



King County

1200 King County
Courthouse
516 Third Avenue
Seattle, WA 98104

Meeting Agenda

Budget and Fiscal Management Committee

Councilmembers:

Girmay Zahilay, Chair;

Rod Dembowski, Vice Chair;

Claudia Balducci, Jorge Barón, Teresa Mosqueda, Sarah Perry

Lead Staff: April Sanders (206-263-3412)

Committee Clerk: Marka Steadman (206-477-0887)

9:30 AM

Wednesday, September 11, 2024

Hybrid Meeting

Hybrid Meetings: Attend King County Council committee meetings in person in Council Chambers (Room 1001), 516 3rd Avenue in Seattle, or through remote access. Details on how to attend and/or provide comment remotely are listed below.

Pursuant to K.C.C. 1.24.035 A. and F., this meeting is also noticed as a meeting of the Metropolitan King County Council, whose agenda is limited to the committee business. In this meeting only the rules and procedures applicable to committees apply and not those applicable to full council meetings.

HOW TO PROVIDE PUBLIC COMMENT: The Budget and Fiscal Management Committee values community input and looks forward to hearing from you on agenda items.

There are three ways to provide public comment:

1. **In person:** You may attend the meeting and provide comment in the Council Chambers.
2. **By email:** You may comment in writing on current agenda items by submitting your email comments to kcccomitt@kingcounty.gov. If your email is received by 8:00 a.m. on the day of the meeting, your email comments will be distributed to the committee members and appropriate staff prior to the meeting.
3. **Remote attendance at the meeting by phone or computer** (see "Connecting to the Webinar" below).

You may provide oral comment on current agenda items during the meeting's public comment period.

	<p>Sign language and interpreter services can be arranged given sufficient notice (206-848-0355). TTY Number - TTY 711.</p> <p>Council Chambers is equipped with a hearing loop, which provides a wireless signal that is picked up by a hearing aid when it is set to 'T' (Telecoil) setting.</p>	
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You are not required to sign up in advance. Comments are limited to current agenda items.

You have the right to language access services at no cost to you. To request these services, please contact Language Access Coordinator, Tera Chea at 206-477-9259 or email tera.chea2@kingcounty.gov by 8:00 a.m. three business days prior to the meeting.

CONNECTING TO THE WEBINAR:

Webinar ID: 867 1228 9077

By computer using the Zoom application at <https://zoom.us/join> and the webinar ID above.

Via phone by calling 1-253-215-8782 and using the webinar ID above.

HOW TO WATCH/LISTEN TO THE MEETING REMOTELY: There are several ways to watch or listen in to the meeting:

- 1) Stream online via this link: <http://www.kingcounty.gov/kctv>, or input the link web address into your web browser.
- 2) Watch King County TV on Comcast Channel 22 and 322(HD) and Astound Broadband Channels 22 and 711(HD)
- 3) Listen to the meeting by telephone – See “Connecting to the Webinar” above.

To help us manage the meeting, if you do not wish to be called upon for public comment please use the Livestream or King County TV options listed above, if possible, to watch or listen to the meeting.

1. Call to Order



2. Roll Call

To show a PDF of the written materials for an agenda item, click on the agenda item below.

3. Approval of Minutes

August 28, 2024 meeting p. 5

4. Public Comment

	<p>Sign language and interpreter services can be arranged given sufficient notice (206-848-0355). TTY Number - TTY 711. Council Chambers is equipped with a hearing loop, which provides a wireless signal that is picked up by a hearing aid when it is set to 'T' (Telecoil) setting.</p>	
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Discussion and Possible Action

5. [Proposed Ordinance No. 2024-0238](#) **p. 8**

AN ORDINANCE relating to the sale of the surplus property located at 18005 107th Ave SW, Vashon, Washington, in council district eight.

Sponsors: Mosqueda and Zahilay

Gene Paul, Council staff

6. [Proposed Motion No. 2024-0279](#) **p. 72**

A MOTION requesting the executive establish a regional workforce housing initiative and develop an implementation plan on options to utilize excess debt capacity to partner with housing agencies and housing developers to provide permanently rent-restricted multiple-unit housing.

Sponsors: Zahilay

April Sanders, Council staff

7. [Proposed Ordinance No. 2024-0226](#) **p. 80**

AN ORDINANCE authorizing the condemnation of real property to obtain easements, and other rights in property for the construction of the Rapid Ride I Line in the city of Renton.

Sponsors: Zahilay

Mary Bourguignon, Council staff

8. [Proposed Ordinance No. 2024-0269](#) **p. 120**

AN ORDINANCE authorizing the King County executive to enter into an agreement with the Washington state Department of Ecology for loan financing of a wastewater capital project.

Sponsors: Zahilay

Jenny Giambattista, Council staff

9. [Proposed Ordinance No. 2024-0270](#) **p. 168**

AN ORDINANCE authorizing the King County executive to enter into an agreement with the Washington state Department of Ecology for loan financing of a wastewater capital project.

Sponsors: Zahilay

Jenny Giambattista, Council staff



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TTY Number - TTY 711.
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Other Business

Adjournment



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TTY Number - TTY 711.
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King County

1200 King County
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516 Third Avenue
Seattle, WA 98104

Meeting Minutes Budget and Fiscal Management Committee

Councilmembers:
Girmay Zahilay, Chair;
Rod Dembowski, Vice Chair;
Claudia Balducci, Jorge Barón, Teresa Mosqueda, Sarah Perry

Lead Staff: *April Sanders (206-263-3412)*
Committee Clerk: *Marka Steadman (206-477-0887)*

9:30 AM

Wednesday, August 28, 2024

Hybrid Meeting

DRAFT MINUTES

1. **Call to Order**

Chair Zahilay called the meeting to order at 9:32 a.m.

2. **Roll Call**

Present: 6 - Balducci, Barón, Dembowski, Mosqueda, Perry and Zahilay

3. **Approval of Minutes**

Councilmember Barón moved approval of the July 24, 2024, meeting minutes. There being no objections, the minutes were approved.

4. **Public Comment**

The following individuals provided public comment:

*Alex Tsimerman
Rachell Snell*

Consent

5. [Proposed Ordinance No. 2024-0237](#)

AN ORDINANCE authorizing the King County executive to enter into a lease agreement with Washington state Department of Transportation, Ferries Division, as landlord, for uplands, tidelands, and facilities located at 201 Alaskan Way S, Seattle, Washington, in council district eight.

Mary Bourguignon, Council staff, briefed the committee and answered questions from the members.

A motion was made by Councilmember Barón that this Ordinance be Recommended Do Pass Consent. The motion carried by the following vote:

Yes: 6 - Balducci, Barón, Dembowski, Mosqueda, Perry and Zahilay

Briefing

6. [Briefing No. 2024-B0103](#)

Visit Seattle

Tammy Canavan, President & CEO, Visit Seattle; and Peter Andersen, Senior Director of Convention Strategy, Visit Seattle; briefed the committee and answered questions from the members.

This matter was Presented

Discussion and Possible Action

7. [Proposed Ordinance No. 2024-0239](#)

AN ORDINANCE authorizing the execution of a new lease to support the operation of the department of public health.

Sam Porter, Council staff, briefed the committee and answered questions from the members. Councilmember Barón moved amendment 1. The amendment was adopted.

A motion was made by Councilmember Barón that this Ordinance be Recommended Do Pass Substitute Consent. The motion carried by the following vote:

Yes: 6 - Balducci, Barón, Dembowski, Mosqueda, Perry and Zahilay

8. [Proposed Ordinance No. 2024-0244](#)

AN ORDINANCE authorizing the execution of a new lease to support the operation of the department of public health.

Sam Porter, Council staff, briefed the committee and answered questions from the members.

A motion was made by Councilmember Barón that this Ordinance be Recommended Do Pass. The motion carried by the following vote:

Yes: 6 - Balducci, Barón, Dembowski, Mosqueda, Perry and Zahilay

9. [Proposed Ordinance No. 2024-0229](#)

AN ORDINANCE relating to changing the form of the note authorized under the conveyance of the surplus property located at 906 Pine Street, Seattle, Washington, in council district eight; and amending Ordinance 18546, Section 1.

Mary Bourguignon, Council staff, briefed the committee and answered questions from the members. Councilmember Barón made an oral amendment to replace "council district four" on page 1, line 4, with "council district eight". The amendment was adopted.

This matter was expedited to the September 3, 2024, Council agenda.

A motion was made by Councilmember Barón that this Ordinance be Recommended Do Pass Substitute Consent. The motion carried by the following vote:

Yes: 6 - Balducci, Barón, Dembowski, Mosqueda, Perry and Zahilay

Other Business

There was no further business to come before the committee.

Adjournment

The meeting was adjourned at 10:40 a.m.

Approved this _____ day of _____

Clerk's Signature



King County

**Metropolitan King County Council
Budget and Fiscal Management Committee**

STAFF REPORT

Agenda Item:	5	Name:	Gene Paul
Proposed No.:	2024-0238	Date:	September 11, 2024

SUBJECT

Proposed Ordinance 2024-0238 would authorize the Executive to convey the property at 18005 107th Ave SW, Vashon, WA to Friends of Mukai, a Washington nonprofit, for the preservation of the Mukai Fruit Barreling Plant, a designated King County landmark, consistent with the Purchase and Sale Agreement (PSA) included as Attachment A.

SUMMARY

Proposed Ordinance 2024-0238 would authorize the Executive to convey the surplus property at 18005 107th Ave SW, Vashon, WA to Friends of Mukai for a purchase price of \$0. The property, also known as the Mukai Fruit Barreling Plant, is one of two parcels that comprise the Mukai Agricultural Complex. The property was acquired by King County in 2017 for the purposes of preservation. It is listed in the National Register of Historic Places and is a designated King County Landmark. The Property Summary provided by Executive staff notes that the Fruit Barreling Plant, built in 1926 with the adjacent Mukai House and Garden, tells the story of Japanese American settlement and farming in the early 20th Century and the effects of World War II and internment on the Japanese American Community.

The Executive is proposing a negotiated direct sale with the buyer citing authority under King County Code (K.C.C.) 4.56.100.A.2, which provides that the Council, by ordinance, may determine that unique circumstances make such a sale in the best interests of the public. The buyer, Friends of Mukai, is a Washington nonprofit corporation dedicated to the preservation of the Mukai Agricultural Complex. Friends of Mukai already owns the neighboring parcel in the Mukai Agricultural Complex and has been working to reunite the parcels for many years. The buyer also has occupied the Fruit Barreling Plant under a use agreement since November 2018. The buyer’s intent is to reunite both parcels for preservation purposes and to ultimately rehabilitate the currently vacant warehouse building on the Barreling Plant parcel to open it to the public as an interpretive center and local food hub.

The proposed Purchase and Sale Agreement was executed by the parties on or before March 29, 2024, and is subject to Council approval. The PSA includes provisions that should Friends of Mukai fail to continue to preserve and operate the Barreling Plant in accordance with the historic preservation covenant, the title of the property will revert to King County.

BACKGROUND

Property History. The property located at 18005 107th Ave SW, Vashon, WA is approximately 2.05 acres, zoned RA-5, and is located in Council District 8. The property is referred to as the "Fruit Barreling Plant" in this staff report. The Property Summary, included as Attachment 5, includes pictures of the Fruit Barreling Plant warehouse and a map with the property's location on Vashon.

The Mukai Agricultural Complex was designated a King County Landmark in 1993, and a National Register of Historic Places in 1994. The complex includes the Mukai House and Garden and the adjacent Fruit Barreling Plant. Built in 1926 by the Mukai family, the complex tells the story of Japanese American settlement and farming in the early 20th Century and the effects of World War II and internment on the Japanese American community.¹ According to HistoryLink, Mukai's strawberry farm and processing plant became the first in the nation to experiment with freezing berries for long-distance shipment nationwide and overseas.² This property was the only remaining agricultural property in the State of Washington owned by Japanese Americans prior to and during internment. All of the other Japanese American owned agricultural properties were lost due to the internment of the Japanese American community. The Mukai Agricultural Complex survived as a result of the family's resources, which allowed them to maintain the property during their absence. Eventually the Mukai family sold the property to other private entities.

In 2000, Island Landmarks, a nonprofit organization, purchased the Mukai House and Garden for historic preservation purposes with the support of \$500,000 of public funds from King County, the National Park Service, and the State of Washington. According to Executive staff, King County's contribution was approximately \$100,000. Former board members of Island Landmarks failed to preserve the property and make it accessible to the public. This resulted in a lengthy, litigious process between former and current board members of Island Landmarks over the Mukai House and Garden property. Board members of Island Landmarks under the new name of "Friends of Mukai" were granted legal control to own and operate the House and Garden in 2016. Since then,

¹ Executive Order 9066 was a presidential executive order signed and issued during World War II by President Franklin D. Roosevelt on February 19, 1942. This order authorized the Secretary of War to prescribe certain areas as military zones, clearing the way for the incarceration of Japanese Americans to concentration camps.

² "Masahiro Mukai," HistoryLink website: <http://www.historylink.org/File/3736>.

Friends of Mukai has been restoring and preserving the House and Garden and has also opened it to the public.

2017 Purchase. In 2017, King County acquired the Fruit Barreling Plant property from Zellerhoff Construction in order to preserve the property. The purchase price of \$435,000 was funded through a mix of moneys including a grant from the Washington State Department of Archaeology and Historic Preservation, a contribution from Friends of Mukai, and the proceeds from a King County sale of surplus property on Vashon Island to Zellerhoff Construction.³

According to the Property Summary for the Fruit Barreling Plant, the intent behind the 2017 purchase was for Friends of Mukai to occupy and rehabilitate the property. Friends of Mukai has occupied the Fruit Barreling Plant under a use agreement since November 2018. The Fruit Barreling Plant property includes the 6,400 square foot warehouse built in 1926 and a 435 square foot office building from 1946. According to the Property Summary, the warehouse is vacant and unoccupiable.

ANALYSIS

Proposed Ordinance 2024-0238 would authorize the Executive to convey the property at 18005 107th Ave SW, Vashon, WA to Friends of Mukai, a Washington nonprofit, for the preservation of the Mukai Fruit Barreling Plant, a designated King County landmark, consistent with the Purchase and Sale Agreement (PSA) included as Attachment A.

The requirements related to the sale of surplus properties that are outlined in King County Code Section 4.56, as well as the status of these requirements for the Fruit Barreling Plant property, are analyzed in Table 1 below.

Table 1. Surplus Property Sale Requirements

#	Requirement	K.C.C. Reference	Outcome/Status
1.	Division Surplus Notification	4.56.070	Department of Natural Resources and Parks (DNRP) submitted a notice of surplus to Facilities Management Division (FMD) on October 27, 2022.
2.	FMD Offer of Property to other County Agencies	4.56.070	FMD offered the property to other County agencies in November 2022 and received no interest.

³ Ordinance 18525 authorized the sale of the surplus property ([Link](#))

#	Requirement	K.C.C. Reference	Outcome/Status
3.	Property Evaluated for Affordable Housing	4.56.070.C.1	The property was evaluated for affordable housing. However, the property is outside the Urban Growth Area and has a landmark designation which prevents the building improvements from being demolished. Therefore, the property is not suitable for affordable housing.
4.	Final Surplus Declaration	4.56.070	FMD declared the property surplus on January 5, 2023.
5.	FMD Appraisal	N/A	According to the Property Summary, the property was appraised on March 14, 2023 by Kidder Mathews. Because the building improvements cannot be demolished due to the historic designation, the estimated fair market value of the property is \$0.
6.	Public Notification of Sale	4.56.090	Under K.C.C. 4.56.100.A.2, public notification is not required.
7.	Bid Process	4.56.100	<p>Sales of real property are exempt from being sold to the highest responsible bidder at public auction or by sealed bid under certain circumstances described in County Code. The proposed ordinance would authorize the Executive to convey the Fruit Barreling Plant property through a negotiated direct sale and has cited the exception under K.C.C 4.56.100.A.2 to justify a negotiated direct sale. K.C.C. 4.56.100.A.2 states that the Council may find that unique circumstances exist making a direct transfer in the best interest of the public.</p> <p>The goal of the direct transfer, as identified in the Property Summary, would support the historic preservation of the property and allow Friends of Mukai to continue preserving the property while pursuing funding for the rehabilitation and restoration of the warehouse building.</p>
8.	Purchase and Sale Agreement	N/A	The PSA was executed by all parties on or before March 29, 2024.

#	Requirement	K.C.C. Reference	Outcome/Status
9.	Council Approval	4.56.080	As the value of the surplus property being conveyed does not exceed \$100,000, Council approval of the sale under K.C.C. 4.56.080 is not technically required. However, the Council must determine that unique circumstances exist for a direct sale through an ordinance. Additionally, the PSA includes a provision that the agreement is subject to approval by ordinance by the Council and this contingency is satisfied if an ordinance approving the conveyance of the property becomes effective within 120 days of the effective date of March 29, 2024. The County may unilaterally extend the Council approval period one time for an additional ninety days.
10.	Disposition of Sale Proceeds	4.56.130	This transaction is a no cost transfer to Friends of Mukai, so no proceeds will be dispersed to a county agency.

Summary of Key PSA Terms. Table 2 provides a high-level summary of key terms in each section of the PSA.

Table 2. Summary of Key PSA Terms

PSA Section	Summary of Key Terms	Beginning Page in PSA
Article 1. Purchase and Transfer of Assets	<p>King County shall convey to Friends of Mukai on the closing date and Friends of Mukai shall accept from King County the following assets and properties:</p> <ul style="list-style-type: none"> The property at 18005 107th Ave SW, Vashon WA, including the right, title and interest of the property, improvements and structures located on the property, tangible personal property and easements and other rights on the property except for ownership of a 30-foot strip for road purposes and non-exclusive rights to existing easements for King County programs and projects. <p>The property must be preserved and operated in accordance with the historic preservation covenant. If Friends of Mukai fail to do so after proper notification, the property would revert to King County.</p>	p. 3

PSA Section	Summary of Key Terms	Beginning Page in PSA
	<p>The property must also be used for open space purposes because of the parks levy funding used to acquire the property.</p> <p>Friends of Mukai will provide a preservation and interpretation plan for the property to DNRP and FMD by July 2025 that covers through 2034. Friends of Mukai will also deliver an annual report through 2034 detailing how it preserved the property and provided public access to the history of the property and the broader Japanese American experience.</p>	
Article 2. Purchase Price	Establishes a purchase price of \$0 under the conditions that Friends of Mukai will maintain the property for the benefit of the public and will accept and comply with the preservation covenant and any other obligation in the agreement.	p. 7
Article 3. Representations and Warranties of the Parties and Condition of the Property	Outlines terms for representations and warranties of the seller and buyers, seller disclosure statement and disclaimer of the condition of the property, buyer acceptance of the condition of the property, indemnification clause and a risk of loss statement.	p. 7
Article 4. Title Matters	Outlines terms related to the title, title insurance, and restrictive covenants.	p. 11
Article 5. Contingencies	<p>Outlines that Friends of Mukai has occupied the property since November 2018 and therefore has satisfied the due diligence inspection requirement.</p> <p>States that the PSA is subject to approval by the King County Council.</p>	p. 12
Article 6. Covenants of Seller Pending Closing	Outlines terms for seller in assuring the representations and warranties, and all covenants.	p. 12
Article 7. Covenants of Buyer Pending Closing	Outlines terms for buyer in assuring the representations and warranties, and all covenants.	p. 13
Article 8. Conditions Precedent to Buyer's Obligations	Outlines the obligations of buyers to close on the closing date.	p. 13

PSA Section	Summary of Key Terms	Beginning Page in PSA
Article 9. Conditions Precedent to Seller's Obligations	Outlines the obligations of the seller to close on the closing date.	p. 13
Article 10. Closing	The closing shall occur within 15 days of removal of all contingencies in Article 5 and satisfaction of all conditions in Articles 8 & 9. Outlines that King County shall pay one half of the escrow fee charged by the escrow agent. Lays out all documents that shall be delivered by King County and Friends of Mukai at closing.	p. 15
Article 11. Miscellaneous Provisions	Outlines terms related to nonmerger, default and attorneys' fees, computation of time, notice delivery, severability, and other miscellaneous provisions. Lays out the exhibits to the PSA.	p. 15
Signature Pages	PSA was executed by all parties on or before March 29, 2024.	p. 19
Exhibit A	Legal Description	p. 21
Exhibit B	Deed of Right and Covenant to Use Land for Historic Preservation Purposes	p. 22 ⁴
Exhibit C	Quitclaim Deed	p. 23
Exhibit D	Bill of Sale and Assignment	p. 31
Exhibit E	Seller's Certification of Non-Foreign Status	p. 33

Rationale for transaction. The Property Summary notes that the Fruit Barreling Plant was acquired in 2017 with the intention of a long-term use agreement with Friends of Mukai. However, both Friends of Mukai and the Department of Natural Resources and Parks have determined that the property is now better suited for ownership by Friends of Mukai so that the nonprofit can take the lead in fundraising to rehabilitate and open the warehouse for public use. The organization's ultimate intent is to rehabilitate the currently vacant warehouse building on the Barreling Plant parcel to open it to the public as an interpretive center and local food hub. That project has an estimated cost of \$2.5 million.

⁴ Although the title page for Exhibit B is on page 22 of the PDF document, the Deed of Right and Covenant to Use Land for Historic Preservation Purposes begins on page 34 of the PDF.

Direct Negotiated Sale. Under the County Code, real property shall be sold to the highest responsible bidder at public auction or by sealed bid except under certain circumstances. These circumstances include the Council determining that unique circumstances make a direct negotiated sale in the best interests of the public.⁵ According to the proposed ordinance language, "Unique circumstances are present because the buyer [...] is the owner of the second parcel of the Mukai Agricultural Complex and currently occupies the Fruit Barreling Plant under a use agreement with King County. Buyer has worked closely with the county for over ten years to secure and reunite both parcels [...]. Through this acquisition, buyer will provide access, interpretive exhibits, educational programming, and cultural events highlighting the history of the property, the Mukai family, and the broader Japanese American experience." This description appears to meet the exemption requirements required by the Code as transmitted. Adoption of the proposed ordinance would serve as the Council's determination that unique circumstances make a negotiated direct sale in the best interests of the public under K.C.C. 4.56.100.A.2.

Covenants and Title Reversion. Article 1 of the PSA contains two covenants for the property by which Friends of Mukai must abide. First, Friends of Mukai must continue to preserve the property and make it accessible for the benefit of the public in accordance with the Covenant to Use Land for Historic Purposes. Second, Friends of Mukai acknowledges that because the property was purchased in part with funding from the Parks Levy⁶, the Fruit Barreling Plant cannot be converted from open space purposes without providing equivalent property to King County. In the event Friends of Mukai fails to maintain the historic preservation of the property, the title would revert to King County without a lawsuit or court judgement. This reversionary interest in the title terminates on July 9, 2034.

Plans and Annual Reports. Article 1 of the PSA also requires that Friends of Mukai delivers to DNRP by July 1, 2025, a written preservation and interpretation plan for the property that covers the timespan from 2024 through 2034. The PSA also directs Friends of Mukai to deliver an annual report by July 1 of each year from 2025 through 2034 that details how the organization has advanced preservation and provided public access to the property. The annual report will include updates on fundraising, construction activity, interpretive exhibits, educational programming, and any cultural events held at the property.

Appraisal. The Fruit Barreling Plant property appraisal was prepared by Kidder Mathews on March 14, 2023. The appraisal factor utilized was a Highest Best Use analysis determined by comparable sales, with comparable sales adjusted per specific site characteristics. The appraisal concluded that because the existing buildings cannot be demolished due to their historic designation, the estimated fair market value for the property was \$0.

