part hereof, WSDOT and the City agree as follows:

1. Calculation of WSDOT's Estimated Financial Contribution to Regional Stormwater Facility. The City has calculated the total estimated cost of constructing the Regional Stormwater Facility based on the costs of acquiring the stormwater facility and wetland mitigation site properties, designing, engineering, permitting, and constructing the stormwater facility including wetland mitigation, less funds received from grants. The Regional Stormwater Facility has a stormwater runoff treatment capacity of 8.6064 acre-feet. The cost per acre foot of stormwater runoff treatment capacity has been set at \$610,695. It is estimated that WSDOT's development will require 0.098 acre-feet of stormwater capacity; the stormwater site plan/ report will provide the final required stormwater capacity. The City will invoice WSDOT based on this final calculation.
2. WSDOT's Payment to the City. Within thirty (30) days after receipt of an approved invoice that details and supports all costs, WSDOT shall pay the City the amount invoiced based on the final drainage calculation, as its proportionate share of the cost of connecting to and utilizing the Regional Stormwater Facility.
3. City's Responsibility for Stormwater. The Regional Stormwater Facility shall detain and treat stormwater from the WSDOT Development and other developments in the area and provide stormwater detention and treatment in accordance with BMC Chapter 15.42.
4. WSDOT's Responsibility for Stormwater. In utilizing the Regional Stormwater Facility, WSDOT shall comply with all requirements of BMC Chapter 15.42, including maintenance of current basin flows and maintenance of any pre-treatment best management practices and conveyance infrastructure located on WSDOT property and within WSDOT right-of-way.
5. WSDOT's Use of the Regional Stormwater Facility. WSDOT may use the Regional Stormwater Facility to meet its stormwater detention and treatment requirements including compliance with BMC Chapter 15.42.
6. WSDOT's Construction of Conveyance Pipe. WSDOT shall construct the stormwater conveyance pipe, at its sole cost and expense, to convey stormwater from the WSDOT Development to the Regional Stormwater Facility. WSDOT shall obtain the necessary permits to construct stormwater conveyance facilities in the City right-of-way, construct this conveyance pipe to the Regional Stormwater Facility, and, once completed will convey the pipe to the City.

7. City's Responsibility for Operation, Maintenance and Repair of Regional Stormwater Facility and Conveyance Pipe. The City, at its sole cost and expense, shall be responsible for the operation, maintenance, and repair of the Regional Stormwater Facility and the conveyance pipe from the WSDOT site, following the City's acceptance of said conveyance pipe.
8. Other Stormwater Facilities Not Affected. This Agreement relates only to stormwater detention and treatment for the WSDOT Development depicted on Exhibit A. This Agreement does not affect WSDOT's obligation to construct stormwater detention and treatment facilities on any other WSDOT- owned property or development.
9. Hold Harmless And Indemnify For Traceable Release of Hazardous Materials. Should an event arise that results in the release of hazardous materials from the WSDOT property into the Regional Stormwater Facility, WSDOT agrees to hold the City harmless and indemnify the City from any and all claims for costs, expenses, liabilities, damages or injunctive relief which may be occasioned now or in the future to any persons or property to the extent that WSDOT is found liable or responsible for said release of hazardous substances. WSDOT's hold harmless and indemnity shall not extend to, and specifically excludes, releases of hazardous materials by third parties that are not contractors, agents, employees or otherwise under WSDOT's control or supervision. Further, WSDOT's hold harmless and indemnity shall be limited to its proportionate share of liability for any release of hazardous substances caused by more than one entity.
10. Dispute resolution. In the event that a dispute arises under this Agreement, it shall be resolved as follows: WSDOT and the City shall each appoint a member to a disputes board; these two members shall select a third member not affiliated with either agency. The three-member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. An attempt at such dispute resolution in compliance with the aforesaid process shall be a prerequisite to the filing of any litigation concerning the dispute. The Parties shall equally share in the cost of the third disputes board member; however, each Party shall be responsible for its own costs and fees.
11. Venue. In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties agree that any such action or proceedings shall be brought in the superior court situated in Whatcom County, Washington unless filing in another county is required per any provision of the Revised Code of Washington. Further, the Parties agree that each shall be responsible for its own attorneys' fees and costs.
12. Indemnity. To the extent authorized by law, the Parties shall protect, defend, indemnify, and hold harmless each other and their employees and authorized agents, while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from, the Work to be performed or performed pursuant to the provisions of this Agreement. The Parties shall not be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of the other Party; provided that, if such claims, suits, or actions result from the concurrent negligence of (a) the City, its employees or authorized agents, and (b) WSDOT, its employees or authorized agents, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of each Party's, its employees', and/or authorized agents' own negligence.

The Parties agree that their respective obligations under this section extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents while performing construction, operation, and/or maintenance of the project. For this purpose, the Parties, by mutual negotiation, hereby waive, with respect to the other party only, any immunity that would otherwise be available to it against such claims under the industrial insurance provisions in RCW 51.12.

This indemnification and waiver shall survive the termination of this Agreement.

13. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Venue for any dispute shall lie in Whatcom County Superior Court.
14. Binding Effect; Assignability. This Agreement shall bind and inure to the benefit of the Parties hereto and their respective successors, heirs, legatees, representatives, receivers, trustees, successors, transferees and assigns.
15. Interpretation. This Agreement has been reviewed and revised by legal counsel for all Parties, and no presumption or rule construing ambiguity against the drafter of the document shall apply to the interpretation or enforcement of this Agreement. Nothing herein shall be construed as a waiver of the City's constitutional and statutory powers. Nothing herein shall be construed or implied that the City is contracting away its constitutional and statutory powers, except as otherwise authorized by law.
16. Authority. Each signatory to this Agreement represents and warrants that he or she has full power and authority to execute and deliver this Agreement on behalf of the party for which he or she is signing, and that he or she will defend and hold harmless the other Parties and signatories from any claim that he or she was not fully authorized to execute this Agreement on behalf of the person or entity for whom he or she signed. Upon proper execution and delivery, this Agreement will have been duly entered into by the Parties, will constitute as against each party a valid, legal and binding obligation that shall run with the land, and will be enforceable against each party in accordance with the terms here in.
17. Severability. This Agreement does not violate any federal or state statute, rule, regulation or common law known; but any provision which is found to be invalid or in violation of any statutes, rule, regulation or common law shall be considered null and void, with the remaining provisions remaining viable and in effect.
18. Cooperation in Execution of Documents. The parties agree to properly and promptly execute and deliver any and all additional documents that may be necessary to render this Agreement practically effective. This Paragraph shall not require the execution of any document that expands, alters or in any way changes the terms of this Agreement.