⁵ K.C.C. 4.56.100.A.2

⁶ Parks Levy authorized by Ordinance 18890 ([Link](#))

Purchase Price and Financial Considerations. Article 2 of the PSA establishes the purchase price of \$0, which aligns with the estimated fair market value. The purchase price also reflects Friends of Mukai’s commitment to maintain the historic property for public benefit. Section 10.2.2 in the PSA states that the County will pay the cost of half of the escrow fee and Friends of Mukai will pay the remaining half. The fiscal note estimates this cost to the County at \$1,407.

Council Approval Requirement and Timing. The transmitted PSA includes a provision that the PSA is subject to approval by the Council ("Council Approval Contingency") and this contingency would be satisfied if an ordinance becomes effective within 120 days of the effective date of the PSA. The provision also provides that the Seller may unilaterally extend the Council approval period one time for a period up to an additional 90 days. Beyond the first unilateral extension, both parties may extend the approval period by mutual agreement in writing. If the Council Approval Contingency is not satisfied within the Council approval period, the agreement shall terminate.

The PSA was executed on March 29, 2024. The 120-day window for Council approval contingency expired on July 27, 2024.⁷ The unilateral extension of 90 days for the Council approval contingency will expire on October 25, 2024.

Outside of the timing considerations in the PSA, Friends of Mukai has indicated to Executive and Council staff that it is applying for State grants to help support the rehabilitation of the Fruit Barreling Plant. On grant applications, Friends of Mukai indicate that while a process is underway for transfer of the property to the organization, it is not currently the owner. Because of concern for potential impacts on grant applications, Friends of Mukai has expressed eagerness to complete the transaction in September. Executive staff have provided letters to grant programs verifying the process is underway and believe that completing the process by October 25th should not jeopardize any funding opportunities.

Legal Review. Council’s legal counsel has completed review of the proposed ordinance and the Purchase and Sale Agreement.

AMENDMENT

Council staff has drafted Striking Amendment S1 that would make the following changes:

- Adds to and revises the Statement of Facts to provide additional context for the project
- Revises the Findings section to specify the rationale for a determination of unique circumstances

⁷ Proposed Ordinance 2024-0238 was transmitted to Council on July 29, 2024.

INVITED

- Anthony Wright, Director, Facilities Management Division
- Jennifer Meisner, Historic Preservation Officer, Department of Natural Resources and Parks

ATTACHMENTS

1. Proposed Ordinance 2024-0234 (and its attachment)
2. Striking Amendment S1
3. Transmittal Letter
4. Fiscal Note
5. Property Summary



KING COUNTY
Signature Report

ATTACHMENT 1
1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Ordinance

Proposed No. 2024-0238.1

Sponsors Mosqueda and Zahilay

1 AN ORDINANCE relating to the sale of the surplus
2 property located at 18005 107th Ave SW, Vashon,
3 Washington, in council district eight.

4 **STATEMENT OF FACTS:**

5 For the property located at 18005 107th Ave SW, Vashon, Washington,
6 located within council district eight, the facilities management division
7 completed the surplus property, affordable housing and public notice
8 requirements.

9 **BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:**

10 **SECTION 1. Findings:** The sale of the Mukai Fruit Barreling Plant, one of two
11 parcels comprising the Mukai Agricultural Complex, through a negotiated direct sale is
12 authorized under K.C.C. 4.56.100.A.2. because unique circumstances make the sale in
13 the best interests of the public. Unique circumstances are present because the buyer, a
14 Vashon Island-based Washington non-profit corporation, is the owner of the second
15 parcel of the Mukai Agricultural Complex and currently occupies the Fruit Barreling
16 Plant under a use agreement with King County. Buyer has worked closely with the
17 county for over ten years to secure and reunite both parcels of the Mukai Agricultural
18 Complex, which has been designated a King County landmark since 2002. Through this
19 acquisition, buyer will provide access, interpretive exhibits, educational programming,

20 and cultural events highlighting the history of the property, the Mukai family, and the
21 broader Japanese-American experience.

22 SECTION 2. The executive is authorized to convey the property located at 18005
23 107th Ave SW, Vashon, Washington to Friends of Mukai consistent with a purchase and

- 24 sale agreement substantially in the form of Attachment A to this ordinance and to take all
25 actions necessary to implement the terms of the purchase and sale agreement.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Dave Upthegrove, Chair

ATTEST:

Melani Pedroza, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: A. Purchase and Sale Agreement

ATTACHMENT A:

PURCHASE AND SALE AGREEMENT

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (“Agreement”) is made and entered by and between **KING COUNTY**, a home rule charter county and political subdivision of the State of Washington (the “Seller”), and **FRIENDS OF MUKAI**, a Washington nonprofit corporation (the “Buyer”). Seller and Buyer are also referred to herein individually as a “Party” or collectively as “Parties.” This Agreement shall be effective as of the date it has been executed by both Parties (the “Effective Date”).

RECITALS

A. Seller is the owner of that certain real property located at 18005 107th Avenue Southwest, King County, State of Washington, the legal description of which is attached hereto as **EXHIBIT A** (the “Real Property”).

B. The Real Property is one of two parcels that comprise the Mukai Agricultural Complex, which began in the 1920s as a strawberry farm operated by the prominent Japanese American Denichiro (B.D.) Mukai. One parcel of the Mukai Agricultural Complex (the “Mukai Parcel”) includes Japanese-style gardens planted by B.D. Mukai’s wife, Kuni Mukai, and a 1920’s Craftsman-style residence. The other parcel—the Real Property—includes a cold process fruit barreling plant (“Fruit Barreling Plant”), where strawberries grown on the farm were barreled and shipped.

C. The Mukai family fled to Oregon after the Japanese Exclusion Act was signed in 1942. While the family returned to Vashon after World War II had ended, the strawberry business had become less profitable, and B.D. Mukai’s son sold the Real Property in 1969. The Mukai Agricultural Complex passed through several ownerships thereafter.

D. In 2002, King County designated the Mukai Agricultural Complex a King County Landmark. The following year, the National Park Service placed the Mukai Agricultural Complex on the National Register of Historic Places.

E. Buyer, a Vashon Island-based Washington nonprofit corporation dedicated to the preservation of the Mukai Agricultural Complex, and current owner of the Mukai Parcel, has worked closely with Seller for nearly ten years to secure and reunite both parcels.

F. In 2017, with the help of a Washington State Department of Archaeology and Historic Preservation grant (“Grant”) and the advocacy and a cash contribution of Buyer, Seller acquired the Real Property from a private party with the goal of preserving the Fruit Barreling Plant. The Grant resulted in the Real Property being subject to a historic preservation covenant.

G. Pursuant to a use agreement with Seller (“Use Agreement”), Buyer has occupied the Real Property since November 2018. Throughout the term of the Use Agreement, Buyer has worked to restore the Fruit Barreling Plant, consistent with the requirements set forth in the historic preservation covenant. The restoration of the Fruit Barreling Plant is the third and final major phase of Buyer’s restoration and unification of the Mukai Agricultural Complex.

H. Buyer desires to own, operate, and maintain the Real Property subject to the historic preservation covenant, and Seller willing to convey the Real Property to Buyer in fee simple determinable title with possibility of reverter, on the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, and other valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties hereto covenant and agree as follows:

ARTICLE 1. PURCHASE AND TRANSFER OF ASSETS

1.1. PROPERTY TO BE CONVEYED. Subject to and upon the terms and conditions set forth in this Agreement, Seller shall convey to Buyer, on the Closing Date (defined in Section 9.1.3), and Buyer shall accept from Seller on the Closing Date, the following assets and properties:

1.1.1. Fee simple determinable title with possibility of reverter in the Property, as further described in Section 1.2 below;

1.1.2. All of Seller's right, title, and interest in improvements and structures located on the Property, if any;

1.1.3. All of Seller's right, title, and interest in and to tangible personal property, if any, owned by Seller and attached, appurtenant to, or used in connection with the Property; and

1.1.4. All of Seller's tenements, hereditaments, easements, and rights appurtenant to the Property, including, but not limited to, all of Seller's right, title, and interest in and to streets, alleys, or other public ways within the Property, easements for public utilities, all sewers and service drainage easements, all rights of connection to the sewers, and all rights of ingress and egress, and all leases, licenses, government approvals, and permits affecting the Property, except that Seller shall retain (i) ownership of that certain thirty foot strip conveyed to King County for road purposes under King County recording no. 5339903; and (ii) nonexclusive rights in any other existing easements or other rights in the Property that are of record and that are appurtenant to other King County property or that serve other King County programs or projects (e.g. utility easements, stormwater management easements, stream maintenance easements, access easements, etc.).

Hereinafter, the items listed in Section 1.1 are collectively referred to as the "Property."

1.2. The Parties agree that the terms and conditions in this Section 1.2 shall be incorporated in the quitclaim deed conveying the Property ("Deed") from Seller (Grantor) to Buyer (Grantee), and shall thereafter run with the land that makes up the Property:

1.2.1. CONVEYANCE.

1.2.1.1 Grantor conveys and quitclaims to Grantee the following described real property in fee simple determinable title with possibility of reverter upon the conditions set forth below:

SEE LEGAL DESCRIPTION IN EXHIBIT “A” ATTACHED HERETO AND BY THIS REFERENCE INCORPORATED HEREIN (the “Property”).

1.2.1.2 Grantor conveys to Grantee title to the Property for so long as the following is continuously preserved and operated on the Property, as may be modified as provided in this Deed: The Cold Press Fruit Barreling Plant, made accessible for the benefit of the public and maintained in accordance with (i) the requirements set forth in that certain Deed of Right and Covenant to Use Land for Historic Preservation Purposes, recorded under King County Recorder’s Office no. 20170616001395 (the “Covenant”); and (ii) the specific covenant set forth in **Section 1.2.2** pertaining to use, which covenant shall run with the land for the benefit of the County and the County land that makes up its public park, recreation, and open space system.

1.2.1.3 If Grantee or its successors in interest fail to preserve and operate the Fruit Barreling Plant in accordance with the terms of **Section 1.2.1.2**, and if Grantee does not timely cure such failure after notice of default from Grantor under **Section 1.2.4**, then title to the Property shall revert to Grantor without suit or a judgment of any court, provided, however, Grantor’s reversionary interest described in this Section 1.2.1.3 shall terminate at 11:59PM on July 9, 2034.

1.2.2 PARKS LEVY RESTRICTION. Grantee acknowledges that the Property was purchased in part with funding from the King County parks levy authorized by Ordinance 18890, and Buyer covenants that the Property will be used for the open space purposes contemplated by Ordinance 18890, and that the Property shall not be converted to a different use unless (i) other equivalent property within the County shall be received in exchange therefor; and (ii) the requirements set forth in Section 1.2.1.2 are maintained.

1.2.3 GRANTOR’S RESERVED RIGHT OF ACCESS AND INSPECTION. In addition to the possibility of reverter set forth in **Sections 1.2.1.2** and **1.2.1.3**, and Grantor’s other reserved rights under **Section 1.1** of this Agreement and **Exhibit C**, Grantor reserves to itself, and its successors and assigns, through July 9, 2034, the right of ingress and egress over clearly established drive lanes that are in use by the travelling public and the right to inspect the Property for compliance with the terms and conditions contained in this Deed, with reasonable notice to Grantee or its successors or assigns. Nothing in this Deed is intended to or shall be construed as limiting Grantor or its successors’ and assigns’ ability to access the Property in the manner otherwise provided to the general public.

1.2.4 NOTICE AND CURE PERIOD.

1.2.4.1 Events of Default. The following events shall constitute a default of the terms of this Deed:

(a) Grantee or its successors in interest fail to operate and maintain the Property as required under **Section 1.2.1.2** and **1.2.1.3**; or

(b) Grantee or its successors in interest interfere with, or allow others to interfere with Grantor, its successors' and assigns' right of access or right to inspect the Property as provided in **Section 1.2.3**.

1.2.4.2 Notice to Cure Default. In the event of a default by Grantee or its successors in interest, Grantor will provide written notice of said default to Grantee (and, if different than Grantee, the then-current owner of the Property) to cure the default within thirty (30) calendar days. Thereafter, Grantee shall have thirty (30) calendar days to cure the alleged breach (or, in the case of an alleged breach that reasonably requires more than 30 calendar days to cure, Grantee shall commence to cure such breach during the 30-calendar day period); and if Grantee does not cure such breach during that 30 calendar day period (or does not commence to cure a breach reasonably requiring more than 30 calendar days to cure), then Grantee shall be deemed in default under this Deed.

1.2.4.3 Notices. Any and all notices or other communications required or permitted to be given under any of the provisions of this Deed shall be in writing and shall be deemed to have been duly given upon receipt when personally delivered or sent by overnight courier, or two (2) days after deposit in the United States mail if by first class, certified or registered mail, return receipt requested. All notices shall be addressed to the Parties at the addresses set forth below or at such other addresses as the Parties may specify by notice and given as provided herein:

If to Grantor:

GRANTOR
King County Department of Natural Resources
and Parks
Attn: Warren Jimenez, Director, Parks and
Recreation Division
700 Third Ave., Suite 600
Seattle, WA 98104
Email: wjimenez@kingcounty.gov; *with a copy
to* KCParks.LegalNotices@kingcounty.gov

With a copy to:

Manager, Real Estate Services
500 Fourth Avenue
ADM-ES-0500
Email: steve.rizika@kingcounty.gov

If to Grantee:

GRANTEE

Friends of Mukai
Attn: President
P.O. Box 2603, Vashon, WA 98070
Email info@mukaifarmandgarden.org

Notwithstanding anything in this Section 1.2.4.3 to the contrary, a Party may provide notice electronically via the email addresses listed below with delivery confirmation or read receipt (or both). A Party providing electronic notice shall bear the burden to prove the date that notice was delivered.

1.2.5 ANNUAL REPORTS. Not later than July 1 of each calendar year, through the year 2034 (inclusive), Grantee shall submit to Grantor a report detailing how Grantee advanced preservation and provided public access to the history of the Property, Mukai Family, and the broader Japanese-American Experience. The report shall include a written update on fundraising, preservation and construction activity (including photographs of construction activity and current property conditions), tenancies and any tenant improvements undertaken, interpretative exhibits, educational programming, and cultural events held by Grantee over the past year. By July 1, 2025 Grantee shall submit a written preservation and interpretation plan for the Property through 2034. The preservation and interpretation plan shall follow standards and codes of ethics referenced by the Washington State Historical Society and Section 1.2.1.2. Grantee shall submit the report to Grantor in the manner provided in Section 1.2.4.3 of this Deed.

1.2.6 FORCE MAJEURE.

1.2.6.1 "Force Majeure Event" means any act or event that prevents the affected Party from performing its obligations under this Deed, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party is unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing definition, Force Majeure Event may include natural phenomena, such as storms, hurricanes, floods, lightning, or earthquakes; explosions or fires arising from causes unrelated to the acts or omissions of the party seeking to be excused from performance; acts of war, civil unrest, public disorder, sabotage, epidemic, rebellion, riot, or terrorism or war. Force Majeure Events shall not include equipment failures or acts or omissions of agents, suppliers, contractors, or subcontractors, except to the extent that such acts or omissions arise from a Force Majeure Event as defined in this section.

1.2.6.2 Except as otherwise specifically provided in this Deed, neither Party shall be considered in default or breach of this Deed or liable for any delay or failure to comply with the terms of this Deed, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event. Provided, that the Party claiming relief based on a Force Majeure Event shall: (a) promptly notify the other Party in writing of the existence and nature of the Force Majeure Event; (b) exercise all reasonable efforts to minimize delay caused by such Force Majeure Event; (c) notify the other Party in writing of the cessation of such Force Majeure Event; and (d) resume performance of its obligations under this Deed as soon as practicable thereafter. Provided further, that Grantee's duty to comply with the obligations set forth in Sections

1.2.1, 1.2.2, 1.2.3, and 2.1 of this Agreement shall not be subject to this Section 1.2.6.2 and shall not otherwise be suspended or modified by Force Majeure.

1.2.7 Grantee shall pay real estate taxes and assessments on the Property or any part thereof when due. Grantee shall not suffer or permit any levy or attachment to made or any other encumbrance or lien to attach to the Property prior to July 10, 2034, without the prior written consent of Grantor, which consent may be withheld in Grantor's sole and absolute discretion.

1.2.7 Grantee, for itself and its successors and assigns, covenants and agrees that it shall include the terms and conditions set forth in this Deed in any subsequent deed conveying title to any and all portions of the Property for which the reversionary interest has not been extinguished by Grantor pursuant to a properly executed and recorded deed.

ARTICLE 2. PURCHASE PRICE

2.1. CONSIDERATION. Seller will convey to Buyer the Property in fee simple determinable title with possibility of reverter for \$0 cash price in consideration of (a) Buyer's promise to operate and maintain the Property as part of the historic Mukai Agricultural Complex for benefit of the public, which will benefit the County by relieving it from the burden of maintaining the Property; (b) Buyer's acceptance of and compliance with the Covenant, attached hereto as **Exhibit B**; and (c) Buyer's performance of every obligation and duty undertaken by it in this Agreement.

ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF THE PARTIES AND CONDITION OF PROPERTY

3.1. WARRANTIES AND REPRESENTATIONS OF SELLER. As of the date hereof and as of the Closing Date, Seller represents and warrants as follows:

3.1.1. ORGANIZATION. The Seller is a home rule charter county and political subdivision of the State of Washington duly organized, validly existing, and in good standing under the laws of the State of Washington.

3.1.2. EXECUTION, DELIVERY, AND PERFORMANCE OF AGREEMENT; AUTHORITY. The execution, delivery, and performance of this Agreement by Seller (a) is within the powers of Seller as a home rule charter county and political subdivision of the State of Washington, and (b) subject to the contingency in Section 5.2 of this Agreement, has been or will be on or before the Closing Date, duly authorized by all necessary action of the Seller's legislative authority. This Agreement constitutes the legal, valid, and binding obligation of Seller enforceable against Seller in accordance with the terms herein.

3.1.3. NO BROKER. No broker, finder, agent, or similar intermediary has acted for or on behalf of Seller in connection with this Agreement or the transactions contemplated hereby, and no broker, finder, agent, or similar intermediary is entitled to any broker's, finder's,

or similar fee or commission in connection with this Agreement based on an agreement, arrangement, or understanding with Seller or any action taken by Seller.

3.1.4. FUTURE AGREEMENTS. From and after the Effective Date unless this Agreement is terminated in accordance with its terms, Seller shall not without the prior written consent of Buyer:

(a) enter into any agreement, contract, commitment, lease, or other transaction that affects the Property in any way; or

(b) sell, dispose of, or encumber any portion of the Property.

3.1.5. FOREIGN PERSON. Seller is not a foreign person and is a “United States Person” as such term is defined in Section 7701(a)(30) of the Internal Revenue Code of 1986 (“Code”), as amended and shall deliver to Buyer prior to the Closing an affidavit, as set forth in **EXHIBIT E**, evidencing such fact, and such other documents as may be required under the Code.

3.2. REPRESENTATIONS AND WARRANTIES OF BUYER. As of the date hereof and as of the Closing Date, Buyer represents and warrants as follows:

3.2.1. ORGANIZATION. Buyer is a Washington nonprofit corporation duly organized, validly existing, and in good standing under the laws of the State of Washington. Buyer has all requisite corporate power and authority to carry on its business as it is now being conducted in the place where such businesses are now conducted.

3.2.2. EXECUTION, DELIVERY, AND PERFORMANCE OF AGREEMENT; AUTHORITY. The execution, delivery, and performance of this Agreement by Buyer (a) is within the powers of Buyer as a Washington nonprofit corporation, and (b) has been or will be on or before the Closing Date, duly authorized by all necessary action of the Buyer’s governing authority. This Agreement constitutes the legal, valid, and binding obligation of Buyer enforceable against Buyer in accordance with the terms hereof.

3.2.3. NO BROKER. No broker, finder, agent, or similar intermediary has acted for or on behalf of Buyer in connection with this Agreement or the transactions contemplated hereby, and no broker, finder, agent, or similar intermediary is entitled to any broker’s, finder’s, or similar fee or commission in connection with this Agreement based on an agreement, arrangement, or understanding with the Buyer or any action taken by the Buyer.

3.3. CONDITION OF PROPERTY.

3.3.1. SELLER DISCLOSURE STATEMENT. To the maximum extent permitted by RCW ch. 64.06, Buyer expressly waives its right to receive from Seller a seller disclosure statement (“Seller Disclosure Statement”) and to rescind this Agreement, both as provided for in RCW ch. 64.06. Seller and Buyer acknowledge and agree that Buyer cannot waive its right to receive the section of the Seller Disclosure Statement entitled “Environmental” if the answer to any of the questions in that section would be “yes.” Nothing in any Seller Disclosure Statement

delivered by Seller creates a representation or warranty by the Seller, nor does it create any rights or obligations in the Parties except as set forth in RCW ch. 64.06. Buyer is advised to use its due diligence to inspect the Property as allowed for by this Agreement, and that Seller may not have knowledge of defects that careful inspection might reveal. Buyer specifically acknowledges and agrees that any Seller Disclosure Statement delivered by Seller is not part of this Agreement, and Seller has no duties to Buyer other than those set forth in this Agreement.

3.3.2. SELLER DISCLAIMER OF CONDITION OF THE PROPERTY. Except to the extent of Seller's representations and warranties in Section 3.1 of this Agreement, Seller has not made, does not make, and specifically negates and disclaims any representations, warranties, promises, covenants, contracts, or guarantees of any kind or character whatsoever, whether express or implied, oral or written, past, present, or future, of, as to, concerning, or with respect to, the value, nature, quality, or condition of the Property (collectively "Condition of the Property"), including, without limitation:

- (a) The water, soil and geology;
- (b) The income to be derived from the Property;
- (c) The suitability of the Property for any and all activities and uses that Buyer or anyone else may conduct thereon;
- (d) The compliance or noncompliance of or by the Property or its operation with any laws, rules, ordinances, regulations, or decrees of any applicable governmental authority or body or the zoning or land use designation for the Property;
- (e) The habitability, merchantability, marketability, profitability, or fitness for a particular purpose of the Property;
- (f) The manner or quality of the construction or materials, if any, incorporated into the Property, and the existence, nonexistence, or condition of utilities serving the Property;
- (g) The actual, threatened, or alleged existence, release, use, storage, generation, manufacture, transport, deposit, leak, seepage, spill, migration, escape, disposal, or other handling of any Hazardous Substances in, on, under, or emanating from or into the Property, and the compliance or noncompliance of or by the Property or its operation with applicable federal, state, county, and local laws and regulations, including, without limitation, Environmental Laws and regulations and seismic/building codes, laws, and regulations. For purposes of this Agreement, the term "Environmental Law" shall mean: any federal, state, or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction, or common law pertaining in any way to the protection of human health, safety, or the environment, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq. ("CERCLA"); the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq. ("RCRA"); the Washington State Model Toxics Control Act, RCW ch. 70A.305 ("MTCA"); the Washington Hazardous Waste Management Act, RCW ch. 70A.300; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., the Washington Water Pollution Control

Act, RCW ch. 90.48, and any laws concerning above ground or underground storage tanks. For the purposes of this Agreement, the term “Hazardous Substance” shall mean: any waste, pollutant, contaminant, or other material that now or in the future becomes regulated or defined under any Environmental Law; or

(h) Any other matter with respect to the Property.

3.3.3. BUYER ACCEPTANCE OF CONDITION OF PROPERTY.

(a) Buyer acknowledges and accepts Seller’s disclaimer of the Condition of the Property in Section 3.3.2 of this Agreement.