19. Exhibits and Recitals. The Exhibits and the Recitals to this Agreement are material terms to this Agreement and are incorporated herein by reference. This Agreement includes the following exhibits:
- a. Exhibit A - WSDOT Project Description;
 - b. Exhibit B - Legal Description of City's Regional Stormwater Facility property.
20. Full Understanding. The Parties each acknowledge, represent and agree that they have read this Agreement; that they fully understand the terms thereof; that they have had the opportunity to be fully advised by their legal counsel and any other advisors with respect thereto; and that they are executing this Agreement after sufficient review and understanding of its contents.
21. Final and Complete Agreement. This Agreement constitutes the final and complete expression of the parties on all subjects relating to WSDOT's use of and financial contribution to the City's Regional Stormwater Facility. This Agreement may not be modified, interpreted, amended, waived or revoked orally, but only by a writing signed by all Parties. This agreement supersedes and replaces all prior agreements, discussions and representations on all subjects discussed herein without limitation. No Party is entering into this Agreement in reliance on any oral or written promises, inducements, representations, understanding, interpretations or agreements other than those contained in this Agreement and the exhibits hereto.
22. Notices. All Notices, requests, demands, and other communications called for or contemplated by this Agreement shall be in writing, and shall be duly given by mailing the same by certified mail, return receipt requested; or by delivering the same by hand, to the following addresses, or to such other addresses as the parties may designate by written notice in the manner aforesaid:

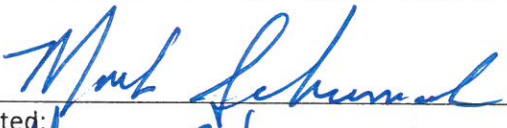
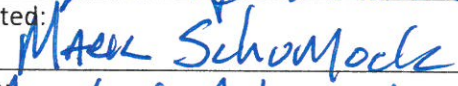
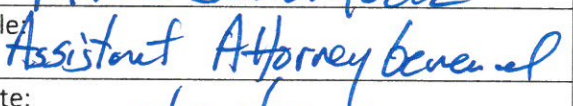
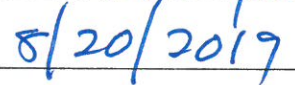
Washington State Department of Transportation:

Attention: Jay Drye, Assistant Regional Administrator
1019 Andis Road, Burlington, WA 98233
Phone: (360) 775-5990, E-mail: DryeJ@wsdot.wa.gov

City of Bellingham:

Attention: Eric Johnston, PE, Interim Public Works Director
210 Lottie Street, Bellingham, WA 98225
Phone: (360) 778-7900, E-mail: ecjohnston@cob.org

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Party's date last signed below.

City of Bellingham	Washington State Department of Transportation
By:	By:
See attached	
Printed:	Printed:
Title:	Title:
Date:	Date:
Approved as to Form City of Bellingham	Approved as to Form Washington State Department of Transportation
By:	By: 
See attached	
Printed:	Printed: 
Title:	Title: 
Date:	Date: 

EXECUTED, this _____ day of _____, 2020, for the CITY OF BELLINGHAM:

Seth Fleetwood, Mayor

Eric Johnston, Intrim Department Head

Attest:

Approved as to Form:

Finance Director

Office of the City Attorney

Project Description

I-5/Northbound On-Ramp at Bakerview

General Description

WSDOT's improvement project will construct a new on-ramp connecting Bakerview Road to I-5 between SR 5 MP 257.65 and MP 258.38 and will re-channelize part of Bakerview Road. The new on-ramp will reduce the vehicle traffic on the Bakerview Rd overpass to the existing northbound on-ramp, optimize channelization for vehicles exiting SB I-5 into Bellingham, and reduce congestion in the surrounding intersections. Work associated with the project includes roadway excavation and widening, earthwork, paving, pavement repair, pavement marking, curb installation, stormwater conveyance installation, erosion control, utility relocation, signal installation, signing, and traffic control.

Project Location

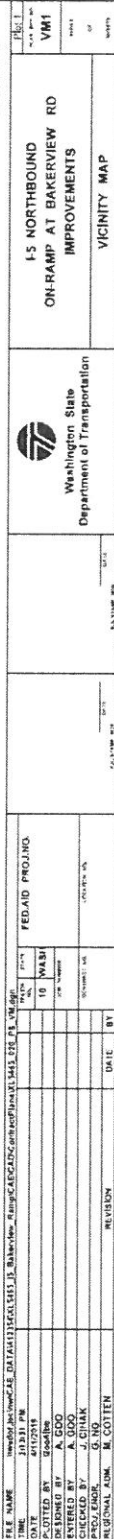
The project is located in Whatcom County in Bellingham City limits running along I-5 and at the intersection of Bakerview Road and the I-5 NB Off-Ramp. The project is geographically located within Township 38 North, Range 2 East, Section 11 and 14.

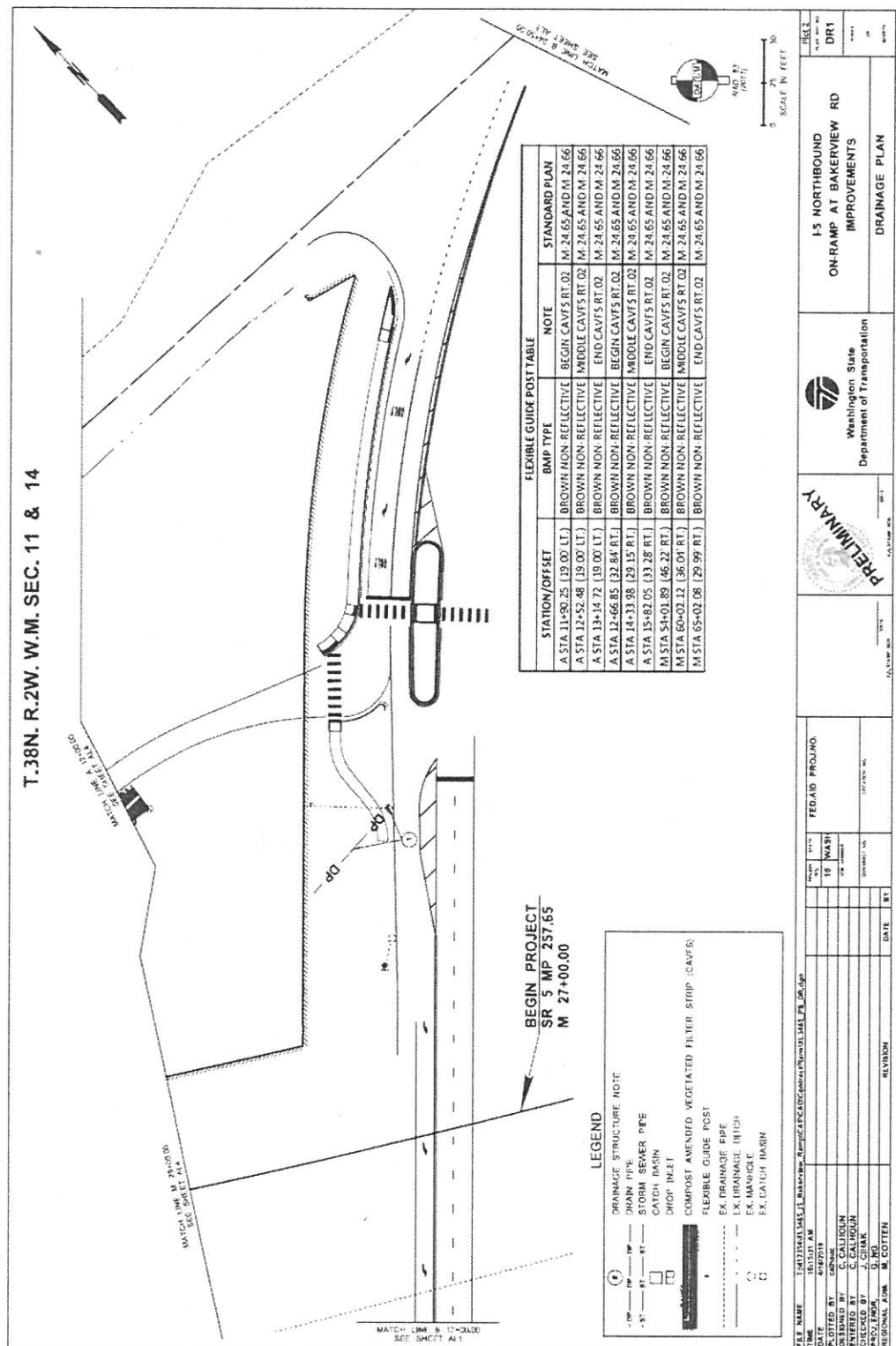
WSDOT Project Needs

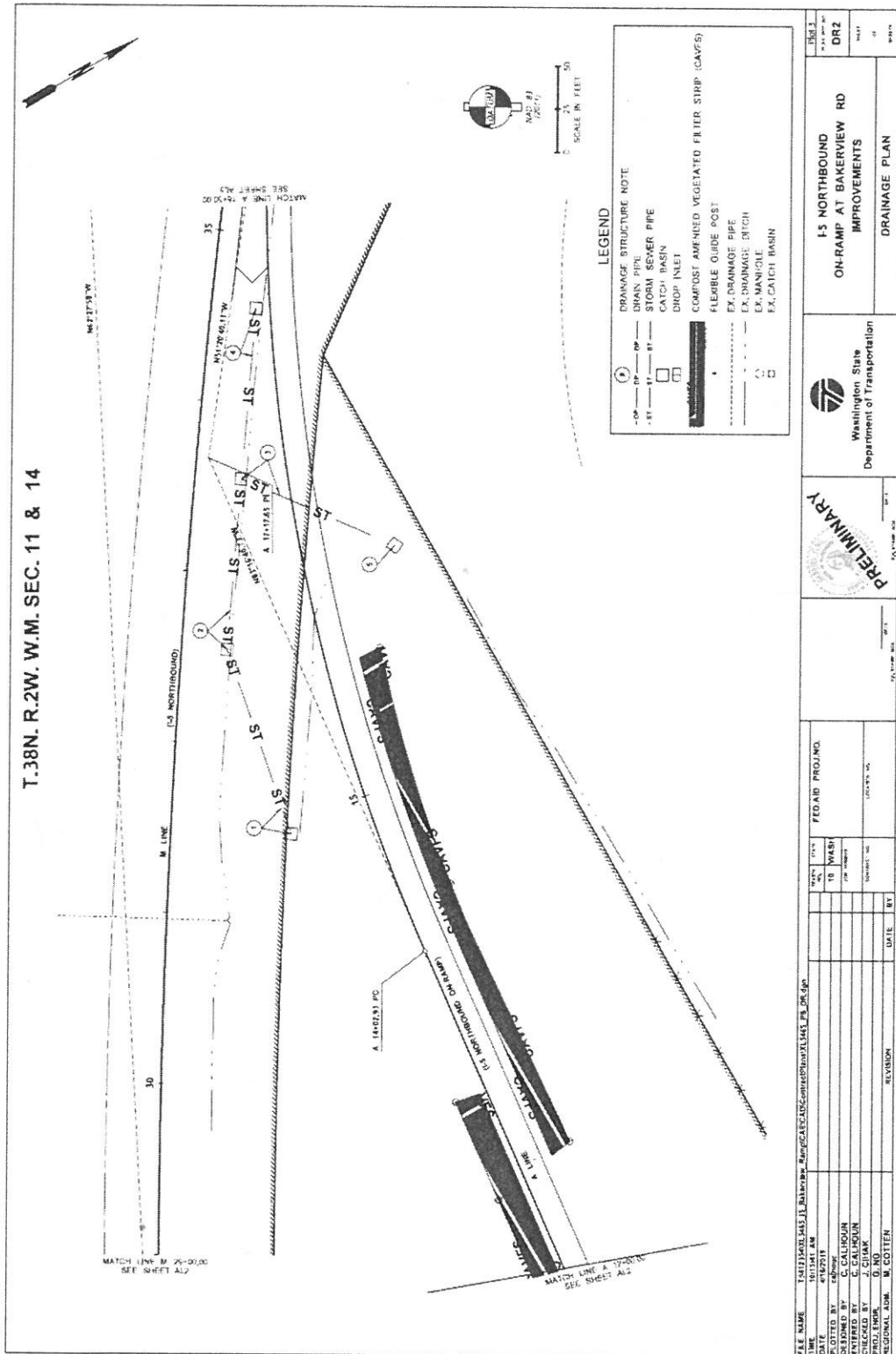
WSDOT is proposing to direct approximately 1.17 acres (about 78% impervious). This equates to approximately 0.098 ac-feet for the 24 HR Water Quality Volume. The City of Bellingham has established that sufficient capacity is available for this discharge.