(b) Buyer acknowledges and agrees that, within the Due Diligence Period as defined in Section 5.1 of this Agreement, Buyer will have conducted a physical inspection and made all investigations that Buyer deems necessary in connection with its purchase of the Property. Buyer further acknowledges and agrees that, having been given the opportunity to inspect the Property, Buyer is relying solely on its own investigation of the Property and is not relying on any information provided or to be provided by Seller. Buyer further acknowledges and agrees that any information provided or to be provided with respect to the Property was obtained from a variety of sources and that Seller has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information and no employee or agent of Seller is authorized otherwise. Buyer further acknowledges and agrees that Seller is not liable or bound in any manner by any verbal or written statements, representations, or information pertaining to the Property, or the operation thereof, furnished by any agent, employee, or contractor of Seller, any real estate broker, or any other person.

(c) Upon waiver or satisfaction by Buyer of its contingencies pursuant to Article 5, Buyer acknowledges and agrees that it will thereby approve and accept the Condition of the Property and accordingly agree to purchase the Property and accept the Condition of the Property “AS IS, WHERE IS” with all faults and patent or latent defects, including, without limitation, the actual, threatened, or alleged existence, release, use, storage, generation, manufacture, transport, deposit, leak, seepage, spill, migration, escape, disposal, or other handling of any Hazardous Substances in, on, under, or emanating from or into the Property, and the compliance or noncompliance of or by the Property or its operation with applicable federal, state, county, and local laws and regulations including, without limitation, Environmental Laws and regulations and seismic/building codes, laws, and regulations. Buyer acknowledges and agrees that, except to the extent of Seller’s representations and warranties in Section 3.1 of this Agreement, Buyer, and any person or entity claiming by or through Buyer, shall have no recourse against the Seller for, and waives, releases, and discharges forever the Seller from, any and all past, present, or future claims or demands, and any and all past, present, or future damages, losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort) costs and expenses (including, without limitation, fines, penalties, and judgments, and attorneys’ fees) of any and every kind or character, known or unknown (collectively, “Losses”), which the Buyer might have asserted or alleged against the Seller arising from or in any way related to the Condition of the Property, including, without limitation, the actual, threatened, or alleged existence, release, use, storage, generation, manufacture, transport, deposit, leak, seepage, spill, migration, escape,

disposal, or other handling of any Hazardous Substances in, on, under, or emanating from or into the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial, or other response action that is required by any Environmental Law, that is required by judicial order or decree or by order of or agreement with any governmental authority, or that is conducted voluntarily, (b) losses for injury or death of any person, and (c) losses arising under any Environmental Law, whether or not enacted after transfer of the Property.

3.3.4. INDEMNIFICATION. From and after the Closing Date, Buyer shall indemnify, defend, and hold Seller, its officers, agents, and employees, harmless from and against any and all Losses, liability, claim, agency order, or requirement, damage, and expense relating to or arising out of, directly or indirectly, the Property, including, without limitation, those relating to the actual or threatened release, disposal, deposit, seepage, migration, or escape of Hazardous Substances at, from, into, or underneath the Property, and the compliance or noncompliance of the Property with applicable federal, state, county, and local laws and regulations including, without limitation, Environmental Laws and regulations.

3.4. RISK OF LOSS. Until the Closing Date, the risk of loss relating to the Property shall rest with the Seller. From and after the Closing Date the risk of loss relating to the Property shall rest with Buyer. Risk of Loss shall be deemed to include any property damage occurring as a result of an “Act of God,” including, but not limited to, earthquakes, tremors, wind, rain, or other natural occurrence.

ARTICLE 4. TITLE MATTERS

4.1. TITLE. Seller’s intent is to deliver to Buyer fee simple determinable title with possibility of reverter, and subject to the Permitted Exceptions, through the execution of a quitclaim deed (as defined in **Section 4.5**).

4.2. TITLE COMMITMENT. Buyer shall cause to be obtained, at its expense, a current ALTA form of commitment for an owner’s standard policy of title insurance (the “Title Commitment”) issued by First American Title Insurance Company (the “Title Company” or “Escrow Agent”).

4.3. REVIEW OF TITLE COMMITMENT. If Buyer obtained any Title Commitment or survey prior to the Closing Date, then as of the Closing Date, any exceptions or other items that are set forth in the Title Commitment or the survey are deemed to be permitted exceptions (the “Permitted Exceptions”).

4.4. OWNER’S TITLE INSURANCE POLICY. Seller shall not be obligated to pay the cost for the Buyer to obtain an owner’s ALTA policy of title insurance.

4.5. CONVEYANCE; RESTRICTIVE COVENANTS.

4.5.1 Seller shall convey to Buyer fee simple determinable title with possibility of reverter to the Property by quitclaim deed in the form attached hereto as **Exhibit C**, subject to

the Permitted Exceptions as defined herein and in Section 4.3, and subject also to the possibility of reverter and other terms and conditions set forth in Article 1 of this Agreement. Rights reserved in federal patents or state deeds, building or use restrictions general to the district, and building or zoning regulations or provisions shall be deemed Permitted Exceptions.

4.5.2 Buyer acknowledges that the Property was acquired in part with a grant from the Washington State Department of Archaeology and Historic Preservation, and is subject to a Deed of Right of Covenant to Use Land for Historic Preservation Purposes recorded under King County Recording No. 20170616001395. Buyer shall comply with all requirements set forth in the Covenant.

4.5.3 Buyer acknowledges that the Property was purchased in part with funding from the King County parks levy authorized by Ordinance 18890, and Buyer covenants that the Property will be used for the open space purposes contemplated by Ordinance 18890, and that the Property shall not be converted to a different use unless (i) other equivalent property within the County shall be received in exchange therefor; and (ii) the requirements set forth in Section 1.2.1.2 are maintained. Buyer agrees that Seller has standing to enforce this covenant.

ARTICLE 5. CONTINGENCIES

5.1. DUE DILIGENCE. Buyer acknowledges that, pursuant to that certain Historic Preservation and Use Agreement between King County and Friends of Mukai regarding the Fruit Barreling Plant, it has occupied and maintained the Property, including the installation of improvements and structures thereon, since November 19, 2018. Buyer has satisfied itself by investigation and inspection, at its cost and expense in its sole and absolute discretion, that the condition of the Property for Buyer's contemplated use meets with its approval and that Buyer's contemplated use is feasible.

5.2. METROPOLITAN KING COUNTY COUNCIL APPROVAL CONTINGENCY. Seller's performance under this Agreement is contingent on approval by ordinance of the conveyance of the Property by the Metropolitan King County Council ("Council Approval Contingency"). The Council Approval Contingency will be satisfied if an ordinance passed by the Metropolitan King County Council approving the conveyance of the Property becomes effective within one hundred twenty (120) days of the Effective Date ("Council Approval Period"). Seller may unilaterally extend the Council Approval Period for up to an additional ninety (90) days. The Parties may further extend the Council Approval Period by mutual agreement set forth in writing. If the Council Approval Contingency is not satisfied within the Council Approval Period, as may be extended consistent with this Section 5.2, then this Agreement shall terminate, and the Parties shall have no further obligations hereunder. If the Council Approval Contingency is satisfied within the Council Approval Period, as may be extended consistent with this Section 5.2, then Seller shall be obligated hereunder without further contingency except in the event of a default hereunder by Buyer.

ARTICLE 6. COVENANTS OF SELLER PENDING CLOSING

6.1. CONDUCT, NOTICE OF CHANGE. Seller covenants that between the Effective Date and the Closing Seller shall take all such actions as may be necessary to assure that the representations and warranties set forth in Article 3 hereof will be true and complete as of the Closing (except such representations, warranties, and matters which relate solely to an earlier date), and all covenants of Seller set forth in this Agreement which are required to be performed by it at or prior to the Closing shall have been performed at or prior to the Closing as provided for in this Agreement. Seller shall give Buyer prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement which occurs prior to the Closing.

ARTICLE 7. COVENANTS OF BUYER PENDING CLOSING

7.1. CONDUCT, NOTICE OF CHANGE. Buyer covenants that between the Effective Date and the Closing Buyer shall take all such actions as may be necessary to assure that the representations and warranties set forth in Article 3 hereof will be true and complete as of the Closing (except such representations, warranties, and matters which relate solely to an earlier date), and that all covenants of Buyer set forth in this Agreement which are required to be performed by it at or prior to the Closing shall have been performed at or prior to the Closing as provided in this Agreement. Buyer shall give Seller prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement which occurs prior to the Closing.

ARTICLE 8. CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS

All obligations of Buyer to close on the Closing Date are subject to the fulfillment of each of the following conditions at or prior to the Closing, and Seller shall exert its best efforts to cause each such condition to be fulfilled:

8.1. DELIVERY OF DOCUMENTS. Seller shall have delivered to Buyer at or prior to the Closing all documents required by the terms of this Agreement to be delivered to Buyer.

8.2. OBLIGATIONS. All obligations required by the terms of this Agreement to be performed by Seller at or before the Closing shall have been properly performed in all material respects.

8.3. CONDEMNATION. No portion of the Property shall have been taken or damaged by any public or quasi-public body, and Seller shall not have transferred any portion of the Property to any such body in lieu of condemnation.

ARTICLE 9. CONDITIONS PRECEDENT TO SELLER'S OBLIGATIONS

All obligations of Seller to close on the Closing Date are subject to the fulfillment of each

of the following conditions at or prior to the Closing, and Buyer shall exert its best efforts to cause each such condition to be so fulfilled:

9.1. DELIVERY OF DOCUMENTS. Buyer shall have delivered to Seller at or prior to Closing all documents required by the terms of this Agreement to be delivered to Seller.

9.2. OBLIGATIONS. All obligations required by the terms of this Agreement to be performed by Buyer at or before the Closing shall have been properly performed in all material respects.

9.3. TITLE. The Title Company shall be irrevocably committed to issue an owner's policy of title insurance for the full amount of the Purchase Price, effective as of the Closing Date, containing no exceptions other than the Permitted Exceptions.

ARTICLE 10. CLOSING

10.1. CLOSING/CLOSING DATE. The Closing shall take place within fifteen (15) days following the removal of all the contingencies in Article 5 of this Agreement or such other date as may be mutually agreed upon by the Parties ("Closing Date"). On or before the Effective Date, the Parties shall set up an escrow account with the Escrow Agent. The Escrow Agent shall serve as closing agent for the transaction contemplated herein and Closing shall occur in the offices of the Escrow Agent in Seattle, Washington.

10.2. CLOSING COSTS.

10.2.1 Seller shall not be responsible for payment of any taxes, assessments, fees, or other charges related to or due and owing on the Property; and Buyer shall bear all responsibility for any such taxes, assessments, fees, or other charges related to or due and owing on the Property.

10.2.2 Seller shall pay the cost of one half (1/2) of the escrow fee charged by the Escrow Agent, any real estate excise or other transfer tax due, and its own attorneys' fees. Buyer shall pay one half (1/2) of the escrow fee charged by the Escrow Agent, the premium for the title insurance and any costs of the preliminary and binding title commitments, the recording fees for the deed and its own attorneys' fees. Except as otherwise provided in this Section 10.2, all other expenses hereunder shall be paid by the Party incurring such expenses.

10.3. SELLER'S DELIVERY OF DOCUMENTS AT CLOSING. At the Closing, Seller will deliver to Buyer via escrow with the Escrow Agent the following properly-executed documents:

10.3.1. A quitclaim deed conveying fee simple determinable title with possibility of reverter to the Property, substantially in the form of **EXHIBIT C** attached hereto;

10.3.2. A bill of sale and assignment duly executed by the Seller in substantially the form of **EXHIBIT D**, attached hereto for the Personal Property, if any;

10.3.3. A seller's certificate of non-foreign status substantially in the form of

EXHIBIT E, attached hereto; and

10.3.4 Such other documents or instruments as may be required to effectuate the transaction contemplated in this Agreement.

10.4. BUYER'S DELIVERY OF DOCUMENTS AT CLOSING. At the Closing, Buyer will deliver to Seller via escrow with the Escrow Agent the following properly-executed documents:

10.3.1. A quitclaim deed accepting fee simple determinable title with possibility of reverter to the Property, substantially in the form of **EXHIBIT C** attached hereto;

10.3.2. A bill of sale and assignment duly executed by the Buyer in substantially the form of **EXHIBIT D**, attached hereto for the Personal Property, if any; and

10.3.3. Such other documents or instruments as may be required to effectuate the transaction contemplated in this Agreement.

ARTICLE 11. MISCELLANEOUS PROVISIONS

11.1. NON-MERGER. Each statement, representation, warranty, indemnity, covenant, agreement and provision in this Agreement shall not merge in, but shall survive the Closing of the transaction contemplated by this Agreement unless a different time period is expressly provided for in this Agreement.

11.2. DEFAULT AND ATTORNEYS' FEES.

11.2.1. DEFAULT BY BUYER. In the event Closing does not occur due to default by Buyer, Seller's sole and exclusive remedy shall be to terminate this Agreement.

11.2.2. DEFAULT BY SELLER. In the event Closing does not occur due to default of Seller, Buyer's sole and exclusive remedy shall be to terminate this Agreement.

11.2.3. ATTORNEY'S FEES. In any action to enforce this Agreement, each Party shall bear its own attorney's fees and costs.

11.3. TIME.

11.3.1. TIME IS OF THE ESSENCE. Time is of the essence in the performance of this Agreement.

11.3.2. COMPUTATION OF TIME. Any reference to "day" in this Agreement shall refer to a calendar day, which is every day of the year. Any reference to business day in this Agreement shall mean any calendar day that is not a "Legal Holiday." A Legal Holiday under this Agreement is a Saturday, Sunday, or legal holiday as defined in RCW 1.16.050. Any period of time in this Agreement shall mean Pacific Time and shall begin the calendar day or business day,

as the case may be, after the event starting the period and shall expire at 5:00 p.m. of the last calendar day or business day, as the case may be, of the specified period of time, unless with regard to calendar days the last day is a Legal Holiday, in which case the specified period of time shall expire on the next day that is not a Legal Holiday.

11.4. NOTICES. Any and all notices or other communications required or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given upon receipt when personally delivered or sent by overnight courier or two days after deposit in the United States mail if by first class, certified or registered mail, return receipt requested. All notices shall be addressed to the Parties at the addresses set forth below or at such other addresses as a Party may specify by notice to the other Party and given as provided herein:

If to Buyer: Friends of Mukai
Attn: President
P.O. Box 2603, Vashon, WA 98070
info@mukaiarmandgarden.org

If to Seller: King County
King County Facility Management Division
Real Estate Services Section
500 Fourth Avenue, Room 830
Seattle, WA 98104
Attn: Steve Rizika
Email: steve.rizika@kingcounty.gov

With a copy to: King County Prosecuting Attorney's Office
Civil Division
King County Courthouse
701 5th Avenue, Suite 600
Seattle, WA 98104
Attention: Erin Jackson, Senior Deputy
Prosecuting Attorney
Email: erin.jackson@kingcounty.gov

Notwithstanding anything in this Section 11.4 to the contrary, a Party may provide notice electronically via the email addresses listed below with delivery confirmation or read receipt (or both). A Party providing electronic notice shall bear the burden to prove the date that notice was delivered

11.5. ENTIRE AGREEMENT AND AMENDMENT. This writing (including the Exhibits attached hereto) constitutes the entire agreement of the Parties with respect to the subject matter hereof and may not be modified or amended except by a written agreement specifically referring to this Agreement and signed by all Parties.

11.6. SEVERABILITY. In the event any portion of this Agreement shall be found to be invalid by any court of competent jurisdiction, then such holding shall not impact or affect the

remaining provisions of this Agreement unless that court of competent jurisdiction rules that the principal purpose and intent of this contract should and/or must be defeated, invalidated or voided.

11.7. WAIVER. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver and no such waiver shall be deemed a waiver of any prior or subsequent breach or default.

11.8. BINDING EFFECT. Subject to Section 11.14 below, this Agreement shall be binding upon and inure to the benefit of each Party, its successors, and assigns.

11.9. LEGAL RELATIONSHIP. The Parties to this Agreement execute and implement this Agreement solely as Seller and Buyer. No partnership, joint venture or joint undertaking shall be construed from this Agreement.

11.10. CAPTIONS. The captions of any articles, paragraphs or sections contained herein are for purposes of convenience only and are not intended to define or limit the contents of said articles, paragraphs or sections.

11.11. COOPERATION. Prior to and after Closing the Parties shall cooperate, shall take such further action, and shall execute and deliver further documents as may be reasonably requested by the other Party in order to carry out the provisions and purposes of this Agreement.

11.12. GOVERNING LAW AND VENUE. This Agreement and all amendments hereto shall be governed by and construed in accordance with the laws of the State of Washington applicable to contracts made and to be performed therein, without giving effect to its conflicts of law rules or choice of law provisions. In the event that either Party shall bring a lawsuit related to or arising out of this Agreement, the Superior Court of King County, Washington shall have exclusive jurisdiction and venue.

11.13. NO THIRD-PARTY BENEFICIARIES. This Agreement is made only to and for the benefit of the Parties, and shall not create any rights in any other person or entity.

11.14. ASSIGNMENT. Buyer shall not assign this Agreement or any rights hereunder without Seller's prior written consent.

11.15. NEGOTIATION AND CONSTRUCTION. This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the Parties, and shall not be construed as if it has been prepared by one of the Parties, but rather as if both Parties had jointly prepared it. The language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either Party. If there is any conflict between the terms and provisions of this Agreement, and the terms and provisions of the deed executed to convey the Property from Buyer to Seller, then the terms and provisions of the deed shall control. The Parties acknowledge and represent, as an express term of this Agreement, that they have had the opportunity to obtain and utilize legal review of the terms and conditions outlined in this Agreement. Each Party shall be and is separately responsible for payment of any legal services rendered on their behalf regarding legal review of this Agreement.

11.16. SELLER’S KNOWLEDGE. Any and all representations or warranties or other provisions in this Agreement that are conditioned on terms such as “to Seller’s knowledge” or “about which Seller has knowledge” are made to and limited by the present, actual knowledge of Warren Jimenez, who is an employee of King County, and is the Director of the Parks and Recreation Division of the King County Department of Natural Resources and Parks. Warren Jimenez has made no inquiries or investigations with respect to Seller’s representations or warranties or other provisions prior to the making thereof and has no duty to undertake the same.

11.17. INDEMNIFICATION TITLE 51 WAIVER. The indemnification provisions in Section 3.3.4 are specifically and expressly intended to constitute a waiver of the Buyer’s immunity under Washington’s Industrial Insurance Act, RCW Title 51, as respects the Seller only, and only to the extent necessary to provide the Seller with a full and complete indemnity of claims made by the Buyer’s employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

11.18. COUNTERPARTS. To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each Party, or that the signature of all persons required to bind any Party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each Party hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter may be attached to another counterpart identical thereto except having attached to it additional signature pages.

11.19. EXHIBITS. The following exhibits described herein and attached hereto are fully incorporated into this Agreement by this reference:

EXHIBIT A	Legal Description
Exhibit B	Deed of Right and Covenant to Use Land for Historic Preservation Purposes
EXHIBIT C	Quitclaim Deed
EXHIBIT D	Bill of Sale and Assignment
EXHIBIT E	Certificate of Non-Foreign Status

[SIGNATURES ON THE NEXT PAGE]

EXECUTED on the dates set forth below.

SELLER: KING COUNTY

BUYER: FRIENDS OF MUKAI

DocuSigned by:
By: Anthony Wright
22F0157CCF6B4B8...

By: _____

Name: Anthony Wright

Name: _____

Title: Director, Facilities Management Division

Title: _____

Date: 3/29/2024

Date: _____

APPROVED AS TO FORM ONLY:

DocuSigned by:
By: _____
Senior Deputy _____ Attorney
0FE7A83C43D24E9...

EXECUTED on the dates set forth below.

SELLER: KING COUNTY

By: _____

Name: Anthony Wright

Title: Director, Facilities Management Division

Date: _____

BUYER: FRIENDS OF MUKAI

By: _____
DocuSigned by:
Riya Kuo

Name: _____
4122E81D198745F...
Riya Kuo

Title: _____
Board President

Date: _____
3/21/2024

APPROVED AS TO FORM ONLY:

By: _____

Senior Deputy Prosecuting Attorney

EXHIBIT A.

LEGAL DESCRIPTION

TRACT 9, STATE SUBDIVISION PORTION SECTION 31, TOWNSHIP 23 NORTH, RANGE 3 EAST, W.M., IN KING COUNTY, WASHINGTON (VACATED), ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 20 OF PLATS, PAGE 26, IN KING COUNTY, WASHINGTON;

EXCEPT THE SOUTH 196.2 FEET THEREOF;

EXCEPT THE EAST 30 FEET THEREOF CONVEYED TO KING COUNTY FOR ROAD PURPOSES BY DEED RECORDED UNDER RECORDING NUMBER 5339903;

AND EXCEPT THAT PORTION THEREOF LYING WITHIN THE SOUTH 15 FEET OF THE NORTH 1,338 FEET OF THE EAST 640 FEET OF THE NORTHWEST QUARTER OF SAID SECTION 31 LYING WEST OF THE EAST 310 FEET.

EXHIBIT B.

Deed of Right and Covenant to Use Land for Historic Preservation Purposes

EXHIBIT C.

QUITCLAIM DEED

AFTER RECORDING RETURN TO:

Friends of Mukai
P.O. Box 2603
Vashon, WA 98070
Attn: President

QUITCLAIM DEED

Grantor --- King County, Washington

Grantee --- Friends of Mukai

Legal ----- See Exhibit A

Tax Acct. -- 312303-9044

Grantor, KING COUNTY, a home rule charter county and political subdivision of the State of Washington (“County” or “Grantor”), for and in consideration of mutual benefits, hereby conveys and quitclaims in fee simple determinable title with possibility of reverter to Grantee, FRIENDS OF MUKAI, a Washington nonprofit corporation (“Buyer” or “Grantee”), the following the real property situated in King County, Washington and described in EXHIBIT A, attached hereto and incorporated herein by this reference including after-acquired title (the “Property”), subject to the covenants set forth herein, which covenants are intended to be running covenants burdening the real property described in Exhibit A and benefiting the land that makes up the County’s system of parks, recreation, and open space lands. The covenants shall bind Grantor and Grantee and their respective successors and assigns. Grantee agrees that Grantor has standing to enforce these covenants. Grantor and Grantee are sometimes referred to herein individually as a “Party” and together as the “Parties.”

1. Grantor conveys to Grantee title to the Property for so long as the following is continuously preserved and operated on the Property, as may be modified as provided in this Deed: The Cold Press Fruit Barreling Plant, made accessible for the benefit of the public and maintained in accordance with (i) the requirements set forth in that certain Deed of Right and Covenant to Use Land for Historic Preservation Purposes, recorded under King County Recorder’s Office no. 20170616001395 (the “Covenant”); and (ii) the specific covenants set forth in Sections 2 and 3 of this Deed pertaining to use, which covenant shall run with the land for the benefit of the County and the County land that makes up its public park, recreation, and open space system.

2. If Grantee or its successors in interest fail to preserve and operate the Fruit Barreling Plant in accordance with the terms of Section 1, and if Grantee does not timely cure such failure after notice of default from Grantor under Section 5, then title to the Property shall revert to Grantor without suit or a judgment of any court, provided, however, Grantor’s reversionary interest described in this Section 2 shall terminate at 11:59PM on July 9, 2034.

3. Grantee acknowledges that the Property was purchased in part with funding from the King

County parks levy authorized by Ordinance 18890, and Buyer covenants that the Property will be used for the open space purposes contemplated by Ordinance 18890, and that the Property shall not be converted to a different use unless (i) other equivalent property within the County shall be received in exchange therefor; and (ii) the requirements set forth in Section 1 of this Deed are maintained.

4. In addition to the possibility of reverter set forth in Sections 1 and 2, Grantor reserves to itself, and its successors and assigns, through July 9, 2034, the right of ingress and egress over clearly established drive lanes that are in use by the travelling public and the right to inspect the Property for compliance with the terms and conditions contained in this Deed, with reasonable notice to Grantee or its successors or assigns. Nothing in this Deed is intended to or shall be construed as limiting Grantor or its successors' and assigns' ability to access the Property in the manner otherwise provided to the general public.

5. Notice and Cure Period.

5.1 Events of Default. The following events shall constitute a default of the terms of this Deed:

A. Grantee or its successors in interest fail to operate and maintain the Property as required under Sections 1 and 2; or

B. Grantee or its successors in interest interfere with, or allow others to interfere with Grantor, its successors' and assigns' right of access or right to inspect the Property as provided in Section 3.

5.2 In the event of a default by Grantee or its successors in interest, Grantor will provide written notice of said default to Grantee (and, if different than Grantee, the then-current owner of the Property) to cure the default within thirty (30) calendar days. Thereafter, Grantee shall have thirty (30) calendar days to cure the alleged breach (or, in the case of an alleged breach that reasonably requires more than 30 calendar days to cure, Grantee shall commence to cure such breach during the 30-calendar day period); and if Grantee does not cure such breach during that 30 calendar day period (or does not commence to cure a breach reasonably requiring more than 30 calendar days to cure), then Grantee shall be deemed in default under this Deed.

6. Force Majeure.

6.1 "Force Majeure Event" means any act or event that prevents the affected party from performing its obligations under this Deed, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected party and such party is unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing definition, Force Majeure Event may include natural phenomena, such as storms, hurricanes, floods, lightning, or earthquakes; explosions or fires arising from causes unrelated to the acts or omissions of the party seeking to be excused from performance; acts of war, civil unrest, public disorder, sabotage, epidemic, rebellion, riot, or terrorism or war. Force Majeure Events shall not include equipment failures or acts or omissions

of agents, suppliers, contractors, or subcontractors, except to the extent that such acts or omissions arise from a Force Majeure Event as defined in this Section 6.1.

6.2 Except as otherwise specifically provided in this Deed, neither Party shall be considered in default or breach of this Deed or liable for any delay or failure to comply with the terms of this Deed, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event. Provided, that the Party claiming relief based on a Force Majeure Event shall: (a) promptly notify the other Party in writing of the existence and nature of the Force Majeure Event; (b) exercise all reasonable efforts to minimize delay caused by such Force Majeure Event; (c) notify the other Party in writing of the cessation of such Force Majeure Event; and (iv) resume performance of its obligations under this Deed as soon as practicable thereafter. Provided further, that Grantor’s duty to comply with Sections 2 and 3 of this Deed shall not be subject to this Section 6.2 and shall not otherwise be delayed or modified by Force Majeure.

7. Grantee shall pay real estate taxes and assessments on the Property or any part thereof when due. Grantee shall not suffer or permit any levy or attachment to made or any other encumbrance or lien to attach to the Property prior to July 10, 2034, without the prior written consent of Grantor, which consent may be withheld in Grantor’s sole and absolute discretion

8. Not later than July 1 of each calendar year, through the year 2034 (inclusive), Grantee shall submit to Grantor a report detailing how Grantee advanced preservation and provided public access to the history of the Property, Mukai Family, and the broader Japanese American Experience. The report shall include a written update on fundraising, preservation and construction activity (including photographs of construction activity and current property conditions), tenancies and any tenant improvements undertaken, interpretative exhibits, educational programming, and cultural events held by Grantee over the past year. By July 1, 2025, Grantee shall submit a written preservation and interpretation plan for the Property through 2034. The preservation and interpretation plan shall follow standards and codes of ethics referenced by the Washington State Historical Society and Section 1 of this Deed. Grantee shall submit the report and preservation and interpretation plan to Grantor in the manner provided in Section 9 of this Deed.

9. Any and all notices or other communications required or permitted to be given under any of the provisions of this Deed shall be in writing and shall be deemed to have been duly given upon receipt when personally delivered or sent by overnight courier, or two (2) days after deposit in the United States mail if by first class, certified or registered mail, return receipt requested. All notices shall be addressed to the Parties at the addresses set forth below or at such other addresses as the Parties may specify by notice and given as provided herein:

If to Grantor: GRANTOR
King County Department of Natural Resources and Parks
Attn: Warren Jimenez, Director, Parks and Recreation Division
Address 700 Third Ave., Suite 600
Seattle, WA 98104
wjimenez@kingcounty.gov; with a copy to
KCParks.LegalNotices@kingcounty.gov

With a copy to: Manager, Real Estate Services
500 Fourth Avenue
ADM-ES-0500
Steve.Rizika@kingcounty.gov

If to Grantee: GRANTEE
Friends of Mukai
Attn: President
P.O. Box 2603 Vashon, WA 98070
info@mukaifarmandgarden.org

Notwithstanding anything in this Section 9 to the contrary, a Party may provide notice electronically via the email addresses listed below with delivery confirmation or read receipt (or both). A Party providing electronic notice shall bear the burden to prove the date that notice was delivered

10. Grantor has not made, does not make, and specifically negates and disclaims any representations, warranties, promises, covenants, contracts, or guarantees of any kind or character whatsoever, whether express or implied, oral or written, past, present, or future, of, as to, concerning, or with respect to, the value, nature, quality, or condition of the Property (collectively “Condition of the Property”), including, without limitation:

10.1 The water, soil and geology;

10.2 The income to be derived from the Property;

10.3 The suitability of the Property for any and all activities and uses that Buyer or anyone else may conduct thereon;

10.4 The compliance or noncompliance of or by the Property or its operation with any laws, rules, ordinances, regulations, or decrees of any applicable governmental authority or body or the zoning or land use designation for the Property;

10.5 The habitability, merchantability, marketability, profitability, or fitness for a particular purpose of the Property;

10.6 The manner or quality of the construction or materials, if any, incorporated into the Property, and the existence, nonexistence, or condition of utilities serving the Property;

10.7 The actual, threatened, or alleged existence, release, use, storage, generation, manufacture, transport, deposit, leak, seepage, spill, migration, escape, disposal, or other handling of any Hazardous Substances in, on, under, or emanating from or into the Property, and the compliance or noncompliance of or by the Property or its operation with applicable federal, state, county, and local laws and regulations, including, without limitation, Environmental Laws and regulations and seismic/building codes, laws, and regulations. For purposes of this Agreement, the term “Environmental Law” shall mean: any federal, state, or local statute, regulation, code, rule,

ordinance, order, judgment, decree, injunction, or common law pertaining in any way to the protection of human health, safety, or the environment, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq. (“CERCLA”); the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq. (“RCRA”); the Washington State Model Toxics Control Act, RCW ch. 70A.305 (“MTCA”); the Washington Hazardous Waste Management Act, RCW ch. 70A.300; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., the Washington Water Pollution Control Act, RCW ch. 90.48, and any laws concerning above ground or underground storage tanks. For the purposes of this Agreement, the term “Hazardous Substance” shall mean: any waste, pollutant, contaminant, or other material that now or in the future becomes regulated or defined under any Environmental Law; or

10.8 Any other matter with respect to the Property.

11. Grantee acknowledges that it has occupied the Property since 2018 pursuant to a use agreement with Grantor. Grantee has approved the physical condition of the Property and agrees to accept and purchase the same "AS IS, WHERE IS," including, without limitation, the existence or non-existence of any Hazardous Substances, or the actual or threatened release, deposit seepage, migration, or escape of such substances at, from, or into the Property and the compliance or noncompliance of the Property with applicable federal, state, county, and local laws and regulations including, without limitation, Environmental Laws. Grantee acknowledges and agrees that Grantor shall have no liability for, and that Grantee shall have no recourse against the Grantor for, any defect or deficiency of any kind whatsoever in the Property, without regard to whether such defect or deficiency was discovered or discoverable by the Grantee or Grantor.

12. Miscellaneous.

12.1 In the event any portion of this Deed shall be found to be invalid by any court of competent jurisdiction, such holding shall not impact or affect the remaining provisions of this Deed unless that court of competent jurisdiction rules that the principal purpose and intent of this Deed should or must be defeated, invalidated, or voided.

12.2 No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver, and no such waiver shall be deemed a waiver of any prior or subsequent breach or default.

12.3 The captions of any articles, paragraphs, or sections contained herein are for purposes of convenience only and are not intended to define or limit the contents of said articles, paragraphs, or sections.

12.4 Prior to and after the recording of this Deed, the Parties shall cooperate, shall take such further action, and shall execute and deliver further documents as may be reasonably requested by the other Party, in order to carry out the provisions and purposes of this Deed.

12.5 This Deed and all amendments thereof shall be governed by and construed in accordance with the law of the State of Washington applicable to real property or conveyances,

without giving effect to its conflicts of law provisions or choice of law rules. If the Parties litigate any controversy, claim, or dispute arising out of or relating to this Deed, then each Party shall be solely responsible for the payment of its own legal expenses, including but not limited to, attorneys' fees and costs.

12.6 This Deed and each of its terms and provisions are deemed to have been explicitly negotiated between the Parties, and the language in all parts of this Deed will, in all cases, be construed according to its fair meaning and not strictly for or against either Party. Both Parties acknowledge and represent, as an express term of this Deed, that they have had the opportunity to obtain and utilize legal review of the terms and conditions outlined in this Deed.

12.7 From and after the recording date of this Deed, this Deed may not be modified or amended except by a written amendment or addendum specifically referring to this Deed and executed by the Parties hereto and duly recorded in the real property records of King County, Washington. If there is a conflict or ambiguity between this Deed and that certain real estate purchase and sale agreement executed between the Parties regarding the Property, copies of which agreement are on file with the Parties, then the terms of this Deed shall control.

**GRANTOR
KING COUNTY**

**GRANTEE
FRIENDS OF MUKAI**

BY: _____

BY: _____

TITLE: Director, Facilities Management Division

TITLE: _____

DATE: _____

DATE: _____

Approved as to Form:

By _____
Senior Deputy Prosecuting Attorney

NOTARY BLOCKS APPEAR ON NEXT PAGE

NOTARY BLOCK FOR KING COUNTY

STATE OF WASHINGTON)
) SS
COUNTY OF KING)

On this _____ day of _____, 2024, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared ANTHONY WRIGHT, to me known to be the Director of the Facilities Management Division of the King County Department of Executive Services, and who executed the foregoing instrument and acknowledged to me that HE was authorized to execute said instrument on behalf of KING COUNTY for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the
State of Washington, residing
at _____
City and State
My appointment expires _____

NOTARY BLOCK FOR FRIENDS OF MUKAI

STATE OF WASHINGTON)
) SS
COUNTY OF KING)

On this _____ day of _____, 2024, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____, who executed the foregoing instrument and acknowledged to me that SHE or HE was authorized to execute said instrument on behalf of the _____ for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the
State of Washington, residing
at _____
City and State
My appointment expires _____

EXHIBIT A
TO QUITCLAIM DEED

LEGAL DESCRIPTION

TRACT 9, STATE SUBDIVISION PORTION SECTION 31, TOWNSHIP 23 NORTH, RANGE 3 EAST, W.M., IN KING COUNTY, WASHINGTON (VACATED), ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 20 OF PLATS, PAGE 26, IN KING COUNTY, WASHINGTON;

EXCEPT THE SOUTH 196.2 FEET THEREOF;

EXCEPT THE EAST 30 FEET THEREOF CONVEYED TO KING COUNTY FOR ROAD PURPOSES BY DEED RECORDED UNDER RECORDING NUMBER 5339903;

AND EXCEPT THAT PORTION THEREOF LYING WITHIN THE SOUTH 15 FEET OF THE NORTH 1,338 FEET OF THE EAST 640 FEET OF THE NORTHWEST QUARTER OF SAID SECTION 31 LYING WEST OF THE EAST 310 FEET.

EXCEPTIONS TO TITLE

SUBJECT TO: [permitted exceptions will be determined in accordance with the process identified in Article 4 of the Agreement and inserted in the final deed].

EXHIBIT D.

BILL OF SALE AND ASSIGNMENT

THIS BILL OF SALE is made as of this _____ day of _____, 2024, by KING COUNTY, a home rule charter county and political subdivision of the State of Washington (“**Seller**”), in favor of Friends of Mukai, a Washington nonprofit corporation (“**Buyer**”).

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Seller does hereby absolutely and unconditionally give, grant, bargain, sell, transfer, set over, assign, convey, release, confirm and deliver to Buyer all of Seller’s right, title and interest in and to any and all equipment, furniture, furnishings, fixtures and other tangible personal property owned by Seller that is attached, appurtenant to or used in connection with the real property legally described on the attached Exhibit A; and Buyer does hereby unconditionally accept the same.

IN WITNESS WHEREOF, Seller and Buyer have executed this Bill of Sale effective as of the date first above written.

SELLER:

By: _____
Name: Anthony Wright
Title: Director, Facilities Management Division

ACCEPTED:

BUYER

By: _____
Name:
Title:

EXHIBIT A
TO BILL OF SALE

TRACT 9, STATE SUBDIVISION PORTION SECTION 31, TOWNSHIP 23 NORTH, RANGE 3 EAST, W.M., IN KING COUNTY, WASHINGTON (VACATED), ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 20 OF PLATS, PAGE 26, IN KING COUNTY, WASHINGTON;

EXCEPT THE SOUTH 196.2 FEET THEREOF;

EXCEPT THE EAST 30 FEET THEREOF CONVEYED TO KING COUNTY FOR ROAD PURPOSES BY DEED RECORDED UNDER RECORDING NUMBER 5339903;

AND EXCEPT THAT PORTION THEREOF LYING WITHIN THE SOUTH 15 FEET OF THE NORTH 1,338 FEET OF THE EAST 640 FEET OF THE NORTHWEST QUARTER OF SAID SECTION 31 LYING WEST OF THE EAST 310 FEET.

EXHIBIT E.

**Seller’s Certification of Non-Foreign Status under
Foreign Investment in Real Property Tax Act (26 U.S.C. 1445)**

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including Section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by King County ("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor is not a disregarded entity as defined in Section 1.1445-2(b)(2)(iii);
3. Transferor's U.S. employer identification number is 91-6001327;
4. Transferor's office address is King County Facilities Management Division, Real Estate Services Section, Room 800 King County Administration Building, 500 Fourth Avenue, Seattle, WA 98104.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Dated this ___ day of _____, 2024.

King County, Transferor:

By: _____
Name: Anthony Wright
Title: Director, Facilities Management Division

When recorded return to:

Department of Archaeology and Historic Preserv
P. O. Box 4343
Olympia, WA 98504-8343



20170616001395

STEWART TITLE D
PAGE-001 OF 006
06/16/2017 16:06
KING COUNTY, WA

78.00

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06/16/2017 16:05
KING COUNTY, WA
TAX
SALE

\$10.00
\$0.00

PAGE-001 OF 001

**DEED OF RIGHT AND COVENANT TO USE
LAND
FOR HISTORIC PRESERVATION PURPOSES**

Grantor: King County, a political subdivision of the State of Washington
Contact: King County Historic Preservation Officer
King County Department of Natural Resources and Parks

Grantee: State of Washington, acting by and through the Department of Archaeology and
Historic Preservation
Contact: Washington State Historic Preservation Officer
Washington State Department of Archaeology and Historic
Preservation

Abbreviated Legal Description:

TRACT 9, STATE SUBDIVISION PORTION SECTION 31, TOWNSHIP 23 NORTH,
RANGE 3 EAST, W.M., IN KING COUNTY, WASHINGTON (VACATED), ACCORDING
TO THE PLAT THEREOF RECORDED IN VOLUME 20 OF PLATS, PAGE 26, IN KING
COUNTY, WASHINGTON;

EXCEPT THE SOUTH 196.2 FEET THEREOF;

EXCEPT THE EAST 30 FEET THEREOF CONVEYED TO KING COUNTY FOR ROAD PURPOSES BY DEED
RECORDED UNDER RECORDING NUMBER 5339903;

AND EXCEPT THAT PORTION THEREOF LYING WITHIN THE SOUTH 15 FEET OF THE NORTH 1,338
FEET OF THE EAST 640 FEET OF THE NORTHWEST QUARTER OF SAID SECTION 31 LYING WEST OF
THE EAST 310 FEET.

Assessor's Tax Parcel Numbers: 312303-9044

King County (Grantor), a political subdivision of the State of Washington, (Grantee), enters this Deed of Right and Covenant for Historic Preservation Purposes (Covenant) for and in consideration of monies for acquisition of the real property legally described in Exhibit A attached hereto and incorporated herein by this reference (the "Property") coming in part from the Washington State Department of Archaeology and Historic Preservation ("DAHP"). Grantor, on behalf of itself and its successors and assigns, acknowledge the DAHP source of funding for acquisition of the Property, and confirms and agrees to abide by the preservation and maintenance obligations and restrictions on use of the Property and the requirements for disposition of all or a portion of the Property if it is put to a use inconsistent with its authorized purpose contained herein.

The purchase price for the Property was \$385,000 based upon its appraised fair market value. State funding in the amount of \$350,000 from the DAHP was provided to acquire the Property.

Preservation Covenant

Grantor conveys and grants to the State of Washington, acting by and through the Washington State Department of Archaeology and Historic Preservation (DAHP), including any successor agency ("Grantee"), as the representative of the people of the State, the right to enforce the following duties upon the Grantor so as to ensure that the Property is forever used for historic preservation purposes as described herein.

- A. The Grantor hereby covenants to maintain and preserve at all times the Mukai Cold Process Barreling Plant, 18005 107th Avenue SW, Vashon Island, Washington (Property) in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards) in 36 CFR § 68.3, in order to: 1) maintain, preserve and enhance those character-defining features and spaces that make this Property eligible for inclusion in the National Register of Historic Places; 2) make accessible for the benefit and enjoyment of the public; and 3) research, display, and interpret the historic, cultural, social, and economic significance of the Property.
- B. The Grantor shall preserve or cause to be preserved the character-defining materials, features, finishes, construction techniques, craftsmanship, and setting that characterizes the Property and as identified in the Mukai Cold Process Fruit Barreling Plant National Register of Historic Places Registration Form.
- C. The Grantor shall cause all plans for the proposed rehabilitation, construction, alteration, or replacement of character-defining materials, features, finishes, construction techniques, craftsmanship, spaces, and setting that may affect the appearance or historic or structural integrity of the Property to be submitted to the Grantee for review for adherence with the Standards.
- D. Other than minor repairs and routine maintenance, the Grantor shall not undertake, permit, or authorize any construction, alteration, or replacement of character-defining materials, features, finishes, construction techniques, craftsmanship, spaces, and setting to begin or occur until the Grantor receives written approval from the Grantee or their authorized representative.
- E. The Grantor shall cause that planning, design, rehabilitation, preservation, construction, re-construction, or replacement of character-defining materials, features, finishes, spaces, or landscaping that may affect the appearance or structural or historic integrity of the

Property shall be implemented by qualified professionals in historic preservation or closely related fields. The Grantor may contact the Grantee for assistance in identifying qualified historic preservation professionals. The Grantor's selection of the qualified historic preservation professional shall be approved in writing by the Grantee.

- F. The Grantor shall permit the Grantee or its authorized representative, immediate access upon Grantee's request to inspect the Property to ascertain if these Preservation Covenants are being observed. The right of inspection shall include the right to obtain or produce images and materials in available media and format of the Property for the purpose of documenting the appearance, condition, and uses of the property at the time of inspection. Prior to said inspection, the Grantee or its authorized representative shall endeavor to, except in the case of emergencies, provide Grantor not less than 24 hours written notice of intent to inspect.
- G. These Preservation Covenants are binding upon the Property and shall be deemed to run with the land. The Grantor shall ensure that its obligations under these Preservation Covenants are made binding on any and all successor owners of the Property. The Grantor shall notify the Grantee of any intent to convey the Property, not less than 120 days, prior to conveying all or a portion of the Property to any other entity. Conveyance of the property by the Grantor shall be restricted to a governmental or non-profit entity, unless approved in writing by the Grantee upon conditions acceptable to the Grantee, and such conveyance is in accordance with all applicable provisions of law, including but not limited to laws regarding disposition of surplus public property.
- H. The Grantee reserves the right to delegate or assign its responsibilities, rights and remedies under this covenant to a third party. The third party may be, but is not limited to, another government entity or a non-profit organization. If the Grantee's responsibilities, rights and remedies under these Preservation Covenants are properly delegated or assigned to a third party, the Grantor agrees to continue to be bound by these Preservation Covenants as to that third party.
- I. In the event that the Grantee or its delegated/assigned third party find the Property being used for purposes inconsistent with the purpose and intent of this covenant as described in paragraph (A) of this agreement, and/or in the event that the Grantor transfers the Property at a date less than twenty years from the date of execution of this covenant to an entity that is not a government or not a non-profit entity (except approved conveyances contemplated in Paragraph G), the State grant of \$350,000 for purchase of the Property shall be remitted by the Grantor to the Grantee within 90 days from the date of the inconsistent use finding or transfer, or at a reasonable date thereafter and agreed upon by the Grantor and Grantee.
- J. The failure of the Grantee to enforce any provision of this Preservation Covenant or to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such rights or remedy at any other time.
- K. The invalidity or unenforceability of any other provision of this instrument shall not affect the validity or enforceability of any other provisions of this instrument or any ancillary or supplementary agreement relating to the subject matter hereof.
- L. The Grantor agrees for itself, its heirs, successors, and assigns, that if any portion of the Property is destroyed by natural or human forces, including but not limited to fire, earthquake, or vandalism, the Grantor shall, to the maximum extent feasible, rehabilitate such portions of the Property after consultation with the Grantee. If, through no fault of

the Grantor, the Property is damaged such that all or a portion of the Property loses its historic integrity, the Grantor shall notify the Grantee or its designees or assigns and agrees to consult with the Grantee or its designees or assigns to reach a written agreement on a course of action prior to starting repair or demolition, unless for reasons of public safety, action must be taken immediately to repair or demolish the property.

- M. The Grantor agrees to provide reasonable and ample access to the Property for the benefit and enjoyment of the public. This access shall include, but not be limited to, interpretive and educational programming as deemed appropriate by the Grantor and in consultation with interested and affected parties and following written approval by the Grantee.
- N. Should any dispute arise between the Grantee or its delegated/assigned third party and any party, including the Grantor, under the Preservation Covenants referenced and listed herein, the Grantee or its delegated/assigned third party and the Grantor agree to resolve that dispute as follows:
 - i. The Grantee or its delegated/assigned third party and the Grantor shall negotiate in good faith to resolve any dispute.
 - ii. If the dispute is not resolved through negotiation after 60 days or such other time as the Grantee or its delegated/assigned third party and the Grantor may agree is reasonable, the dispute shall be determined by a three-member dispute resolution panel, appointed as follows: (1) each party shall appoint one member of the panel; (2) the two panel members so appointed shall jointly appoint the third member of the panel. The panel shall review the facts, the applicable statutes and rules, the Preservation Covenant referenced and listed herein, and all other documents identified by either party as pertinent to the dispute. The panel shall make a determination of the dispute which shall be final and binding on both the Grantee or its delegated/assigned third party and the Grantor.

This preservation covenant shall be a binding servitude upon the real property that includes the Mukai Cold Process Barreling Plant and shall be deemed to run with the land. Inclusion of this covenant in the deed shall constitute conclusive evidence that the Grantor agrees to be bound by the foregoing conditions and restrictions to perform to obligations herein set forth.

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument on the date provided below.