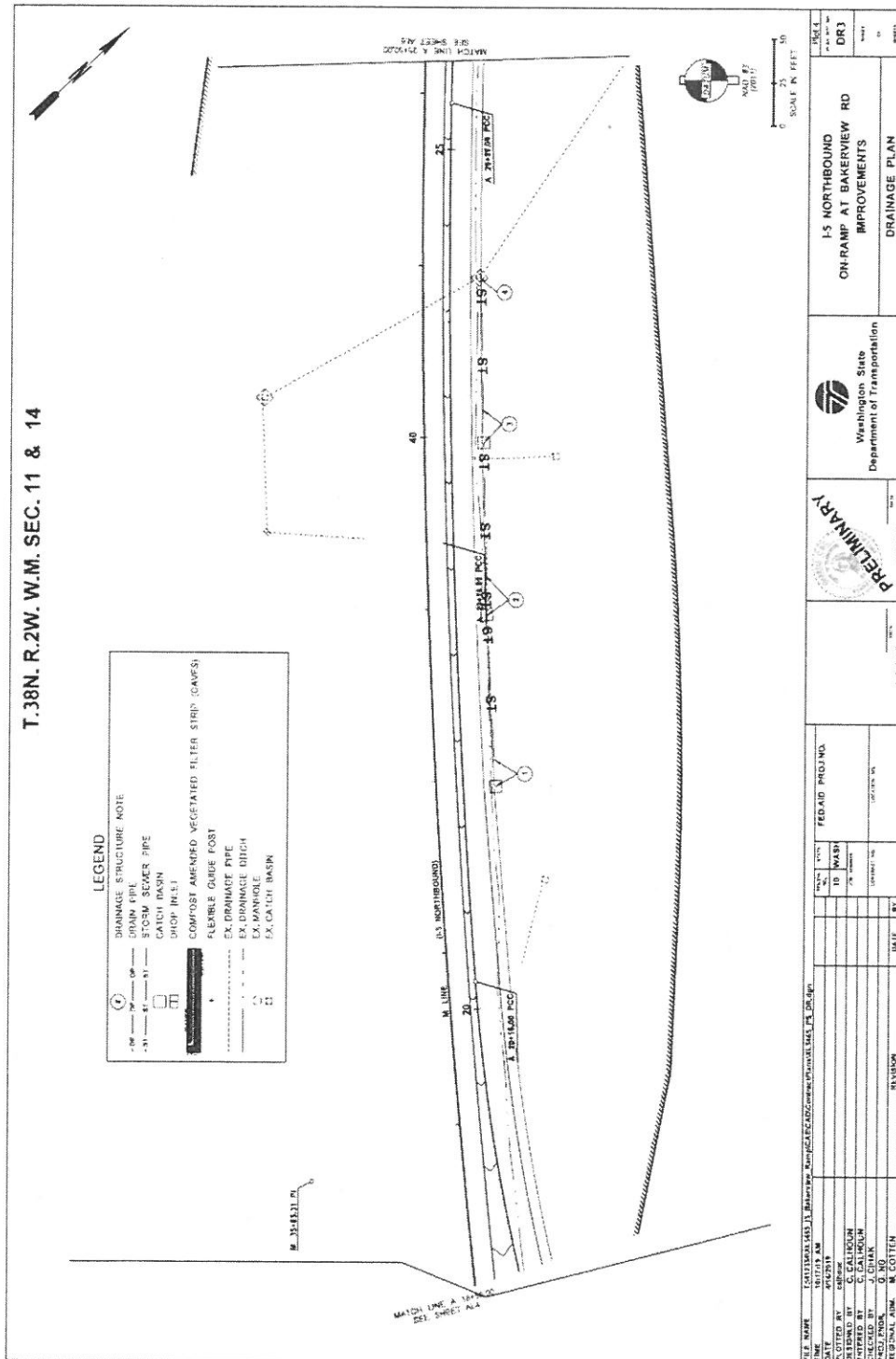
Stormwater and Pretreatment by WSDOT

Sheet flow runoff from the I-5 improvements will be pretreated by a linear BMP (Best Management Practice) in the form of a Compost Amended Vegetated Filter Strip (CAVFS). The CAVFS will provide Oil Control Treatment to the runoff prior to the outfall from WSDOT right of way, where a 12" storm pipe will connect to an existing City of Bellingham catch basin directing stormwater to the City of Bellingham Regional Stormwater Facility.