King County,

Dated: 10/11/2014

By:

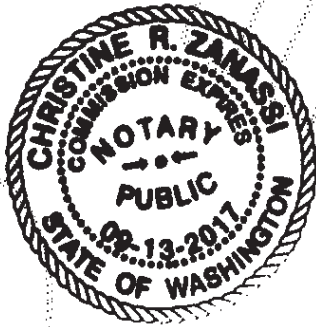

It's Director, KCDNRP

STATE OF WASHINGTON)
) ss:
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Christie True is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the DNRP Director of KING COUNTY to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Given under my hand and official seal this 11th day of October, 2016.

Christine R. Zanassi
Notary Public in and for said state, residing
at Kirkland, WA
My commission expires: 9/13/17



Document

EXHIBIT "A"

Legal Description of the Property

TRACT 9, STATE SUBDIVISION PORTION SECTION 31, TOWNSHIP 23 NORTH, RANGE 3 EAST, W.M., IN KING COUNTY, WASHINGTON (VACATED), ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 20 OF PLATS, PAGE 26, IN KING COUNTY, WASHINGTON;

EXCEPT THE SOUTH 196.2 FEET THEREOF;

EXCEPT THE EAST 30 FEET THEREOF CONVEYED TO KING COUNTY FOR ROAD PURPOSES BY DEED RECORDED UNDER RECORDING NUMBER 5339903;

AND EXCEPT THAT PORTION THEREOF LYING WITHIN THE SOUTH 15 FEET OF THE NORTH 1,338 FEET OF THE EAST 640 FEET OF THE NORTHWEST QUARTER OF SAID SECTION 31 LYING WEST OF THE EAST 310





July 31, 2024
Technical Amendment

[G. Paul]

Sponsor: Mosqueda

Proposed No.: 2024-0238

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2024-0238, VERSION**

2 **1**

3 On page 1, beginning on line 4, strike everything through page 2, line 25, and insert:

4 "STATEMENT OF FACTS:

- 5 1. The property located at 18005 107th Ave SW, Vashon, Washington
- 6 ("the property"), located within council district eight, is one of two parcels
- 7 that comprise the Mukai Agricultural Complex. The Mukai Agricultural
- 8 Complex began in the 1920s as a strawberry farm operated by the
- 9 prominent Japanese American Denichiro "B.D." Mukai. One parcel of the
- 10 Mukai Agricultural Complex includes Japanese-style gardens planted by
- 11 B.D. Mukai's wife, Kuni Mukai, and a 1920s Craftsman-style residence.
- 12 The other parcel, which is the property, includes a cold process fruit
- 13 barreling plant, where strawberries grown on the farm were barreled and
- 14 shipped.
- 15 2. The Mukai family fled to Oregon after the Japanese Exclusion Act was
- 16 signed in 1942. While the family returned to Vashon after World War II
- 17 had ended, the strawberry business had become less profitable, and B.D.

18 Mukai's son sold the real property in 1969. The Mukai Agricultural
19 Complex passed through several ownerships thereafter.

20 3. In 2002, the county designated the Mukai Agricultural Complex a King
21 County Landmark. The following year, the National Park Service placed
22 the Mukai Agricultural Complex on the National Register of Historic
23 Places.

24 4. Friends of Mukai, a Vashon Island-based Washington nonprofit
25 corporation dedicated to the preservation of the Mukai Agricultural
26 Complex, and current owner of the Mukai Parcel, has worked closely with
27 the county for nearly ten years to secure and reunite both parcels.

28 5. In 2017, with the help of a Washington state Department of
29 Archaeology and Historic Preservation grant and the advocacy and a cash
30 contribution from Friends of Mukai, the county acquired the property from
31 a private party with the goal of preserving the fruit barreling plant. The
32 grant resulted in the property being subject to a historic preservation
33 covenant.

34 6. Under a use agreement with the county, Friends of Mukai has occupied
35 the property since November 2018. Throughout the term of the use
36 agreement, Friends of Mukai has worked to restore the fruit barreling
37 plant, consistent with the requirements in the historic preservation
38 covenant. The restoration of the fruit barreling plant is the third and final
39 major phase of Friends of Mukai's restoration and unification of the Mukai
40 Agricultural Complex.

41 7. Before the county entered into a purchase and sale agreement with
42 Friends of Mukai in March 2024 ("the PSA"), the facilities management
43 division completed the surplus property, affordable housing, and public
44 notice requirements.

45 8. The PSA includes the Covenant to Use Land for Historic Purposes,
46 recorded under King County recorder's office No. 20170616001395, and
47 requires Friends of Mukai to preserve and operate the fruit barreling plant
48 in accordance with the covenant.

49 9. The PSA includes an additional covenant for Friends of Mukai to
50 acknowledge the property was purchased in part with funding from the
51 King County parks levy authorized by Ordinance 18890. Friends of Mukai
52 shall covenant that the property will be used for the open space purposes
53 contemplated by Ordinance 18890, and that the property shall not be
54 converted to a different use unless other equivalent property within the
55 county shall be received in exchange therefor; and the Covenant to Use
56 Land for Historic Purposes is maintained.

57 10. Under K.C.C. 4.56.100.A.2., the council may determine that unique
58 circumstances make a negotiated direct sale in the best interests of the
59 public.

60 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

61 SECTION 1. Findings: Unique circumstances exist, such that a negotiated,
62 direct sale to Friends of Mukai of the property located at 18005 107th Ave SW, Vashon,
63 Washington ("the property"), is authorized under K.C.C. 4.56.100.A.2. Those unique

64 circumstances include that the buyer, a Vashon Island-based Washington nonprofit
65 corporation, is the owner of the second parcel of the Mukai Agricultural Complex and
66 currently occupies the fruit barreling plant under a use agreement with the county.
67 Friends of Mukai has worked closely with the county for over ten years to secure and
68 reunite both parcels of the Mukai Agricultural Complex, which has been designated a
69 King County landmark since 2002. Through this acquisition, the buyer will provide
70 access, interpretive exhibits, educational programming, and cultural events highlighting
71 the history of the property, the Mukai family, and the broader Japanese American
72 experience.

73 SECTION 2. The executive is authorized to convey the property located at 18005
74 107th Ave SW, Vashon, Washington to Friends of Mukai consistent with a purchase and
75 sale agreement substantially in the form of Attachment A to this ordinance and to take all
76 actions necessary to implement the terms of the purchase and sale agreement."

77

78 **EFFECT prepared by G. Paul:**

- 79 • **Adds to and revises the Statement of Facts to provide additional context for**
80 **the project**
- 81 • **Revises Findings section to specify the rationale for a determination of**
82 **unique circumstances**



King County

Dow Constantine
King County Executive
401 Fifth Avenue, Suite 800
Seattle, WA 98104-1818
206-263-9600 Fax 206-296-0194
TTY Relay: 711
www.kingcounty.gov

July 29, 2024

The Honorable Dave Upthegrove
Chair, King County Council
Room 1200
C O U R T H O U S E

Dear Councilmember Upthegrove:

This letter transmits a proposed Ordinance that, if enacted, will enable King County to sell a surplus parcel located at 18005 107th Ave. SW, Vashon, Washington, to Friends of Mukai in support of King County's goal to preserve the Mukai Fruit Barreling Plant, a designated King County landmark.

This transaction is recommended per the rationale and considerations provided in the attached property summary.

Thank you for your consideration of this proposed Ordinance. If your staff have any questions, contact Anthony Wright, Director, Facilities Management Division at 206-477-9352.

Sincerely,

for

Dow Constantine
King County Executive

The Honorable Dave Upthegrove

July 29, 2024

Page 2

King County Councilmembers

ATTN: Stephanie Cirkovich, Chief of Staff

Melani Hay, Clerk of the Council

Karan Gill, Chief of Staff, Office of the Executive

Penny Lipsou, Council Relations Director, Office of the Executive

Lorraine Patterson-Harris, County Administrative Officer, Department of Executive Services (DES)

Anthony Wright, Director, Facilities Management Division (FMD), DES

Julie Ockerman, Manager, Real Estate Services, FMD, DES

GENERAL TRANSACTION INFORMATION

Ordinance/Motion:				Transaction Duration:	NA yrs
Title:	Mukai Agricultural Complex			Fair Market Value:	\$ -
Affected Agency/Agencies:	DNRP / Parks	Date Prepared:	4/11/24	Legal Transaction Type:	Sale
Note Prepared By:	Carolyn Mock / Amanda Tran	Date Reviewed:		Fiscal Transaction Type:	Stand Alone
Description of Request:	Sale of Mukai Agricultural Complex Property at 18005 107th Ave SW, Vashon / Parcel 312303-9044				

FINANCIAL IMPACTS

Part 1 - Net Present Value Analysis Results

Net Present Value to King County (all impacts): ***	NA	Net Present Value to Primary Impacted Agency (customer of transaction): ***	NA
---	----	---	----

Part 2 - Revenue and Expenditure Impacts

As of the preparation date of this fiscal note, the impact of the above legislation on the financial affairs of King County is estimated to be as indicated below:

Revenue to: 2,3,5

Appropriation Unit	Appr. Number	Department	Fund Number	Project Number	Revenue Account Code and Source/Description	Sum of Revenues Prior to 2023	2023 / 2024	2025 / 2026	2027 / 2028	Sum of Outyear Impacts ²
					No revenue - this is a zero dollar sale	\$ -	\$ -	\$ -	\$ -	\$ -
						\$ -	\$ -	\$ -	\$ -	\$ -
						\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL						\$ -	\$ -	\$ -	\$ -	\$ -

Expenditures from: 2,3,4,5

Appropriation Unit/Expenditure Type	Appr. Number	Department	Fund Number	Project Number	Expenditure Notes	Sum of Expenditures Prior to 2023	2023 / 2024	2025 / 2026	2027 / 2028	Sum of Outyear Impacts ²
DNRP / Parks	0	0.00	0							
Real Estate Services Labor Costs					RES Labor - estimate through closing	\$ -	\$ 6,836	\$ -	\$ -	\$ -
King County Project Management						\$ -	\$ -	\$ -	\$ -	\$ -
Lease Payments/Associated O&M						\$ -	\$ -	\$ -	\$ -	\$ -
Service Costs (Appraisal, Title, Move)						\$ -	\$ -	\$ -	\$ -	\$ -
Tenant and Other Improvements						\$ -	\$ -	\$ -	\$ -	\$ -
10% Art for General Fund Transactions						\$ -	\$ -	\$ -	\$ -	\$ -
Other Transaction Costs					Escrow Fee Estimate	\$ -	\$ 1,407	\$ -	\$ -	\$ -
SUBTOTAL						\$ -	\$ 8,243	\$ -	\$ -	\$ -
Real Estate Services Labor Costs						\$ -	\$ -	\$ -	\$ -	\$ -
King County Project Management						\$ -	\$ -	\$ -	\$ -	\$ -
Lease Payments/Associated O&M						\$ -	\$ -	\$ -	\$ -	\$ -
Service Costs (Appraisal, Title, Move)						\$ -	\$ -	\$ -	\$ -	\$ -
Tenant and Other Improvements						\$ -	\$ -	\$ -	\$ -	\$ -
10% Art for General Fund Transactions						\$ -	\$ -	\$ -	\$ -	\$ -
Other Transaction Costs						\$ -	\$ -	\$ -	\$ -	\$ -
SUBTOTAL						\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL						\$ -	\$ 8,243	\$ -	\$ -	\$ -

APPROPRIATION IMPACTS

As of the preparation date of this fiscal note, the impact of the above legislation on the budget appropriation of King County is estimated to be as indicated below:¹

Appropriation Unit	Appr. Number	Department	Fund Number	Project Number	Appropriation Notes	2023 / 2024 Appropriation Change
					The transaction was anticipated in the current budget; no supplemental appropriation is required.	\$ -
						\$ -
						\$ -
TOTAL						\$ -

Total 6-Year CIP Outyear Planning Level Costs	\$ -
	\$ -
	\$ -
	\$ -
	\$ -

Assumption and Additional Notes:

*** An NPV analysis was not performed because this property was declared surplus to King County and is being conveyed for historic preservation purposes.

- If the expenditure impact equals or exceeds five percent of the fund expenditures, a copy of the most recent applicable appropriation unit financial plan is attached to this transmittal.
- The sum of outyear impacts is provided for capital projects and agreements. This sum for revenue and expenditures includes all revenues/expenditures for the duration of the lease/other agreement or life of the capital investment.
- This transaction does not require the use of fund balance or reallocated grant funding.
- The transaction is not backed by new revenue.
- A detailed explanation of how the revenue/expenditure impacts were developed is provided below, including major assumptions made in developing the values presented in the fiscal note and other supporting data:
 - This is a zero dollar sale to Friends of Mukai, a non-profit corporation devoted to the preservation of the Mukai Agricultural Complex.
 - King County is responsible for paying half of the escrow closing costs. King County's share is estimated to be \$1,407.
 - This parcel is adjacent to property owned by Friends of Mukai and the transfer will reunite the parcels for historic preservation purposes.
 - King County Parks has determined this property is better suited for ownership by Friends of Mukai for purposes of fundraising to rehabilitate and open the warehouse to the public.

Sale Property Summary

Photo of Property



Address	18005 107 th Ave SW, Vashon, Washington
Sale Price	\$0
Sale Area	2.05 Acres
Assessor's Parcel	312303-9044
Zoning	RA5 Rural Area, one dwelling unit per 5 acres
Council District	Eight
Funding Source	Property was acquired in 2017 with funds from a grant from Washington State Department of Archaeology and Historic Preservation, contribution from Friends of Mukai (buyer) and a King County surplus sale on Vashon Island.
Declared Surplus	January 5, 2023
Template Status:	County template with no changes
Offer Expiration:	Council action by October 1, 2024 to meet the timing requirements of the Purchase and Sale Agreement.

Property Information

The property, also known as the Mukai Fruit Barreling Plant, is one of two parcels that comprise the Mukai Agricultural Complex. The property was acquired in 2017 for purposes of preservation. The property is listed in National Register of Historic Places and is a designated King County Landmark. Built in 1926, together with adjacent Mukai House and Garden, it tells the story of Japanese American settlement and farming in the early 20th Century and the devastating effects of World War II and internment on the Japanese American Community. The buyer, Friends of Mukai, is a Washington nonprofit corporation dedicated to the preservation of the Mukai Agricultural Complex. King County and the buyer have worked closely for more than 10 years to secure and reunite both parcels for historic preservation purposes. A use agreement was established in 2018 for buyer's use and rehabilitation of the property. The current use agreement between King County and buyer, Friends of Mukai, expires on November 19, 2024. The property includes a 6,400 sq. ft warehouse built in 1926 and a 435 sq. ft. office building built in 1946. The warehouse building is unoccupiable and pending completion of an estimated \$2.5 million stabilization and rehabilitation project.

Context

Rationale for transaction: The property was acquired in 2017 with the intention for a long-term use agreement with Friends of Mukai. Friends of Mukai and King County Department of Natural Resources and Parks' Parks and Recreation Division determined the property is better suited for ownership by Friends of Mukai, so it can take the lead on fundraising to stabilize, rehabilitate, and open the warehouse to the public for primary use as an interpretative center with a tangential agricultural-focused tenant.

Policy considerations: The property is no longer needed by King County. Transferring the property to an entity devoted to the preservation of the Mukai Agricultural Complex will achieve King County's goal to preserve the Mukai Fruit Barreling Plant, which was the original purpose for acquiring the property. Per the Purchase and Sale Agreement, Friends of Mukai is required to continue to preserve and operate the Fruit Barreling Plant in accordance with the terms of the Deed of Right and Covenant to Use Land for Historic Preservation Purposes recorded in 2017. Failure to do so will result in title reversion back to King County.

Political considerations: Three King County Councilmembers participated in a site visit at the Mukai Farm and Garden on April 4, 2024.

Community considerations

or partnerships: The buyer, Friends of Mukai, owns the neighboring parcel, which is one of the two parcels that comprise the Mukai Agricultural Complex. It has been working to preserve and reunite the two parcels for many years.

Fiscal considerations: No net present value was provided as this is a zero-dollar sale to Friends of Mukai for historic preservation purposes. King County is responsible for paying approximately \$1,407, which is half of the estimated closing costs.

Other considerations: N/A

CIP/operational impacts: N/A

Change in property use: There will be no change in use, however, the Fruit Barreling Plant is currently vacant and unoccupiable. If the transaction is enacted, the Friends of Mukai plan to complete the building rehabilitation and reopen it to the public as an interpretative center and local food hub.

SEPA Review Required yes/no: Yes, completed and determination of non-significance was issued.

King County Strategic Plan impact: N/A

Equity and Social Justice impact: In accordance with Real Property Asset Management Plan (RAMP) policy, the Facilities Management Division and Parks and Recreation Division reviewed this legislation for Equity and Social Justice (ESJ) impacts. This property is located on Vashon Island, the proposed buyer plans to rehabilitate the Fruit Barreling Plant and reopen it to the public. Preservation of this property by selling to the Friends of Mukai organization reflects King County's commitment to telling the story of this chapter of its regional history. Built in the 1920s, the Mukai Agricultural Complex tells the story of Japanese American settlement and farming in the early 20th Century and the devastating effects of World War II and internment on the Japanese American Community.

Surplus Process

Interest from other county agencies? No
Property suitable for affordable housing? No
Property determined to be surplus? Yes

Marketing and Sale

Indicate whether the property was marketed or not, and if so, how it was marketed:

<input type="checkbox"/>	MLS
<input type="checkbox"/>	Commercial Broker
<input type="checkbox"/>	County Website (number of website views: _____)
<input type="checkbox"/>	Social Media
<input type="checkbox"/>	Onsite Signage
<input checked="" type="checkbox"/>	Not Marketed – Property was acquired with the intention of transferring it to buyer.

Appraisal Process

Summary Click here to enter text.

Date of valuation: March 14, 2023

Appraised by: Kidder Mathews

Appraisal factors: A fair market as-is value was determined for the property.

Comps analysis: The sales comparison approach was used to determine the property's land value, as if vacant for the highest and best use. However, the building improvements cannot be demolished due to the historic designation, therefore the current value is \$0.

Estimated FMV: \$0

Appraisal Summary Chart

Adjustment Analysis

Sale #	1	2	3	4	5	6
Date	Apr-21	Nov-22	Nov-22	Jan-22	Nov-20	Listing
Sale Price - \$/SF	\$175,000	\$227,000	\$65,000	\$175,000	\$325,000	\$225,000
Property Rights/Financing	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Motivation/Sale Conditions	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Market Conditions	5.8%	0.9%	1.0%	3.4%	6.9%	-5.0%
Adjustment %	5.8%	0.9%	1.0%	3.4%	6.9%	-5.0%
Partially Adjusted	\$185,140	\$228,940	\$65,641	\$180,940	\$347,412	\$213,750
Soils / Topography	20.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Size/Shape	-10.0%	0.0%	0.0%	0.0%	-50.0%	0.0%
Location/Neighborhood	0.0%	0.0%	0.0%	10.0%	0.0%	0.0%
Access/Exposure	10.0%	0.0%	10.0%	0.0%	0.0%	0.0%
Improvement / Utilities	0.0%	5.0%	15.0%	15.0%	15.0%	0.0%
Zoning	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Adjustment %	20.0%	5.0%	25.0%	25.0%	-35.0%	0.0%
Adjusted Prices	\$222,168	\$240,387	\$82,051	\$226,176	\$225,818	\$213,750

Average	\$201,725
Median	\$223,993
Conclusion	\$225,000

Vicinity View Map



Parcel Map





King County

**Metropolitan King County Council
Budget and Fiscal Management Committee**

STAFF REPORT

Agenda Item:	6	Name:	April Sanders
Proposed No.:	2024-0279	Date:	September 11, 2024

SUBJECT

Proposed Motion 2024-0279 would request the Executive establish a Regional Workforce Housing Initiative and develop an Implementation Plan with options to utilize excess debt capacity to partner with housing agencies and developers to provide permanently rent-restricted, multiple-unit housing.

SUMMARY

The proposed motion would request the Executive establish a Regional Workforce Housing Initiative, where the County would partner with housing agencies and housing developers to provide permanently rent-restricted, multiple-unit housing. The Executive would further be requested to develop an Implementation Plan seeking to utilize at least \$1 billion in excess debt capacity towards the Initiative.

The Plan would consider scenarios where rent charged to tenants would reflect full cost recovery of the incurred debt, with rent remaining constant in perpetuity, other than to reflect interest rate changes on debt service.

The proposed motion requests that the Plan be transmitted, along with a motion to acknowledge receipt of the Plan and any necessary legislation to effectuate the recommendations of the Plan, by March 31, 2025.

BACKGROUND

Regional Affordable Housing Taskforce. The King County Council established the Regional Affordable Housing Taskforce (RAHTF) in 2017 through Motion 14873. The Taskforce was charged with developing a recommended countywide affordable housing strategy. In December 2018, the RAHTF released its Final Report and Recommendations¹ and the King County Council declared through Motion 15372 that the recommendations therein represented the policy of the Council.

The RAHTF Five-Year Action Plan includes census data showing that more than 124,000 low- and moderate-income households in King County are cost burdened, with communities of color and renters disproportionately more likely to be severely cost burdened.

Additionally, the RAHTF Five-Year Action Plan includes a goal to strive to eliminate cost burden for households earning 80% area median income and below, prioritizing households at or below 50% area median income.

ANALYSIS

Proposed Motion 2024-0279 would request the Executive establish a Regional Workforce Housing Initiative.

The proposed motion would also request the Executive develop a Regional Workforce Housing Initiative Implementation Plan with options to utilize at least \$1 billion in excess debt capacity to partner with housing agencies and housing developers to provide permanently rent-restricted, multiple-unit housing. The Plan would consider scenarios wherein rent would reflect full cost recovery of developing and operating the units, specifically the principal and interest payments for the incurred debt. Rent charged to residents of the housing units would remain constant in perpetuity, other than to reflect rate changes on debt service.

Any recommendations in the Plan would prioritize King County's ability to maintain a strong bond rating.

The proposed motion requires the Plan to include several components, including:

- An analysis of financing options to fund construction, rehabilitation, or conversion of permanently rent-restricted, multiple-unit housing that achieve green building standards;
- Recommendations on potential partnerships, including housing authorities and public-private partnerships, as well as recommendations on the utilization of master lease agreements and providing wraparound services in the units, where appropriate;
- A plan for partnering with private sector businesses to provide impact equity for the development of the units;

¹ <https://www.kingcounty.gov/~media/initiatives/affordablehousing/documents/report/RAH-Report-Print-File-7-17-19.ashx?la=en>

- Options for leveraging County debt incurred to receive additional state and federal investments;
- Recommendations on which income levels should be housed in such units, with a preference for mixed income communities;
- A feasibility analysis on constructing new multiple-unit housing verses acquiring and rehabilitating or converting existing multiple-unit housing; and
- An explanation of how resulting projects would prioritize fair labor practices.

The proposed motion requests the Executive file the Plan, an accompanying motion that should acknowledge receipt of the Plan, and any necessary legislation to effectuate the recommendations of the Plan, by March 31, 2025.

INVITED

- Dwight Dively, Director, King County Office of Performance, Strategy, and Budget
- Kelly Rider, Director, King County Department of Community and Human Services

ATTACHMENTS

1. Proposed Motion 2024-0279



KING COUNTY
Signature Report

ATTACHMENT 1
1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Motion

Proposed No. 2024-0279.1

Sponsors Zahilay

1 A MOTION requesting the executive establish a regional
2 workforce housing initiative and develop an
3 implementation plan on options to utilize excess debt
4 capacity to partner with housing agencies and housing
5 developers to provide permanently rent-restricted multiple-
6 unit housing.