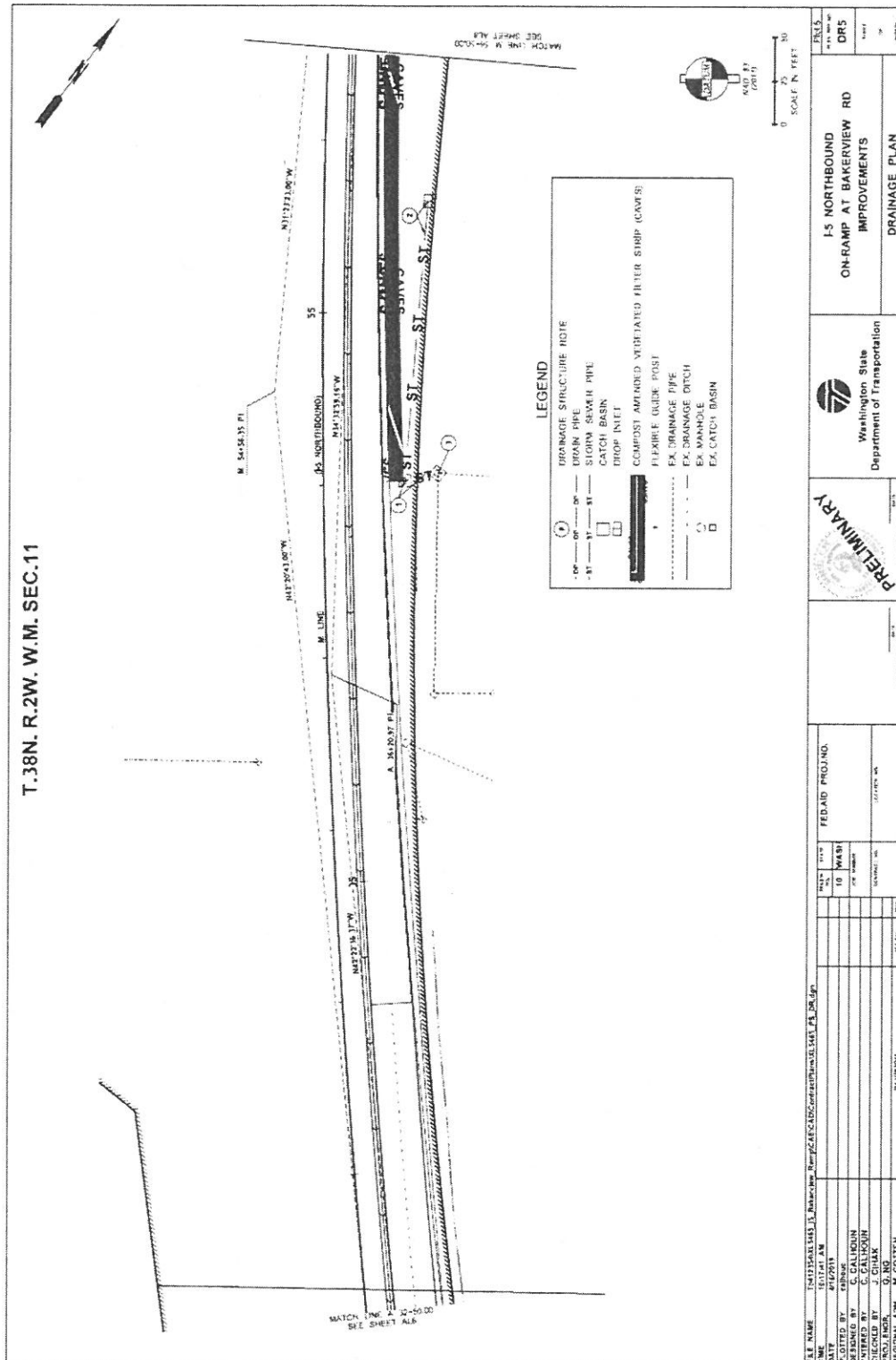


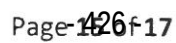


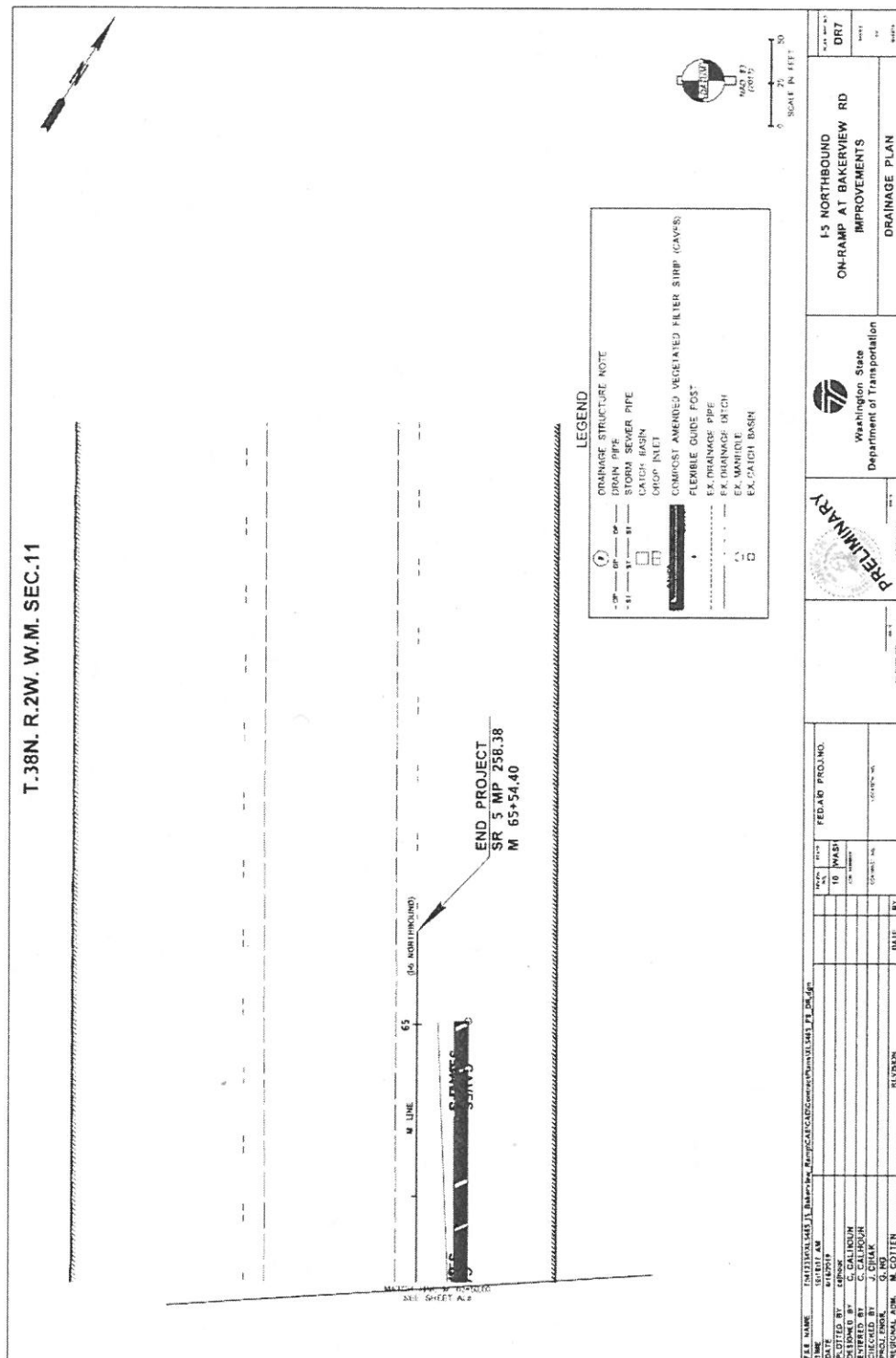












Legal Description of City's Regional Stormwater Facility Property

ALL THAT PART OF TRACT A, IN BLOCK 35, LYING SOUTH OF THE NORTH LINE OF LOT 4 OF SAID BLOCK 35, PRODUCED EASTERLY IN A STRAIGHT LINE TO THE EAST LINE OF SAID BLOCK 35, ALL IN BAKERVIEW ADDITION TO THE CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, AS PER THE MAP THEREOF, RECORDED IN BOOK 7 OF PLATS, PAGES 40 TO 45 INCLUSIVE, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE. ALSO AND TOGETHER WITH THE WEST 259.24 FEET OF THE SOUTH ONE-HALF OF BLOCK 36, BAKERVIEW ADDITION TO THE CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, AS PER THE MAP THEREOF, RECORDED IN BOOK 7 OF PLATS, PAGES 40 TO 45, INCLUSIVE, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE.

SITUATE IN WHATCOM COUNTY, WASHINGTON.



City Council Agenda Bill

22643

Bill Number

Subject: **Authorization of A/P Checks Issued May 1, 2020**

Summary Statement: In accordance with state law, approval is requested for the payment of the following checks issued for City goods and services received.

AP ACH and Check #548309 through #548471 were issued on May 01, 2020 for pay period April 25, 2020 through May 01, 2020 in the amount of \$1,186,924.10

Previous Council Action: **2019-2020 Adopted Budget**

Fiscal Impact: **Checks issued for amounts shown above are within legally appropriated budget.**

Funding Source: **Citywide Funds**

Attachments:

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	5/18/2020	Authorize Accounts Payable	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Sharon Martin, Finance Department

Council Action:

Reviewed By	Department	Date
<i>Andrew D. Asbjornsen</i>	Finance Department	5/12/2020
<i>Matthew T. Stamps</i>	Legal	5/12/2020
<i>Seth M. Fleetwood</i>	Executive	5/12/2020



City Council Agenda Bill

22644

Bill Number

Subject: **Authorization of A/P Checks Issued May 8, 2020**

Summary Statement: In accordance with state law, approval is requested for the payment of the following checks issued for City goods and services received.

AP ACH and Check #548487 through #548578 were issued on May 08, 2020 for pay period May 02, 2020 through May 08, 2020 in the amount of \$2,081,943.57

Previous Council Action: **2019-2020 Adopted Budget**

Fiscal Impact: **Checks issued for amounts shown above are within legally appropriated budget.**

Funding Source: **Citywide Funds**

Attachments:

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	5/18/2020	Authorize Accounts Payable	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Rossner Gideon, Finance Department

Council Action:

Reviewed By	Department	Date
<i>Andrew D. Asbjornsen</i>	Finance Department	5/12/2020
<i>Matthew T. Stamps</i>	Legal	5/12/2020
<i>Seth M. Fleetwood</i>	Executive	5/12/2020



City Council Agenda Bill

22659

Bill Number

Subject: **Authorization of A/P Checks Issued May 15, 2020**

Summary Statement: In accordance with state law, approval is requested for the payment of the following checks issued for City goods and services received.

AP ACH and Check #548579 through #548686 were issued on May 15, 2020 for pay period May 09, 2020 through May 15, 2020 in the amount of \$1,653,472.39

Previous Council Action: **2019-2020 Adopted Budget**

Fiscal Impact: **Checks issued for amounts shown above are within legally appropriated budget.**

Funding Source: **Citywide Funds**

Attachments:

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	6/08/2020	Authorize Accounts Payable	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Sharon Martin, Finance Department

Council Action:

Reviewed By	Department	Date
<i>Andrew D. Asbjornsen</i>	Finance Department	6/02/2020
<i>Matthew T. Stamps</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



City Council Agenda Bill

22660

Bill Number

Subject: **Authorization of A/P Checks Issued May 22, 2020**

Summary Statement: In accordance with state law, approval is requested for the payment of the following checks issued for City goods and services received.