7 WHEREAS, King County established the regional affordable housing task force
8 in 2017 through Motion 14873, with the charge to develop a recommended countywide
9 affordable housing strategy, and

10 WHEREAS, the regional affordable housing task force's five-year action plan,
11 accepted through Motion 15372, includes census data that showed that more than one
12 hundred twenty-four thousand low- and moderate-income households in King County are
13 cost burdened, with communities of color and renters disproportionately likely to be
14 severely cost burdened, and

15 WHEREAS, the regional affordable housing task force's five-year action plan
16 includes a goal to strive to eliminate cost burden for households earning eighty percent
17 area median income and below, with a priority for serving households at or below fifty
18 percent area median income, and

19 WHEREAS, in October 2020, the King County council adopted Ordinance
20 19179, imposing a one-tenth of one percent Health through Housing sales tax with the

21 paramount goal of creating and operating one thousand six hundred units of affordable
22 housing with related services, and

23 WHEREAS, King County currently has approximately nine billion dollars of debt
24 capacity, and

25 WHEREAS, the King County council believes that people should be able to live
26 close to where they work, which helps with climate, congestion, morale, and sense of
27 community, and

28 WHEREAS, households are sometimes forced to relocate due to increased
29 housing costs, evictions, or the loss of neighborhood community connections, and

30 WHEREAS, the King County council believes that people should be protected
31 from displacement and should be able to stay in their home and community for as long as
32 they choose, and

33 WHEREAS, workforce housing helps people live close to where they work and
34 works to address King County's housing affordability crisis, and

35 WHEREAS, increasing the availability of market rate housing supply relieves
36 pressures on the rest of the market and increases housing affordability, and

37 WHEREAS, King County lacks sufficient availability of permanently rent-
38 restricted homes available to all, including low- and moderate-income households at or
39 below one hundred and twenty percent area median income;

40 NOW, THEREFORE, BE IT MOVED by the Council of King County:

41 A. The council requests that the executive establish a regional workforce housing
42 initiative.

43 B. The council requests the executive develop a regional workforce housing
44 initiative implementation plan on options to utilize excess debt capacity to partner with
45 housing agencies and housing developers to provide permanently rent-restricted,
46 multiple-unit housing.

47 C. The implementation plan should seek to utilize at least one billion dollars in
48 excess debt capacity towards this regional workforce housing initiative.

49 D. The implementation plan should consider scenarios wherein rent would reflect
50 full cost recovery of developing and operating the units, specifically principal and interest
51 payments for the incurred debt. The rent charged to residents should remain constant,
52 other than to reflect interest rate changes on debt service.

53 E. All recommendations in the implementation plan should prioritize King
54 County's ability to maintain a strong bond rating.

55 F. The implementation plan should include at least the following:

- 56 1. An analysis of financing options that utilize the issuance of excess debt
57 capacity to fund the construction, rehabilitation, or conversion of permanently rent-
58 restricted multiple-unit housing that achieve a gold certification under the U.S. Green
59 Building Council, LEED program, or other equivalent program, where feasible;
- 60 2. Recommendations on potential partnerships with housing agencies and
61 housing developers, including the King County Housing Authority, the Seattle Housing
62 Authority, and the Renton Housing Authority, with accompanying analysis of any
63 statutory requirements on housing agencies to provide housing to households with certain
64 income levels. The recommendations should assess how to best harness the strengths of
65 public-private partnerships in providing debt financing support for both new construction

66 and acquisitions, revenue through master lease agreements, and wraparound services
67 where appropriate;

68 3. A plan for partnering with private sector businesses to provide impact equity
69 for the development of the units;

70 4. Options for leveraging County debt incurred in the development of the units
71 to receive additional state and federal investments;

72 5. Recommendations on which income levels would be housed in such units,
73 including at or below fifty percent area median income, at or below eighty percent area
74 median income, and at or below one hundred and twenty percent area median income,
75 with a preference for creating opportunities for mixed income communities;

76 6. A pro forma analysis on the feasibility of constructing new multiple-unit
77 housing versus acquiring and rehabilitating or converting existing multiple-unit housing
78 based on the income restrictions and funding mechanism proposed; and

79 7. An explanation of how all projects resulting from the regional workforce
80 housing initiative will prioritize fair labor practices, including the payment of prevailing
81 wage rates to workers, policies to prevent wage theft, and the utilization of King
82 County's priority hire community workforce agreement program, as applicable.

83 G. The executive should electronically file the implementation plan requested by
84 this motion, as well as any necessary legislation to effectuate the recommendations of the
85 implementation plan, no later than March 31, 2025, with the clerk of the council, who
86 shall retain the original and provide an electronic copy to all councilmembers, the council
87 chief of staff, the chief policy officer, and the lead staff for the budget and fiscal
88 management committee, or its successor. The implementation plan should be

89 accompanied by a proposed motion that should acknowledge receipt of the
90 implementation plan.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Dave Upthegrove, Chair

ATTEST:

Melani Pedroza, Clerk of the Council

APPROVED this ____ day of _____, ____.

Dow Constantine, County Executive

Attachments: None



King County

**Metropolitan King County Council
Budget & Fiscal Management Committee**

STAFF REPORT

Agenda Item:	7	Name:	Mary Bourguignon
Proposed No.:	2024-0226	Date:	September 11, 2024

SUBJECT

Proposed Ordinance 2024-0226 would authorize the condemnation of a 114 square foot permanent property acquisition for a station for the RapidRide I Line and a 1,397 square foot temporary construction easement that would expire on December 31, 2026.

SUMMARY

Metro currently operates seven RapidRide lines (A-F, H) and is working to develop five more lines (G, I, J, K, R) for planned openings between 2024 and 2031. The **RapidRide I Line**, which is planned to open in 2026, will be a 17-mile north-south bus rapid transit line with 82 stations connecting the cities of Renton, Kent, and Auburn, largely along the path of Route 160 (see Attachments 8 and 9 for maps and station locations).

In 2020, following a community engagement and design process, the Council approved a Locally Preferred Alternative for the I Line that established the route’s alignment (pathway) and station locations.¹ Construction for the I Line is planned to begin in 2025, with service anticipated to begin in Fall 2026.

The I Line has a total project budget of \$174 million, with \$79.7 million in federal Small Starts grant funds, \$46.6 million from other state and federal grants, and \$47.8 million in local funding. The Small Starts grant funding comes with requirements, including that Metro adhere to the alignment and station locations identified in the adopted Locally Preferred Alternative and that each station location provide a covered shelter.

To construct the west side station of the station pair identified in the Locally Preferred Alternative at 108th Avenue SE and SE 186th Street in Renton, Metro seeks to acquire 114 square feet, as well as 1,397 square feet as a temporary construction easement. Metro has been unable to secure these property rights and is seeking condemnation.

Amendment 1 would make a technical correction to replace the word “citizens” with “residents.” Following committee action, public notice and notice to the affected property owners would be provided as required by RCW 8.25.290.

¹ Ordinance 19098

BACKGROUND

RapidRide Implementation. RapidRide is the name of Metro’s bus rapid transit service. RapidRide lines offer high frequency operation; faster, more reliable trip times using exclusive lanes and/or transit signal priority at intersections; improved shelter waiting areas, with off-board payment and real-time information at major stops; all-door boarding; and red/gold branded buses and facilities.

Metro currently operates seven RapidRide lines (A-F, H), with the G Line planned to start service in September 2024. Metro’s long-range plan, Metro Connects, which was first adopted in 2017,² proposed an expansion of the RapidRide network. Work has concluded or is underway on four of these next-generation lines (G-J). The Council has adopted an alignment for each of these lines, with the H Line opened in March 2023 and the G, I, and J lines planned to open between 2024 and 2027. Metro has begun planning for two additional lines (K, R).³ Tables 1 and 2 summarize the status of the existing and planned RapidRide lines.

Table 1. Existing Rapid Ride Lines

Line	Pathway	Alignment Ordinance	Service Ordinance	Start Date
A	Federal Way to Tukwila	16725	16844	Oct 2010
B	Bellevue to Redmond	16725	17100	Oct 2011
C	Westwood Village to South Lake Union	16725	17320	Sept 2012
D	Crown Hill to Downtown Seattle	16725	17320	Sept 2012
E	Aurora Village to Downtown Seattle	17391	17584	Feb 2014
F	Burien to Renton	17391	17584	June 2014
H	Burien to Downtown Seattle	18894	19422	Mar 2023

Table 2. Planned Rapid Ride Lines

Line	Pathway	Alignment Ordinance	Service Ordinance	Planned Start Date
G	Madison Valley to Downtown Seattle	19012	19750	Sept 2024
I	Renton to Auburn	19098	--	2026
J	Downtown Seattle to U District	19312	--	2027
K	Kirkland to Bellevue	--	--	2030
R	Rainier Beach to Downtown Seattle	--	--	2031

² Ordinance 18449, since updated through Ordinance 19367. Additional study in Motion 14956.

³ The G, H, J, and R lines are being developed in collaboration with Seattle.

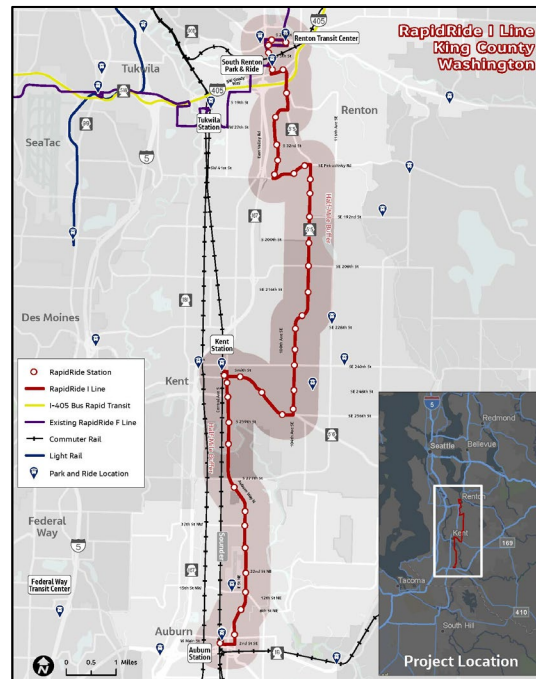
RapidRide I Line. In May 2019, Metro began community engagement to develop draft concepts for a new RapidRide line between Renton, Kent, and Auburn (the I Line), and started the process to apply for Federal Transit Administration (FTA) Small Starts Capital Investment Grant funding for capital investments along the line.⁴

In December 2019, following community input on station locations, transit access, and service changes, Metro recommended a Locally Preferred Alternative that included a proposal for the I Line's alignment (pathway), station locations, and service levels.

As proposed by the Locally Preferred Alternative, the I Line would travel 17 miles between the Renton Transit Center and Auburn Station, via Kent Station, with 82 station locations. It would replace service on Route 160.⁵

The proposed I Line alignment would connect the new I Line to the Rapid Ride F Line, I-405 bus rapid transit, and Sounder commuter rail. As proposed, service on the I Line would be offered every 10 minutes during peak weekday hours, every 15 minutes mid-day, 15 to 30 minutes at night, and every 15 minutes on weekends.

In April 2020, the Council approved the Locally Approved Alternative for the I Line.⁶



The ordinance establishing the Locally Approved Alternative also authorized Metro to enter a commitment of minimum service levels on the I Line for up to five years, which is a condition of federal funding. (See Attachments 8 and 9 for the approved alignment and station locations.)

Work on the I Line was prioritized during the pandemic even as other future RapidRide lines were cut or delayed,⁷ because Metro had already applied for federal grant funding for the I Line, the I Line would operate in an area with high equity scores,⁸ and the I Line would improve service on a corridor served by a lower-frequency bus route (Route 160).

⁴ RapidRide I Line Project Profile ([link](#))

⁵ Route 160 was a new route that was implemented during the September 2020 service change as part of the Renton Kent Auburn Area Mobility Project (Ordinance 19097). Route 160 replaced Route 169 and the Auburn Station-Kent Station portion of Route 180.

⁶ Ordinance 19098

⁷ Due to pandemic-era budget and operational issues, the J Line's alignment was truncated and the City of Seattle agreed to take primary responsibility for the local share of capital costs; planning work for the K and R Lines was paused in 2020, though restarted in 2021; and a potential future L Line was eliminated.

⁸ Equity scores are calculated for each bus route and station area based on the makeup of priority populations (race, income, disability, foreign-born, limited English speaking) in the area. These scores are defined in the King County Metro Service Guidelines (Ordinance 19367, Attachment B).

In November 2020, as part of the 2021-2022 biennial budget, the Council appropriated \$106.9 million for capital improvements for the I Line,⁹ with an additional \$31.7 million appropriated in November 2022 as part of the 2023-2024 biennial budget,¹⁰ and an additional \$24.2 million in July 2024 in the 2023-2024 third omnibus,¹¹ for a total project budget of \$174 million (including pre-2021 appropriations).

This funding is being used to plan, design, and implement infrastructure improvements for the I Line, including passenger facilities;¹² roadway, signal, and intelligent transportation system (ITS) improvements to increase transit speed and reliability; access to transit projects to help passengers get to the RapidRide station locations; and communication and technology efforts to support the service. The funding includes the associated costs for public outreach and marketing but does not include fleet vehicles.¹³

In June 2021, Metro completed the environmental review process, receiving a Documented Categorical Exclusion from the FTA. By the end of 2021, Metro had reached the 60% design level for the project.

In May 2022, the Puget Sound Regional Council's General Assembly adopted the 2022-2050 Regional Transportation Plan, which included the I Line as part of the region's fiscally constrained Regional Capacity Project List.¹⁴

Also in spring 2022, the Federal Transit Administration (FTA) recommended federal funding for I Line development through a Small Starts Capital Investment Grant.¹⁵ In total, the I Line has received \$79.7 million in federal Small Starts grant funding, as well as \$46.6 million from other state and federal grants.¹⁶

Prior to service beginning on the I Line in 2026, a service change ordinance would be transmitted to the Council to allocate the transit service hours to provide service on the new RapidRide line.

As noted above, as part of the Locally Preferred Alternative,¹⁷ King County has committed to minimum service levels on the I Line for up to five years, which is a condition of federal funding.

⁹ Ordinances 18835 and 19210, Fund 3641, Project 1134237

¹⁰ Ordinance 19546, Fund 2641, Project 1134237 (this amount came from federal and state funding)

¹¹ Ordinance 19791

¹² As part of the Small Starts grant award, the FTA has required Metro to construct a bus shelter at every station/stop, regardless of average boardings and alightings.

¹³ Metro has indicated that the I Line will use hybrid coaches from the existing RapidRide fleet. These coaches will be made available after Metro introduces new RapidRide fleet on the F Line.

¹⁴ Puget Sound Regional Council, 2022-2050 Regional Transportation Plan ([link](#))

¹⁵ Federal Transit Administration, Annual Report on Funding Recommendations, Fiscal Year 2023, Capital Investment Grants Program and Expedited Project Delivery Pilot Program ([link](#))

¹⁶ In addition to the federal Small Starts grant, other grants for the I Line include: \$2,956,249 federal Surface Transportation Block Grant; \$6 million federal Congestion Mitigation Air Quality Grant; \$10,287,062 FTA Section 5307 Equity Formula Funding (through PSRC); \$19,371,059 State Regional Mobility Grant (of which \$8M is Kent pass-through and \$10M is Renton pass-through); and \$8,000,000 State Move Ahead Washington Grant.

¹⁷ Ordinance 19098

ANALYSIS

The adopted Locally Preferred Alternative for the RapidRide I Line identified a list of 41 “station pair” locations.¹⁸ Each of these 41 locations is identified by cross street, with a station to be placed on each side of the street at that location for a total of 82 stations. (See Attachment 9 to this staff report for the adopted station locations.)

For the identified station location at 108th Avenue SE and SE 186th Street in Renton, Metro has identified the need to acquire 114 square feet outright, as well as 1,397 square feet for a temporary construction easement at a property on the west side of 108th Avenue SE, to allow for the construction of a RapidRide station at that location.

The property currently has a bus stop located where the RapidRide station is proposed. The additional 114 square feet proposed to be acquired would permit the construction of a covered bus shelter (as noted above, one of the conditions of the federal Small Starts grant funding is that each of the RapidRide I Line stops must include a covered bus shelter), as well as lighting, benches, a trash can, and an electronic real-time arrival sign.

The property in question is 10,018 square feet, zoned residential, and being used for a duplex. (Attachment 8 to this staff report shows a map of the adopted alignment and station locations from the Locally Preferred Alternative, the station location that would be affected by Proposed Ordinance 2024-0226, and the specific acquisition and construction easement that is proposed for the subject property.) The proposed acquisition would not make any changes to the residential structure currently on the property and would not make any permanent changes to access to the property.

The Executive states that this station is part of the station pair that was identified as part of the Locally Preferred Alternative and that the specific parcel for which the acquisition and construction easement are proposed was identified so that the stations on both sides of the street for this station pair will be located near a new mid-block pedestrian crossing for passengers. The Executive notes that the crossing location has been approved by the Washington State Department of Transportation and City of Renton. The Executive also notes that constructing a smaller passenger facility at the subject parcel would not change the amount of property that must be acquired.

The transmitted legislative packet includes, for informational purposes, a fiscal note (included as Attachment 4 to this staff report), a property summary (Attachment 5 to this staff report), and an Attachment A to the property summary, which includes a letter from Metro to the owners of the subject property (Attachment 6 to this staff report; note that this Attachment A is named “Property Summary 2” in the Council’s legislative records). The transmitted property summary also references an Attachment B, which includes additional exhibits and graphic renderings. This Attachment B was inadvertently omitted from the transmittal packet; it is included in this staff report as Attachment 7.

¹⁸ Ordinance 19098, Attachment B

The Executive reports that there has been an impasse in negotiations with the property owners and that condemnation authority is sought to be able to meet the construction schedule for the I Line. The Executive states that condemnation would be used only as a last resort to maintain the project schedule and goals.

Following committee action, public notice and notice to the affected property owners would be provided as required by RCW 8.25.290. To accommodate this notice period, if the committee takes action on September 11, 2024, a public hearing and possible action at full Council would not occur until October 1, 2024.

AMENDMENT

Amendment 1 would make a technical correction to replace the word “citizens” with the word “residents” to conform the language used in the ordinance to the 2020 Charter amendment.

INVITED

- Mark Ellerbrook, Director, Capital Division, Metro
- Janine Robinson, Transit Capital Project Manager, Capital Division, Metro

ATTACHMENTS

1. Proposed Ordinance 2024-0226
2. Amendment 1
3. Transmittal Letter
4. Fiscal Note
5. Property Summary 1 (from Executive’s transmittal)
6. Property Summary Attachment A
(aka “Property Summary 2” from Executive’s transmittal)
7. Property Summary Attachment B
8. I Line maps
9. I Line station locations list (from Ordinance 19098)



KING COUNTY
Signature Report

ATTACHMENT 1
1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Ordinance

Proposed No. 2024-0226.1

Sponsors Zahilay

1 AN ORDINANCE authorizing the condemnation of real
2 property to obtain easements, and other rights in property
3 for the construction of the Rapid Ride I Line in the city of
4 Renton.

5 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

6 SECTION 1.

7 A. The RapidRide I Line ("RRIL") project will provide high-quality bus rapid
8 transit service connecting Renton, Kent, and Auburn, and connect to the regional transit
9 network to improve access to destinations across the region. The property rights that are
10 the subject of this ordinance must be acquired to construct the RRIL project and
11 associated facilities. The acquisition of property rights is for a public purpose.

12 B. The RRIL project is one part of a larger system-wide approach to improve
13 transit access in South King County, and will increase transit speed, reliability, and
14 passenger carrying capacity in three of some of the largest and most diverse communities
15 in the Seattle area. The project will serve the transportation needs of communities that
16 have been historically underserved, which are South King County communities, which
17 have some of the highest proportions of low-income and minority populations in King
18 County, and the project will deliver improved services along with increased passenger
19 comfort on that corridor similar to what is experienced in the areas already served by
20 RapidRide or Link service.

21 C. Ordinance 18449, enacted February 1, 2017, adopting the King County Metro
22 long-range transit service and capital plan, METRO CONNECTS, which identifies an
23 expanded network of future RapidRide lines for implementation, including the RRIL.
24 Via Ordinance 19098, the Locally Preferred Alternative for the RRIL project was
25 approved, including the alignment and station locations. The RRIL project will meet the
26 goals set forth in the King County Equity and Social Justice Strategic Plan by tying
27 together economically and racially diverse communities, and connecting neighborhoods
28 to employment opportunities, commercial and retail centers, and recreational activities.

29 D. The project is of critical importance. The Federal Transit Administration
30 requires that Small Starts grant-funded projects operate transit service at the level
31 specified in the grant agreement for a defined period of performance. Delays in the
32 completion of the project, or the project's failure to obtain the property needed to
33 construct project improvements as designed, could jeopardize the millions of dollars of
34 federal funding by undermining the projected ridership and speed improvement
35 outcomes, and result in escalated costs, which would diminish the scope of improvements
36 that can be built with the funding available for the project.

37 E. King County is authorized, by chapter 8.12 RCW, chapter 36.56 RCW, RCW
38 35.58.240, and RCW 35.58.320 to acquire, damage, and condemn real property for public
39 use for public transportation facilities.

40 F. To construct the RRIL project, it is necessary for King County to condemn and
41 damage certain lands, property rights and rights in property. The acquisition of such
42 property rights and rights in property is for a public purpose.

43 G. The King County council finds that public necessity, convenience, and
44 welfare require that the RRIL project be constructed and that those certain properties,
45 property rights and rights in property be condemned, appropriated, taken, and damaged
46 for the purpose of construction, operation, and maintenance of the RRIL project.

47 SECTION 2. The King County council deems it necessary for the proposed
48 public purpose and in the best interest of the citizens of the King County that all or any
49 portion of the property identified by tax parcel number 322305-9135 and other property
50 interests, property rights, or rights in the properties be condemned, appropriated, taken
51 and damaged for the purpose of constructing, installing, operating, maintaining,
52 repairing, and replacing facilities for the RRIL project, subject to the making or paying of
53 just compensation to the owners therein in the manner provided by law.

54 SECTION 3. Condemnation proceedings are hereby authorized to acquire
55 property interests and property rights and rights in property in all or any portion of the
56 property identified by tax parcel number 322305-9135 for the purpose of the RRIL
57 project.

58 SECTION 4. The attorneys for King County are hereby authorized and directed
59 to begin to prosecute the proceedings provided by law to condemn, take, damage, and

- 60 appropriate the land and other property interests, property rights, and rights in property
- 61 necessary to carry out this ordinance.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Dave Upthegrove, Chair

ATTEST:

Melani Pedroza, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: None

1

September 11, 2024
Technical correction

mbourguignon

Sponsor: Zahilay

Proposed No.: 2024-0226

1 **AMENDMENT TO PROPOSED ORDINANCE 2024-0226, VERSION 1**

2 On page 3, line 48, after "the best interest of the" strike "citizens" and insert "residents"

3

4 **EFFECT prepared by *Mary Bourguignon*: The amendment would make a technical**
5 **correction to replace the word “citizens” with the word “residents” to conform the**
6 **language in the proposed ordinance to standard language used following the 2020**
7 **Charter amendment.**



King County

Dow Constantine

King County Executive

401 Fifth Avenue, Suite 800

Seattle, WA 98104-1818

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TTY Relay: 711

www.kingcounty.gov

July 11, 2024

The Honorable Dave Upthegrove
 Chair, King County Council
 Room 1200
 C O U R T H O U S E

Dear Councilmember Upthegrove:

This letter transmits a proposed Ordinance that, if enacted, would authorize King County's condemnation of real property in the city of Renton in order to obtain easements and other rights in property for the construction of the Rapid Ride I Line. Metro has determined that acquiring the property is critical to the successful implementation of the I Line. Despite making reasonable efforts over 23 months to meaningfully engage the property owner in negotiations and acquire the property through such negotiations, Metro has reached impasse with the property owner.

The King County Council adopted the Locally Preferred Alternative for the I Line project via Ordinance 19098, which set forth the locations of critical project improvements, including passenger facilities and pedestrian safety improvements. The I Line project was identified as a critical project for Metro by connecting economically and racially diverse communities in South King County to employment opportunities, commercial and retail centers, and recreational activities. The property acquisition at issue is necessary to construct one of a pair of station stops and a critical pedestrian mid-block crossing improvement requested by the City of Renton and by the Washington State Department of Transportation.

The property rights necessary for the construction, operation, and maintenance of the RapidRide station include 114 square feet of public right of way as a fee acquisition, and 1,397 square feet of temporary construction easement. Metro staff and consultant efforts to acquire this property through negotiated settlement spanned more than 23 months, with more than 20 attempts made to communicate with the property owners. The property owners have been unresponsive to overtures to engage since July 2023. The Metro will continue to attempt to

The Honorable Dave Upthegrove

July 11, 2024

Page 2

engage the property owner and still hopes to acquire the property through negotiated settlement even as it seeks approval of the proposed condemnation Ordinance.

The Federal Transit Administration is a major funding partner for I Line through its Capital Investment Grant Program, providing \$80M for the project. As such, Metro has committed to a schedule to begin construction in early 2025 and complete the project by 2027. All necessary property rights, including for this property, must be acquired before permits are issued and construction started.

Thank you for your consideration of this proposed Ordinance. If your staff have questions, please contact Mark Ellerbrook, Division Director, Metro Transit Department, at 206-477-6109.

Sincerely,



for

Dow Constantine
King County Executive

Enclosure

cc: King County Councilmembers
ATTN: Stephanie Cirkovich, Chief of Staff
Melani Hay, Clerk of the Council
Karan Gill, Chief of Staff, Office of the Executive
Penny Lipsou, Council Relations Director, Office of the Executive
Michelle Allison, General Manager, Metro Transit Department
Mark Ellerbrook, Division Director, Capital Division, Metro Transit Department

Ordinance/Motion:	
Title:	
Affected Agency and/or Agencies:	Metro Transit Department
Note Prepared By:	Greg Svidenko, BFO IV, MTD
Date Prepared:	January 17, 2024
Note Reviewed By:	
Date Reviewed:	

Description of request:

In order to complete the Project as designed including the mid-block crossing and station pair in this location, it is necessary for King County to condemn and damage certain properties, property rights, and rights in property. This proposed Ordinance authorizes the King County Metro Transit Department to compensate the property owner to acquire, damage, and condemn certain properties, property rights, and rights in property for the public use for transit facilities.

Revenue to:

Agency	Fund Code	Revenue Source	2023-2024	2025-2026	2027-2028
			0		
TOTAL			0	0	0

Expenditures from:

Agency	Fund Code	Department	2023-2024	2025-2026	2027-2028
MTD Infrastructure Subfund	3641		9,600		
TOTAL			9,600	0	0

Expenditures by Categories

	2023-2024	2025-2026	2027-2028
Right-of-Way	9,600		
TOTAL	9,600	0	0

Does this legislation require a budget supplemental? No

Notes and Assumptions:

Estimated costs include the appraised value of the easements only (excludes legal, condemnation-related and construction costs). Full project costs are included in the Transit CIP.

Property Summary

Project Background

The RapidRide I Line project will provide high-quality bus rapid transit service connecting Renton, Kent, and Auburn. It will connect to the regional transit network to improve access to destinations across the region. The I Line is one part of a larger system-wide approach to improve transit access in South King County, and will increase transit speed, reliability, and passenger carrying capacity. The three jurisdictions include regionally designated Growth Centers, as defined by the Puget Sound Regional Council’s VISION 2050 growth plan, multiple areas of high population and employment concentration, and are some of the largest and most diverse communities in King County.¹ The vision for I Line was developed in part from the 2019 Renton-Kent-Auburn Area Mobility Plan and input from key stakeholders and the three primary jurisdictions. This vision set the groundwork for the Locally Preferred Alternative and the I Line Alignment Ordinance (#19098), which was adopted by the King County Council in April 2020.² The project will serve the transportation needs of communities that have been historically underserved – South King County communities have some of the highest proportions of low-income and minority populations in King County, as is detailed in Metro’s Mobility Framework Report and referenced in the I Line Locally Preferred Alternative Report.³ Large portions of the project corridor are distant from higher-speed, more reliable, and competitive transit service, such as Link Light Rail and other existing RapidRide lines. The Route 160, which currently serves the future I Line corridor, provides mobility to 1.6 million riders each year – that averages out to 5,000 trips per weekday and nearly 3,000 per weekend day. As with previous RapidRide lines, we expect ridership for the I Line to grow after launch, projecting up to 8,500 weekday trips by 2040. The I Line will deliver improved services along with increased passenger comfort along this corridor similar to what is experienced in the areas already served by RapidRide or Link service.

Property Acquisition Detail – Tax Parcel Number 322305-9135

As part of this project, certain property rights, including the property that is the subject of the proposed condemnation Ordinance, identified as tax parcel number 322305-9135, must be acquired to construct a new RapidRide station near a new mid-block pedestrian crossing. This parcel is owned by spouses Sea Main Chan and Yilin Chan. Construction of the I Line requires a small, 144 square foot permanent acquisition from the property along with a 1,397 square foot temporary easement for construction and restoration on the Chan property, described below in more detail.

Metro’s consultant, Real Estate Consultants NW, initiated negotiations for King County to acquire the property on February 1, 2022. The consultant continued to attempt negotiations through March 15, 2023. During this timeframe, Metro and its representatives made more than

¹ Puget Sound Regional Council, VISION 2050 [\[LINK\]](#); Centers [\[LINK\]](#)

² King County Council, Ordinance 19098, April 28, 2020 [\[LINK\]](#)

³ King County Metro, Mobility Framework Report, October 2019 [\[LINK\]](#)

20 attempts, through emails and other written communication, to provide project information and requests to meet with the property owner, each of which were rejected. Acquisition best practices, according to the International Right of Way Association, include meeting in person with property owners whenever practical to present an offer and to provide detailed responses to any owner questions and concerns. As a result of the property owner's refusal to meet with Metro's consultant and Metro staff, communication with the property owner and King County have been limited to email exchanges.

Metro staff made several additional attempts to communicate with and negotiate with the property owners once the consultant felt she had reached impasse with the property owner. The property owners continued to decline to meet with Metro personnel, including via in-person, by telephone, or online video meetings. Metro's staff provided responses to the property owners' stated concerns and addressed questions via email correspondence with no response, through July of 2023.

On November 2, 2023, Metro's Capital Planning Manager sent a detailed letter to the property owner with a request to re-engage and open a line of communication and negotiation between them and Metro. This correspondence is attached as "Attachment A". As of the writing of this document, Metro has received no response to the Capital Planning Manager's letter. The responsiveness of the property owner has steadily declined, no longer responding to any contact attempts made by King County or its representatives. Consequently, after exhaustive attempts to negotiate the proposed property rights spanning over 23 months and 20 attempts beginning in February of 2022, negotiations to acquire the property are at an impasse with the property owner. At the same time, it is Metro's desire to keep an open line of communication with the property owners, with the hope of continuing good faith negotiations to acquire property rights by negotiated agreement.

Tax Parcel Number 322305-9135

To upgrade and replace the existing bus stop located at 108th Ave SE and SE 186th St, Metro needs to acquire property rights from Tax Parcel number 322305-9135. The property is owned by spouses Sea Main Chan and Yilin Chan. The property is located on the northwest corner of 108th Ave SE (SR 515), and SE 186th Street, in the City of Renton. The parcel consists of 10,018 square feet. The property is improved with a single-family residence.

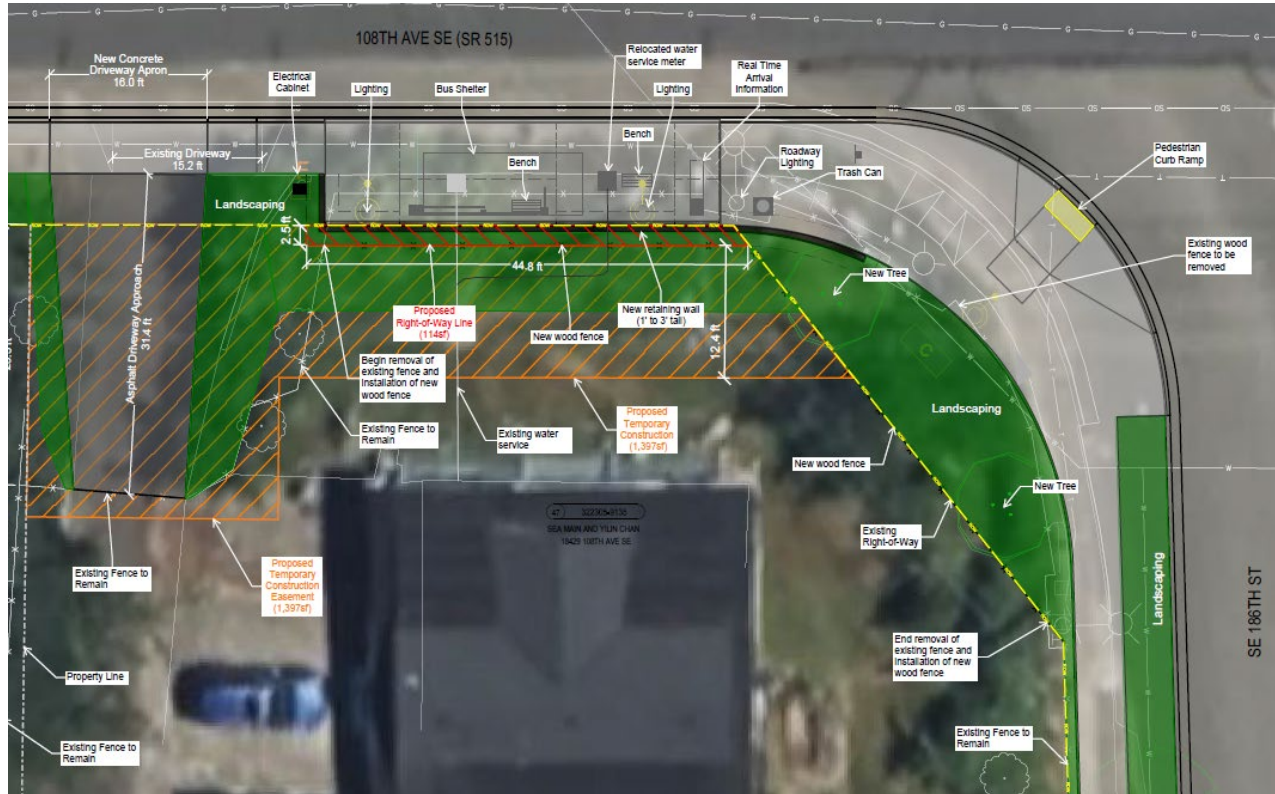
The property rights necessary for the construction, operation, and maintenance of the RapidRide station are 114 square feet of public Right of Way as a fee acquisition, and 1,397 square feet of temporary construction easement, depicted below and in attachments in more detail. This station is being added as part of a new station pair sited in accordance with Passenger Facilities Upgrade Report for the I Line RapidRide. This station was planned to be near the new mid-block pedestrian crossing that will make it safe for pedestrians to cross the street between the two passenger stations. The crossing location was approved by representatives from the Washington State Department of Transportation (WSDOT) and the permitting jurisdiction, the City of Renton, and meets WSDOT's standards based on traffic volume, number of lanes, and posted

speed limit for the affected roadway. The amount of property being acquired is determined by the fact that the new station will include a passenger shelter, as required by the FTA for all passenger stations constructed by this project. Engineers considered whether using a smaller passenger facility would have less impact on the property, but the amount of property needed to build a station at this location did not vary based on shelter size.

After reaching impasse in negotiations with the property owner and reviewing the technical design decision documentation, Metro staff affirmed that acquiring the Chan property is necessary to construct critical project improvements. Metro will continue attempting to communicate with the property owner and continue trying to acquire the property through negotiated settlement as this legislation is considered if the property owners reach out upon receiving notification of the pending legislation. Acquisition through condemnation will only be used as a last resort to maintain the project schedule and goals.

Name: Sea Main Chan and Yilin Chan
ROW File No.: R-47
Tax Parcel Number: 322305-9135

Depiction of Permanent Acquisition and Temporary Construction Easement



The property is located on the northwest corner of 108th Ave SE (SR 515), and SE 186th ST., in the City of Renton. The parcel consists of 10,018 square feet. The property is improved with a single-family residence.

In the depiction above, the existing public right of way is shown as the yellow dashed line. The proposed acquisition of public right of way measuring 114 square feet is shown in red hatched linework and is approximately 2.5 feet in width and 44.8 feet in length. The temporary construction easement consists of 1,397 square feet and is shown in orange hatched linework.

Attachments:

- A. Letter/response from Capital Planning Section Manager, Hannah McIntosh.
- B. Exhibits and graphic renderings.



Moving forward together

Capital Division

Capital Planning & Portfolio Management
 201 S. Jackson Street
 KSC-TR-0435
 Seattle, WA 98104-3856

November 2, 2023

Sea Main Chan and Yilin Chan
18429 108th Ave SE
Renton, WA 98055

Situs: 18429 108th Ave SE

File: R-47
 Name: Chan
 Roadway: 108th Ave. RapidRide I-Line
 Section: Renton
 Project: 1134237
 APN: 322305-9135

Sent Via Electronic and USPS Mail

Dear Mr. & Ms. Chan,

My name is Hannah McIntosh, and I recently became the manager of the Capital Planning and Portfolio Management Section, here at King County Metro. In my role, I oversee the Transit Real Estate and Environmental (TREE) team, which handles all our real estate transactions, including property acquisitions for new projects like the Metro RapidRide I Line.

I was briefed on your concerns and questions regarding our efforts to acquire property for this project. I apologize that our process caused confusion and frustration for your family. Going forward, my goal is to ensure that our messages are clear, and that we better explain our processes to better work with you.

After reviewing our prior email correspondence, I would like to take this opportunity to respond to some of your earlier questions in more detail. While we initially hoped to respond to your questions in person to walk through the project with you on-site, answer questions and get your feedback in real time and follow-up in writing, I understand that in-person meetings may not always be convenient or preferred. For this reason, we are completely open to continuing our discussions through written communications, or through a trusted intermediary such as a lawyer who represents you.

Enclosed, I have included the following documents for your reference:

- Follow up to your questions and concerns
- Two appendix diagrams (see details below)
- A timeline of the property acquisition process
- RapidRide I Line project folio (updated 2023) that provides an overview of this new transit line

In my experience, details of an acquisition are often best discussed and negotiated in person so we can make sure things are thoroughly understood and with the goal of achieving positive outcomes for both property owners and Metro. My hope is that after reviewing these materials, you will have a clearer understanding of our request, and that you might be willing to discuss next steps via an in-person

Page | 1

meeting. However, I respect your wishes to continue communicating through written correspondence, or through an intermediary if that is what you choose.

Lastly, I understand that you have been in touch with the King County Ombuds Office regarding your concerns. We are happy to include them in our discussions and have copied them on this letter to ensure transparency.

Once again, I want to apologize for your experience until now, and emphasize my commitment to addressing your concerns and improving our communications with your family moving forward. To provide context for next steps and timing, our goal on the I Line project is to have property acquisitions negotiated by January of 2024 so the project can remain on schedule, and we have ample time to work with property owners. I hope you will reach out to me directly, through whatever means you prefer, to discuss this project and how Metro can accommodate your needs as we proceed. Please review the attachments to this letter and let me know what questions or concerns you may have. I look forward to hearing from you.

Sincerely,



Hannah McIntosh, Section Manager

King County Metro
Capital Division
Capital Planning & Portfolio Management
201 S. Jackson Street
KSC-TR-0431
Seattle, WA 98104-3856

Phone: 206-418-9814
Email: hmcintosh@kingcounty.gov

Enclosed:

- Follow-up to your questions and concerns
- Appendix diagrams
 - Rendering of the house with the proposed bus shelter and pedestrian crossing (from the intersection)
 - Site plan of the property showing the amount of property needed and items to be constructed
- Metro's property acquisition timeline
- RapidRide, I Line project folio (updated 2023)

Follow-Up to Your Questions and Concerns

From emails sent between February 2022 and July 2023

1. Your Concern

As mentioned above, the proposed acquisition runs along my driveway, if you wish to continue this proposal, please CC a representative from King County for this matter, someone who can obtain a permit to relocate my driveway and carport to another section of my property. We have two infant children, and the proposed construction would block egress from our property for an unspecified length of time.

Our response

We understand our responsibility to ensure you and your family can get in and out of your property during the reconstruction of your driveway, and we'll take the following steps:

- **Curing of Concrete:** While the concrete access to your driveway is curing (Drying), we will use steel plates to make sure you can enter and exit your property.
- **Direct Coordination:** The project contractor will work closely with you to ensure your property access remains unaffected during the driveway reconstruction as well as during the remainder of the construction project.
- **Hotline for Communication:** We'll set up a hotline you can call with any questions or concerns during construction. We'll give you the hotline number before construction begins.

Our goal is to reduce the project impacts as much as possible for you, and we're doing these things to make sure you can use your driveway during the reconstruction and during the rest of the project.

2. Your Question

The Survey map is drawn by 1 Alliance Geometric which shows a misrepresentation of my property. Is this not considered as a fraudulent practice? Also, have you consulted with a legal team in terms on acquiring the drawn land which already has an easement in place?

Our response

I understand that you're concerned that the survey map by 1 Alliance Geometrics is incorrect and possibly fraudulent. We want to clarify that the map is based on official records, including a public right of way purchase from 1972 for road widening. This might make your property boundaries look different than you might expect, but it's not fraudulent. We've reviewed the map and confirmed it's accurate according to public records. If you think there is a specific error in the underlying records, please let us know what that error is so that we may evaluate that information.

3. Your Concern

Not only was my residency trespassed on as evidenced by photos on page 8. We are avid gardeners and have many pictures and videos of the progression of our yard. Those pictures were clearly taken recently without our knowledge or permission.

Our Response

Your property was inspected by the appraiser on January 9, 2022, from the existing right of way (publicly owned sidewalk and street next to your property), as stated in the appraisal report on page 2.

All pictures taken by the appraiser were taken only from the public sidewalk and street. Knowing your concern about having people on your property, we have been very careful to be sure no trespass occurred by the appraiser.

4. Your Concern

The Comparable Sale summary brought on by SOVA does not reflect the current appraised market value, let alone the projected property value.

Our Response

The appraisal for your property was conducted by SOVA, a certified appraisal company. It used comparable vacant land sales to determine the value of the proposed acquisition of 114 square feet and the temporary construction easement of 1,397 square feet.

We understand your land isn't vacant, but since only a part of your property is affected, the appraisal focuses on that area, which has no buildings on it. It also accounts for the impact on your fencing and landscaping. This appraisal doesn't determine the total market value of your property, which is standard practice. Future or projected value cannot be legally considered when appraisals are done for this process.

We understand that you have plantings in the impacted portion of your property. We would be happy to review any information you have on the value of those plantings and landscape improvements to be sure they were valued correctly. We are also open to discussing replacement landscaping where landscaping is disturbed. These are the sorts of conversations that we would like to have with you, whether in person, through correspondence, or through a trusted intermediary. We have been very successful at addressing concerns like these with other property owners over time.

5. Your Concern

The local fencing companies alone that we have been negotiating with have given us quotes that exceed RES Group's offer based on present labor and material cost.

Our Response

Your existing fencing was appraised at a value of \$1,250 using common valuation methods by the appraiser. In addition, to pay for the impacted existing fencing, we are proposing that the project would remove your fencing and replace it with new fencing to be located just inside your property line at no cost to you. We would consult with you on the proposed style of replacement fencing for your feedback prior to installation. If you have written bids from local fencing companies that differ from our appraised value, we would be happy to review those to determine whether they better represent the true cost of fence replacement.

6. Your Concern

There is also the matter of damage to property value from installation of a new bus stop/route. Firms that we have hired over the years have given us more accurate analysis.

Our Response

We are open to reviewing and considering the damage analysis that you have received if you wish to share it with us. Adjacent to your property there is already a bus stop and an existing bus route on the road. We are proposing to update the existing bus stop along the publicly owned property including the small piece of property we are attempting to purchase from you in the amount of 114 square feet (approximately 2.5 feet wide by 46 feet long).

7. Your Question

King County Metro from Metro CIO chief responded back via email that this proposal is a temporary construction easement. But no mention of the duration of the easement. Do you have an idea what is the time frame and if there are any guarantees that the termination of easement will end by release. Will you be able to act on behalf King County in terms of drafting such contract?

Our Response

The proposed temporary construction easement document provided in communication with you shows the proposed easement concluding upon completion and restoration of your property and terminates **no later than 12/31/26**. If that date were to be extended due to changes in the project construction schedule, we would notify you as far in advance as possible, and we would pay for the additional extended period. It is also possible that the temporary construction easement could be terminated early if construction finished more quickly than anticipated.

8. Your Question

Are the route planning, facility planning, risk management, & real estate management offices aware that there two separate parcels that would be ideal for construction of a rapid transit expansions in large open spaces directly North of our property up the road? One of these is already owned by King County Housing authority, and the other is literally an open grassy space with no residential development.

Our Response

We certainly understand that you would prefer that the bus stop be in a different place. In response to your request, and as part of our standard design process, our design team reviewed in detail the alternative locations above with the City of Renton and the Washington State Department of Transportation (WSDOT). Ultimately, the area to the north is not a feasible location for the southbound station because of the required HAWK Crossing (High-Intensity Activated Crosswalk) that will be installed just north of your property line. This pedestrian activated signal will stop traffic for pedestrians, which will provide a much-needed safe way for people to cross 108th Ave SE, which (as you know) is a busy 5-lane arterial.

When we examined the option to locate the bus stop on the King County Housing property, we saw that pedestrian safety would be reduced there because drivers approaching that crossing from behind the bus would not be able to see pedestrians well because the stopped bus would partially obstruct their view of the crossing. This is an important and well-documented safety issue for multi-lane street crossings and the existing bus stop location and new HAWK crossing adjacent to your property will present less risk compared to a stop and crossing located on the King County Housing property.

The existing bus stop location also provides the correct distance between bus stops to the north and south:

- The **nearest I Line bus stop to the north** is proposed to be located approximately 0.41 mi away (SE 180th St/Fred Meyer Driveway).
- and the **nearest I Line bus stop to the south** is proposed to be located approximately 0.44 miles away.

Without bus stops at SE 186th St, the distance between bus stops would be too far and would not provide sufficient access to the bus route.

9. Your Question

If I am understanding your previous message that there will be no eminent domain by King County?

Our Response

It is always the intention of the County to negotiate in good faith with all property owners on our public improvement projects. Historically, using eminent domain (“taking” property through condemnation) has been rare on King County Metro projects. However, it is always a last resort if negotiations are not successful.

As you may know, these processes are rooted in the Constitution. The Fifth Amendment requires governments to pay you Just Compensation for property acquired for public projects. The County cannot take your property without due process. We prefer to work collaboratively with you in order to purchase the land and easement needed for the project on a voluntary basis. But eminent domain is always a last resort if we are unable to reach a negotiated resolution.

In your email you also noted that you have been advised by legal counsel. We would welcome the involvement of your counsel in this process as that can often help property owners better

Continues...

understand and evaluate their options as they review the information. Please let us know if you would prefer that we work through your attorney and send us their contact information.

Here's an overview of our property acquisition process

It starts with us making every effort to work with property owners through meetings and written communication. We work hard to hear property owners' concerns, answer their questions, and walk through all the important details with them. This process almost always leads to a mutually satisfactory outcome where property owners are fairly compensated for the property we are acquiring, and we seek to address their concerns to the greatest extent possible within the project parameters.

If we are unable to reach an agreement

However, if we are unable to reach agreement with a property owner our next step is to begin the process of eminent domain and condemnation for the property rights required for the project. The first step in the condemnation process would be a letter from us letting you know that we are initiating the condemnation process.

Usually once the condemnation process begins an owner will engage their legal counsel and that often leads to a negotiated settlement that ends the process. In a negotiated settlement, the owner often gets a satisfactory outcome, and the county gets the property rights needed to complete the project, without having to resort to a full condemnation. However, if we are unable to negotiate a resolution, then Metro would submit a condemnation ordinance to the Metropolitan King County Council, seeking authority to condemn the necessary property interests. You would get notice of the ordinance hearing date and have an opportunity to present brief testimony to the Council. If the Council approved the condemnation ordinance, then Metro would file an eminent domain petition in King County Superior Court, in order to acquire the necessary property interests, and the court would determine the Just Compensation that the County would be required to pay you in order to condemn those property interests. You would receive notice of the court proceedings and have the opportunity to respond (whether yourself, or through an attorney) to the petition and to present information on property valuation and other matters relevant to the condemnation and the question of Just Compensation. The process would conclude with Metro being awarded the necessary property interests, and you would receive Just Compensation in an amount determined by the court.

10. Your Concern

On the 11th of February we received a postal letter, that was backdated, along with an email from 15th of February, to seize our property. Please note the term: "temporary easement" is used by King County Metro representative Mr. Lerner. However, the term "acquisition" is used frequently from RES Northwest correspondences, which implies eminent domain. Throughout the written correspondence to include email attachment from Mr. Lerner. Both of these terms are not interchangeable from what we have been told by legal counsel.

Our Response

We understand that the many terms involved in real estate transactions on public projects can be confusing and we apologize if we have not explained them clearly in our correspondence. The proposed acquisition of your property consists of two separate purchases, and Metro will seek to use the power of condemnation (eminent domain) to acquire both of them if we are not able to negotiate a voluntary transaction with you:

A. Temporary construction easement

Purchase of a 1397 Sq. Ft. of Temporary Construction Easement (TCE). This TCE would allow the construction company to step on your property to build the bus stop improvements, replace your fence, install any landscaping, and repave your driveway. It is limited in duration and expires on 12/31/2026 and is not a permanent acquisition.

B. Purchase of a Small Portion of Your Property

Permanent purchase of 114 (2.5' x 46') Square Feet, of public Right of Way, by warranty deed. This portion would be acquired by King County Metro then transferred to the City of Renton to become part of the roadway Right of Way.

You are correct that the two types of proposed property interests that Metro wishes to acquire are not identical as one is temporary, and one is permanent. Both however are subject to eminent domain by government agencies.

11. Your Concern

The new construction plans proposed by King County, Rapid Ride I-line seem to indicate the opposite from site plans; paving plan; and construction drawings that would drastically reduce our property size.

Our Response

While our proposed permanent property purchase is technically a very small slice of your property, we understand why it might feel like more due to loss of your gardening space in the area that the Washington State Department of Transportation acquired previously for the construction of SR-515. The proposed fee acquisition is 114 square feet, which is approximately 2.5 feet in width and 46 feet in length along the east side of your property. Your total lot size is 10,018 square feet.

Our intent is to provide consistent and clear information in all our plans. Please let us know if you see specific errors in documents we have shared. We are also including a drawing and site plan as part of this packet of information to help visualize the size of your property and location of the property line after the acquisition.

We would be happy to survey the boundaries of your parcel and to set temporary survey stakes or similar temporary markers to indicate where your parcel boundary lines are adjacent to the SE 186th and 108th Ave SE rights of way, if that would be helpful to advance our negotiations. We will not do this in advance of project construction requirements without your written permission and coordinating with you on a mutually acceptable date and time when the surveyor would come out to mark the boundary lines.

12. Your Question

It needs to be brought to your attention that the proposed area of construction damage is right over my septic system. The proposed land usage is over my property lot which currently serves 2 dwelling units and has septic system in place under the proposed area. Is King County Metro going to connect our property to sewer lines?

Our Response

The project team has reviewed the "As Built" septic system drawings of record from Soos Creek Water and Sewer District for your property and the proposed acquisition area of 114 square feet is not within the septic system area. Based on these public records, there will be no project impact to the septic system, therefore no connection to the public sewer is needed.

If you are willing to provide access to your property, we could locate the exact location of the septic system and ensure that we'll avoid it or determine whether sewer connections are necessary, if it is discovered that the public location records were incorrect. We take this obligation seriously and we would be very interested to review any information or documents that you may have that would suggest that any part of the septic system is located in the project area.

13. Your Question

How do you plan to compensate us when our property is left without water, power, and proper access due to the construction of this transit line and rapid transit stop? The water main line lies within the easement, and yet you have chosen to sweep this issue under the rug. This kind of dismissive behavior is simply unacceptable.

Our Response

We understand your concerns about being near an active construction zone and the potential impacts it could have on your property and on your utility service during construction. We want to assure you that the project team does not anticipate any extended disruption of water, power, or other utilities to your residence.

Here are some things to note:

- If there is an expected service interruption of more than five minutes, a seven-day notice is required to be provided by the utility agency or their agent/contractors. That is required by law, completely separate from Metro's project.
- Metro is committed to maintaining reasonable access to and from your residence. Please let us know if you or your family have any specific needs or special requirements that we should know about as we plan for how to maintain your access during the construction process.
- Before construction starts you will be provided with contact information to call in the event of any construction related issues.

Continues...

You mention in your email that the water main line lies within an easement. Our records do not show that the water main line lies within the proposed property acquisition, and it appears to be within the existing public property. However, we do need to relocate the water meter that serves your property, but that meter appears to be on public property, and we would ensure that the meter is properly reconnected to the water line that serves your property. We would be happy to review any information you have that shows the water main line in a different location, or to discuss other concerns that you may have regarding utility work that will be required as part of this project.



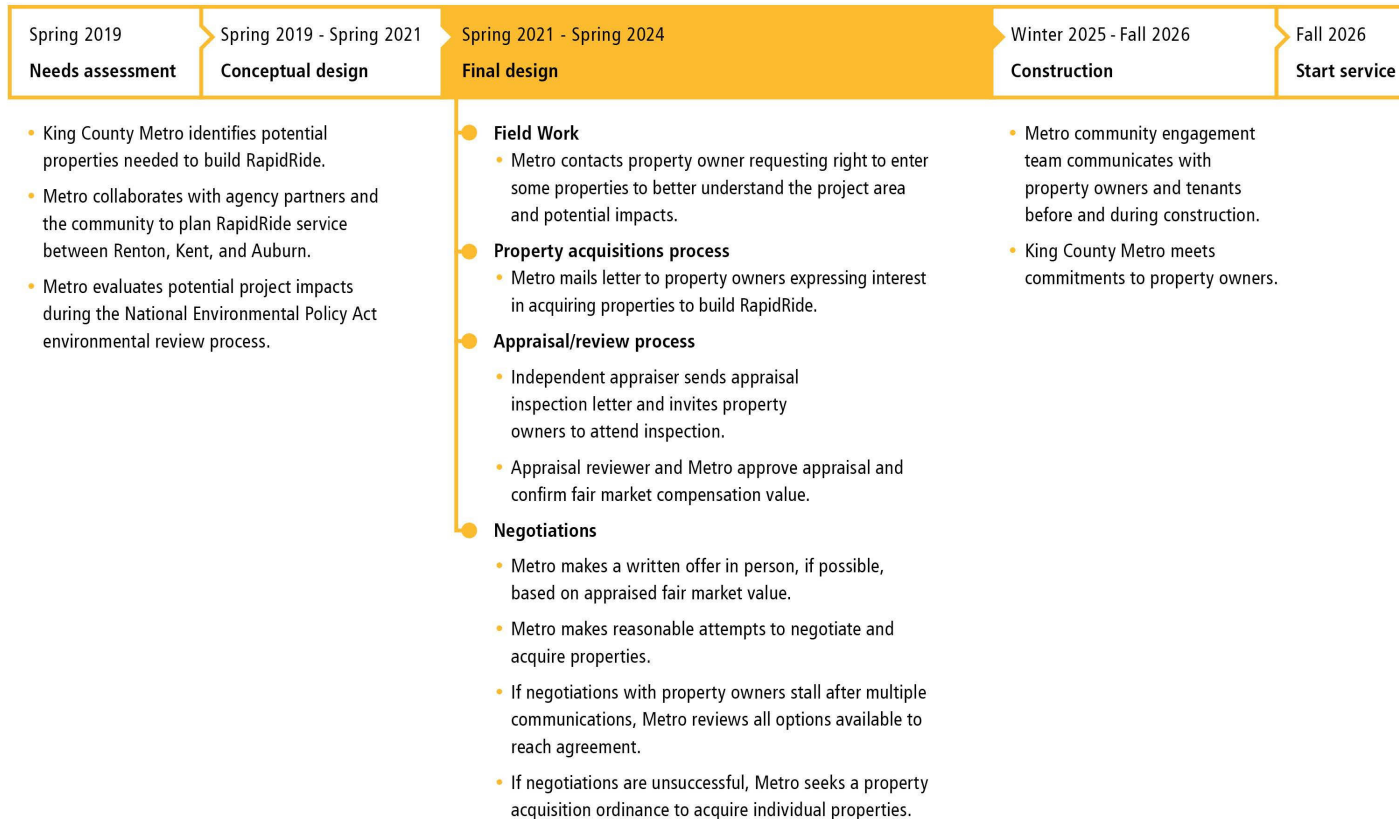
108TH AVE SE (SR515)

SE 186TH ST

Proposed Stations at 108th Ave SE & SE 186th St

DRAFT September 21, 2023





<p>If you would like to connect with someone directly about property acquisition, please contact:</p> <p>Jeff Nakken, SR/WA King County Metro Transit Department RapidRide Real Estate Lead Capital Planning - Transit Real Estate & Environmental 206-263-8407 jnakken@kingcounty.gov</p>	<p>If you have questions around the project and/or require additional language assistance, please reach out:</p> <p>RapidRide Community Engagement King County Metro 206-263-9768 rapidride@kingcounty.gov</p>
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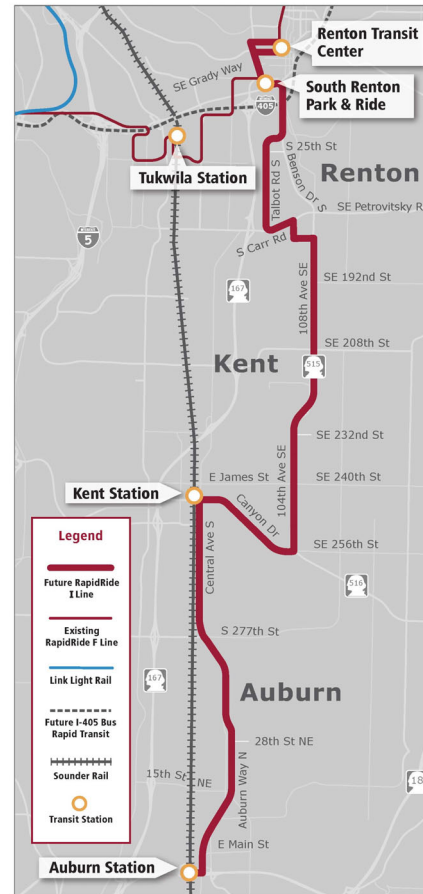
Want to connect with Metro or get involved?



Visit our project website and sign up for project updates. Sign up to receive regular project updates at www.kingcounty.gov/rapidride/i.

Contact Metro. Call or email RapidRide's Community Engagement team at 206-263-9768 or rapidride@kingcounty.gov.

RapidRide I Line coming to south King County



I
PLANNED FOR
2026

What is RapidRide I Line?

King County Metro will upgrade the current Route 160, which runs between Renton, Kent, and Auburn. RapidRide is one part of a larger, system-wide approach to improve transit access in south King County. The updated route will improve connections to the places people need and want to go, such as work, school, shopping, and critical services like grocery stores and medical centers.

RapidRide I Line will connect riders to the RapidRide F Line, Sound Transit buses, the Sounder train, and local bus service. See the RapidRide I Line map for specific station locations.

What makes RapidRide different from other buses?

RapidRide service is designed to carry more riders with greater speed, reliability, and frequency than a standard bus. RapidRide brings features like road improvements and dedicated bus lanes to help reduce traffic common on traditional bus routes.



Curbside bus-only lane



Why upgrade to RapidRide?



To serve our many riders: Route 160, previously routes 169 and 180, is one of the busiest Metro routes in south King County, carrying nearly 8,000 riders each weekday. Route 160 continues to be one of Metro's most popular routes throughout the day.



To improve transit connections: RapidRide I Line will connect riders to the RapidRide F Line, Sound Transit's buses, the Sounder train and local bus service. RapidRide I Line is one part of a larger, system-wide approach to make transit in south King County more accessible.



To enhance the customer experience: RapidRide is designed to be faster, more reliable, and frequent. Buses with three doors means all passengers can get on and off more quickly, including passengers with mobility challenges.

What benefits can I expect?



Reliable service: RapidRide buses will be more frequent and arrive on time more often, with additional service at night and on weekends.



Bus station upgrades: Most RapidRide stations will include improved lighting, signs with real-time arrival information, and more seating.



Better access: Metro is working with local cities to improve sidewalks, street crossings, and other pathways to bus stations to create a safe and convenient experience.

How has my community shaped project designs?

People who live, work, and play in south King County shared feedback with Metro throughout RapidRide I Line project development that helped shape Metro's project plans. Community members shared feedback with Metro in several ways during the 60 percent final design phase, including comments on the online open house, through emails, in one-on-one conversations, and on social media.



Identifying transit needs: Community members provided input on their transit priorities, including needs for stations close to grocery stores, schools, medical centers, and other community gathering places. This feedback influenced how Metro determined where to place RapidRide stations.



Making transit easier to access: South King County community feedback helped Metro refine station designs and local roadway and accessibility improvements.



Creating comfortable spaces/Bus station design: As Metro advanced RapidRide I Line designs, community members reviewed RapidRide I Line station features and shared their feedback to help create the best bus stations for all riders.

Project timeline

- Spring – Summer 2019:** Metro engaged the community and partners to help draft design concepts and inform station locations, service changes, and projects to improve access to the bus.
- Fall 2019 – Fall 2020:** Metro used community feedback to inform and revise preliminary designs. In September 2020, bus routes 169 and 180 combined to create Route 160.
- Winter 2020 - Spring 2021:** Metro conducted field work and collaborated with property owners and businesses along the route. Metro also gathered feedback on final design concepts.
- 2025:** Construction planned to start.
- 2026:** Planned service launch for RapidRide I Line.

Station locations that promote equitable and accessible service to historically underserved communities.

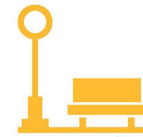


Increased bus service for south King County communities.



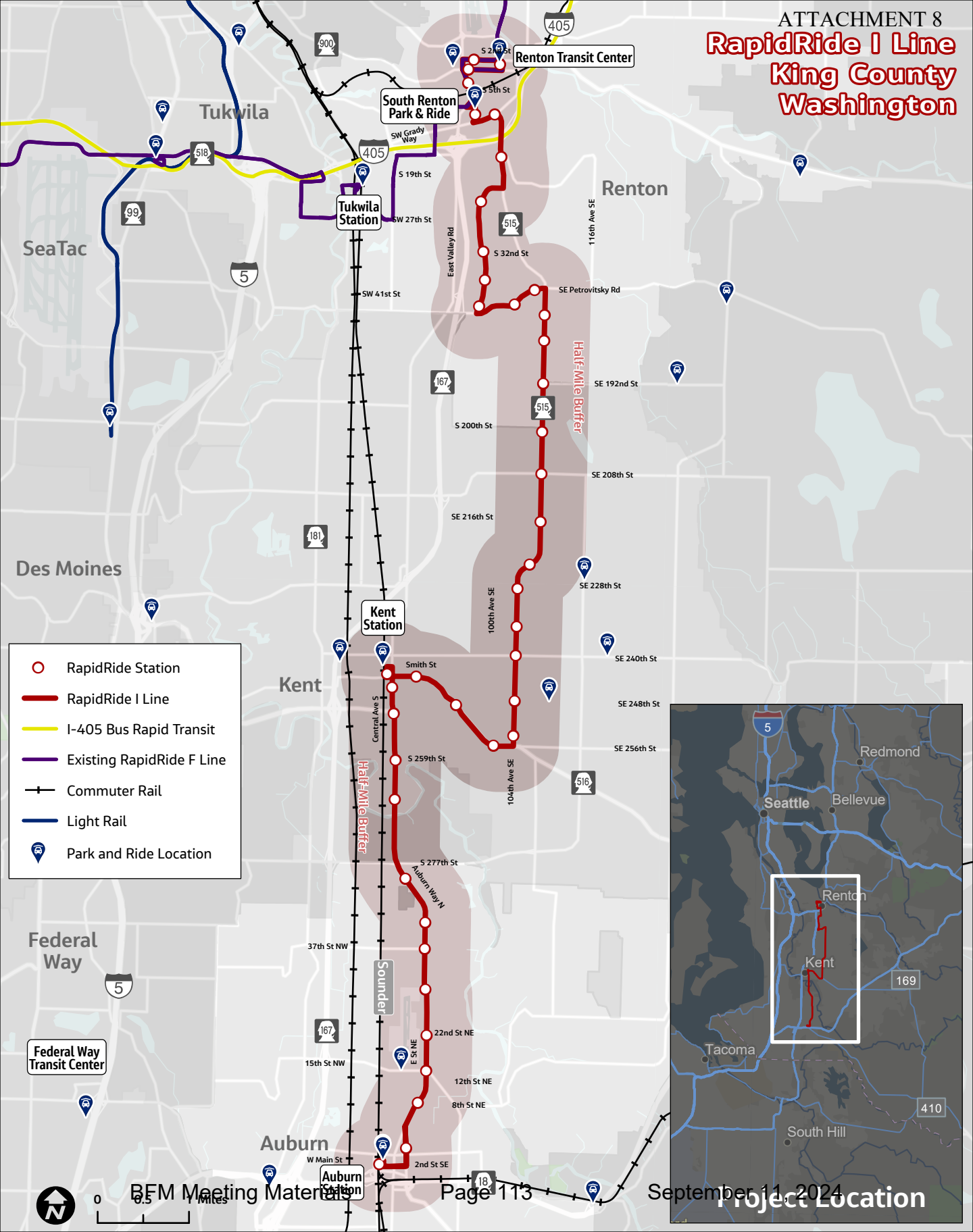
Station locations that meet local business, school, and community needs.

Station locations that are safe, convenient, and accessible.

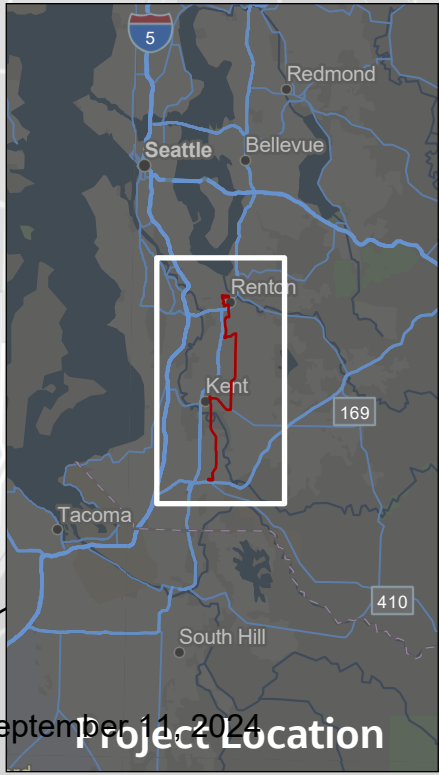


Station features that promote riders' safety and comfort.

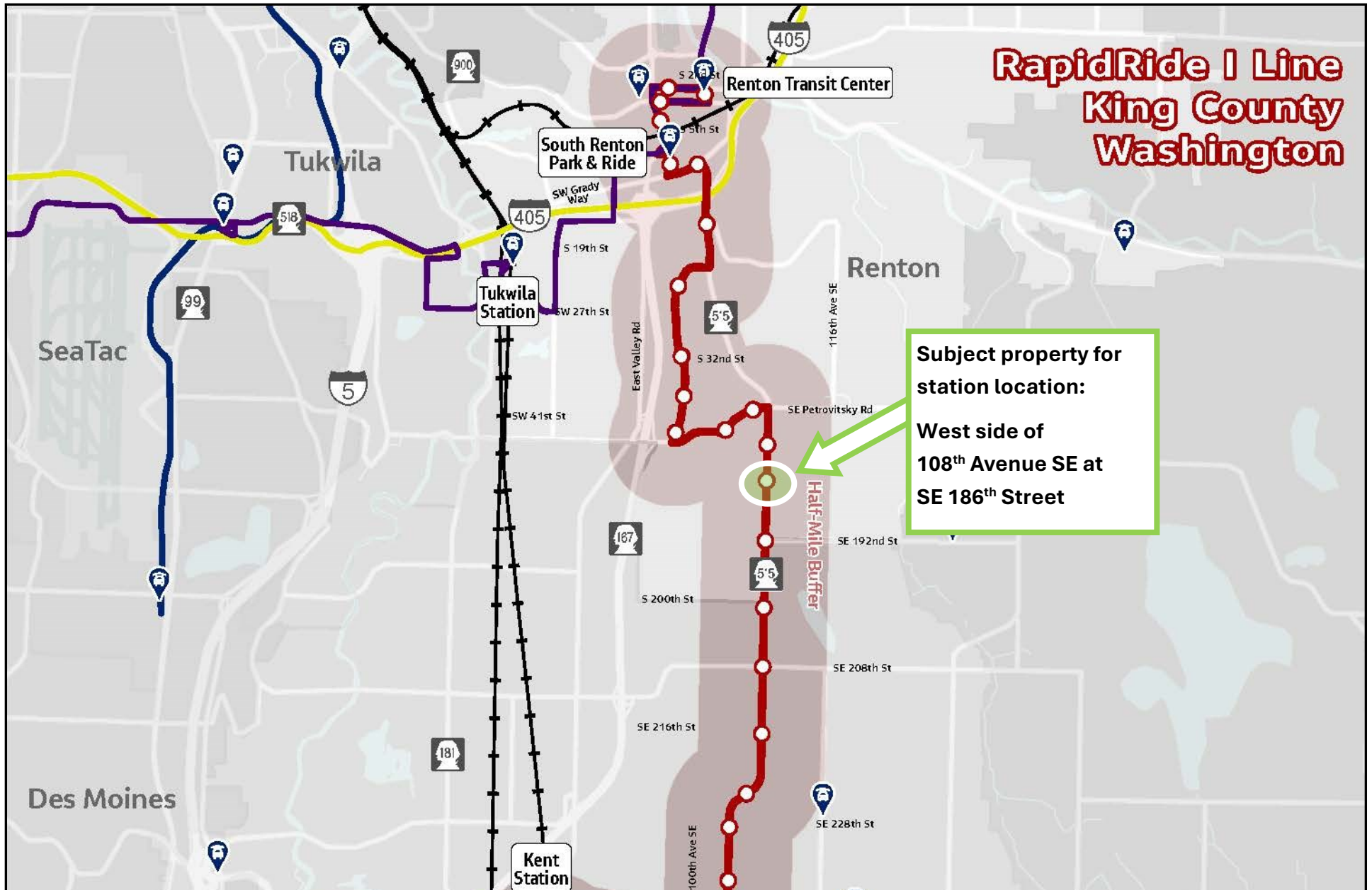
ATTACHMENT 8
RapidRide I Line
King County
Washington