AP ACH and Check #548702 through #548821 were issued on May 22, 2020 for pay period May 16, 2020 through May 22, 2020 in the amount of \$2,105,600.61

Previous Council Action: **2019-2020 Adopted Budget**

Fiscal Impact: **Checks issued for amounts shown above are within legally appropriated budget.**

Funding Source: **Citywide Funds**

Attachments:

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	6/08/2020	Authorize Accounts Payable	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Rossner Gideon, Finance Department

Council Action:

Reviewed By	Department	Date
<i>Andrew D. Asbjornsen</i>	Finance Department	6/02/2020
<i>Matthew T. Stamps</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



City Council Agenda Bill

22661

Bill Number

Subject: **Authorization of A/P Checks Issued May 29, 2020**

Summary Statement: In accordance with state law, approval is requested for the payment of the following checks issued for City goods and services received.

AP ACH and Check #548822 through #548956 were issued on May 29, 2020 for pay period May 23, 2020 through May 29, 2020 in the amount of \$2,505,459.78

Previous Council Action: **2019-2020 Adopted Budget**

Fiscal Impact: **Checks issued for amounts shown above are within legally appropriated budget.**

Funding Source: **Citywide Funds**

Attachments:

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	6/08/2020	Authorize Accounts Payable	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Sharon Martin, Finance Department

Council Action:

Reviewed By	Department	Date
<i>Andrew D. Asbjornsen</i>	Finance Department	6/02/2020
<i>Matthew T. Stamps</i>	Legal	6/02/2020
<i>Seth M. Fleetwood</i>	Executive	6/02/2020



City Council Agenda Bill

22662

Bill Number

Subject: **Authorization of Payroll Labor Cost Payments For the Period Dated April 16 - April 30**

Summary Statement: For payroll payments related to the period of April 16 - April 30, 2020

Totals \$ 3,648,181.60

Previous Council Action: **2019-2020 Adopted Budget**

Fiscal Impact: **Payroll labor costs payments issued for amounts shown above are within legally appropriated budget.**

Funding Source: **Citywide Funds**

Attachments:

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	6/08/2020	Authorize Payroll	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

L. Russell, HR Payroll, 778-8252

Reviewed By

Andrew D. Asbjornsen

Department

Finance Department

Date

5/12/2020

Council Action:

Matthew T. Stamps

Legal

5/12/2020

Seth M. Fleetwood

Executive

6/02/2020



City Council Agenda Bill

22663

Bill Number

Subject: **Authorization of Payroll Labor Cost Payments For the Period Dated May 1 - May 15**

Summary Statement: For payroll payments related to the period of May 1 - May 15, 2020

Totals \$ 3,734,285.42

Previous Council Action: **2019-2020 Adopted Budget**

Fiscal Impact: **Payroll labor costs payments issued for amounts shown above are within legally appropriated budget.**

Funding Source: **Citywide Funds**

Attachments:

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	6/08/2020	Authorize Payroll	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

L. Russell, HR Payroll, 778-8252

Reviewed By

Andrew D. Asbjornsen

Department

Finance Department

Date

6/02/2020

Council Action:

Matthew T. Stamps

Legal

6/02/2020

Seth M. Fleetwood

Executive

6/02/2020



City Council Agenda Bill

22641

Bill Number

Subject: An Ordinance Amending the 2019-2020 Biennial Budget Decreasing Appropriations in the General Fund

Summary Statement: The economic impact of COVID-19 will result in revenue shortfalls for the City. As an initial response, the administration is taking action to reduce budget authority and expenses in the General Fund. The ordinance that follows reduces the amount of unspent 2019 budget appropriations that will be available to the departments in the second year of the biennium. This action results in a \$2,179,000 budget reduction for the General Fund.

Previous Council Action: **Adoption of the 2019-2020 Biennial Budget; 2019-2020 Mid-Biennium Adjustment**

Fiscal Impact: **\$2,179,000 General Fund Budget Reductions**

Funding Source: **General Fund**

Attachments: 1. STAFF MEMO
 2. ATTACHMENT TO STAFF MEMO
 3. ORDINANCE

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	5/18/2020	Pass Ordinance	Forrest Longman, Deputy Finance Director	10 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Forrest Longman, Deputy Finance Director

Council Action: 05/18/2020

Gene Knutson / Pinky Vargas moved
for first and second reading.

MOTION CARRIED 7-0.

Reviewed By	Department	Date
<i>Andrew D. Asbjornsen</i>	Finance Department	5/12/2020
<i>Matthew T. Stamps</i>	Legal	5/12/2020
<i>Seth M. Fleetwood</i>	Executive	5/12/2020



MEMORANDUM

TO: BELLINGHAM CITY COUNCIL
FROM: FORREST LONGMAN, DEPUTY FINANCE DIRECTOR
CC: MAYOR SETH FLEETWOOD; DEPARTMENT HEADS
SUBJECT: BUDGET REDUCTIONS
DATE: MAY 18, 2020

The economic impact of COVID-19 will result in revenue shortfalls for the City. As an initial response, the administration is taking action to reduce budget authority and expenses in the General Fund. Although other City funds will miss revenue targets, the most significant impact will be in the General Fund.

The ordinance that follows reduces the amount of unspent 2019 budget appropriations that will be available to the departments in the second year of the biennium. Only the Fire Department and the Hearing Examiner are not included. Both fully expended the 2019 portion of their appropriations. All other General Fund departments will turn back some or all of their 2019 appropriation. This action results in a \$2,179,000 budget reduction for the General Fund.

The impact on the overall General Fund budget is below:

2020 Adopted Budget	86,228,000
Mid Biennium Adjustment	4,257,000
2019 Remaining Budget	2,911,000
Other Budget Adjustments	1,496,000
2020 Revised Budget	94,892,000
<i><u>This Ordinance</u></i>	<i><u>(2,179,000)</u></i>
New 2020 Revised Budget	92,713,000

Reductions by line item are specified in the attachment to this memo.

A revenue update, including impacts on reserves of this action, will be presented with this ordinance at the Council Meeting. Because of the constantly shifting economic environment and a desire to share the most up-to-date information with Council, the presentation was not included in this packet. The forecast will consider national retail sales data for April which becomes available on May 15 and jobless claims for the week ending May 8, available May 14.

Attachment A to Staff Memo

Department	Entity/Division	Account	Proposed Change
			via Budget Ordinance
Mayor	Administration - Mayor	Other Professional Services	(80,000)
Council	Council	Salaries and Wages	(30,000)
Council	Council	Personnel Benefits	(9,000)
Museum	Services - Museum	Salaries and Wages	(150,000)
Museum	Services - Museum	Personnel Benefits	(64,000)
Library	Administration - Library	Salaries and Wages	(22,000)
Library	Circulation	Salaries and Wages	(110,000)
Library	Circulation	Salaries and Wages - Temporary	(20,000)
Library	Circulation	Personnel Benefits	(50,000)
Finance	Administration-Finance	Salaries and Wages	(14,000)
Finance	Administration-Finance	Personnel Benefits	(3,000)
Finance	Services - Financial	Salaries and Wages	(22,000)
Finance	Services - Accounting & Audit	Salaries and Wages	(80,000)
Finance	Services - Accounting & Audit	Personnel Benefits	(66,000)
HR	HR Services and Admin	Salaries and Wages	(33,000)
HR	HR Services and Admin	Salaries and Wages - Temporary	(15,000)
HR	Services-Recruitment Selection	Travel Expense	(2,000)
ITSD	General	Repairs and Maintenance - Any	(66,000)
ITSD	General	Tuition and Training Costs	(14,000)
ITSD	Tech Services	Salaries and Wages	(27,000)
ITSD	Tech Services	Personnel Benefits	(10,000)
ITSD	Operations - Network	Salaries and Wages	(95,000)
ITSD	Operations - Network	Personnel Benefits	(55,000)
ITSD	Operations - Network	Repairs and Maintenance - Any	(13,000)
Legal	Legal Services - Civil	Special Legal Services	(26,000)
Legal	Legal Services - Criminal	Special Legal Services	(30,000)
Legal	Legal Services - Remediation	Special Legal Services	(155,000)
Court	Services - Municipal Court	Salaries and Wages	(50,000)
Court	Services - Municipal Court	Personnel Benefits	(20,000)
Court	Services - Municipal Court	Other Professional Services	(30,000)
Court	Services - Municipal Court	Bank Charges and Discount Fees	(10,000)
Parks	Administration - Parks & Rec	Salaries and Wages	(26,000)
Parks	Park Grounds Maintenance	Salaries and Wages	(100,000)
Parks	Park Grounds Maintenance	Salaries and Wages - Temporary	(40,000)
Parks	Park Grounds Maintenance	Personnel Benefits	(50,000)
Parks	Park Facilities Maintenance	Salaries and Wages	(50,000)
Parks	Park Facilities Maintenance	Personnel Benefits	(25,000)
Parks	Athletic Facilities	Salaries and Wages	(35,000)
Parks	Athletic Facilities	Personnel Benefits	(24,000)
Parks	Recreation Administration	Salaries and Wages	(50,000)
Parks	Recreation Administration	Personnel Benefits	(20,000)
Parks	Recreation Programs	Salaries and Wages	(30,000)
Parks	Recreation Programs	Salaries and Wages - Temporary	(30,000)
Parks	Recreation Programs	Advertising and Promotions	(20,000)
Planning & CD	Administration-Planning	Salaries and Wages	(100,000)
Planning & CD	Administration-Planning	Personnel Benefits	(42,000)
Police	Patrol - Operations	Salaries and Wages	(116,000)
Police	Patrol - Operations	Personnel Benefits	(50,000)
			(2,179,000)

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE 2019-2020 BIENNIAL BUDGET DECREASING APPROPRIATIONS IN THE GENERAL FUND

WHEREAS, the COVID-19 pandemic has had unprecedented economic impacts; and

WHEREAS, on March 23, 2020, Governor Jay Inslee issued a “Stay Home – Stay Healthy” order closing all non-essential businesses in Washington State and subsequently extended the order through May 31; and

WHEREAS, nearly 40 percent of the City’s general fund revenues are directly tied to economic activity through sales tax and business and occupation tax; and

WHEREAS, the Finance Department forecasts both sales tax and business and occupation tax to fall short of revenue targets by 10-15 percent; and

WHEREAS, many other minor revenue sources will also be impacted; and

WHEREAS, to ensure the continued financial stability of the general fund, budget reductions are needed.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

The 2019-2020 Biennial Budget is hereby amended to reduce appropriations of departments within the General Fund by \$2,179,000, as shown below:

	2020		NEW 2020
General Fund	Revised Budget	Adjustment	Revised Budget
Non-Departmental	1,737,519	-	1,737,519
Mayor	1,301,263	(80,000)	1,221,263
City Council	707,616	(39,000)	668,616
Hearing Examiner	151,795	-	151,795
Museum	1,587,615	(214,000)	1,373,615
Library	6,068,487	(202,000)	5,866,487
Finance Department	2,659,242	(185,000)	2,474,242
Human Resources	1,960,066	(50,000)	1,910,066
Information Technology Services	4,094,712	(280,000)	3,814,712
Legal	2,330,530	(211,000)	2,119,530
Municipal Court	2,750,661	(110,000)	2,640,661
Parks and Recreation	10,261,402	(500,000)	9,761,402
Planning	6,569,428	(142,000)	6,427,428
Fire	21,319,026	-	21,319,026
Police	30,893,085	(166,000)	30,727,085
General Fund Total	94,392,447	(2,179,000)	92,213,447

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

PASSED by the Council this _____ day of _____, 2020.

Council President

APPROVED by me this _____ day of _____, 2020.

Mayor

ATTEST: _____
Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published:
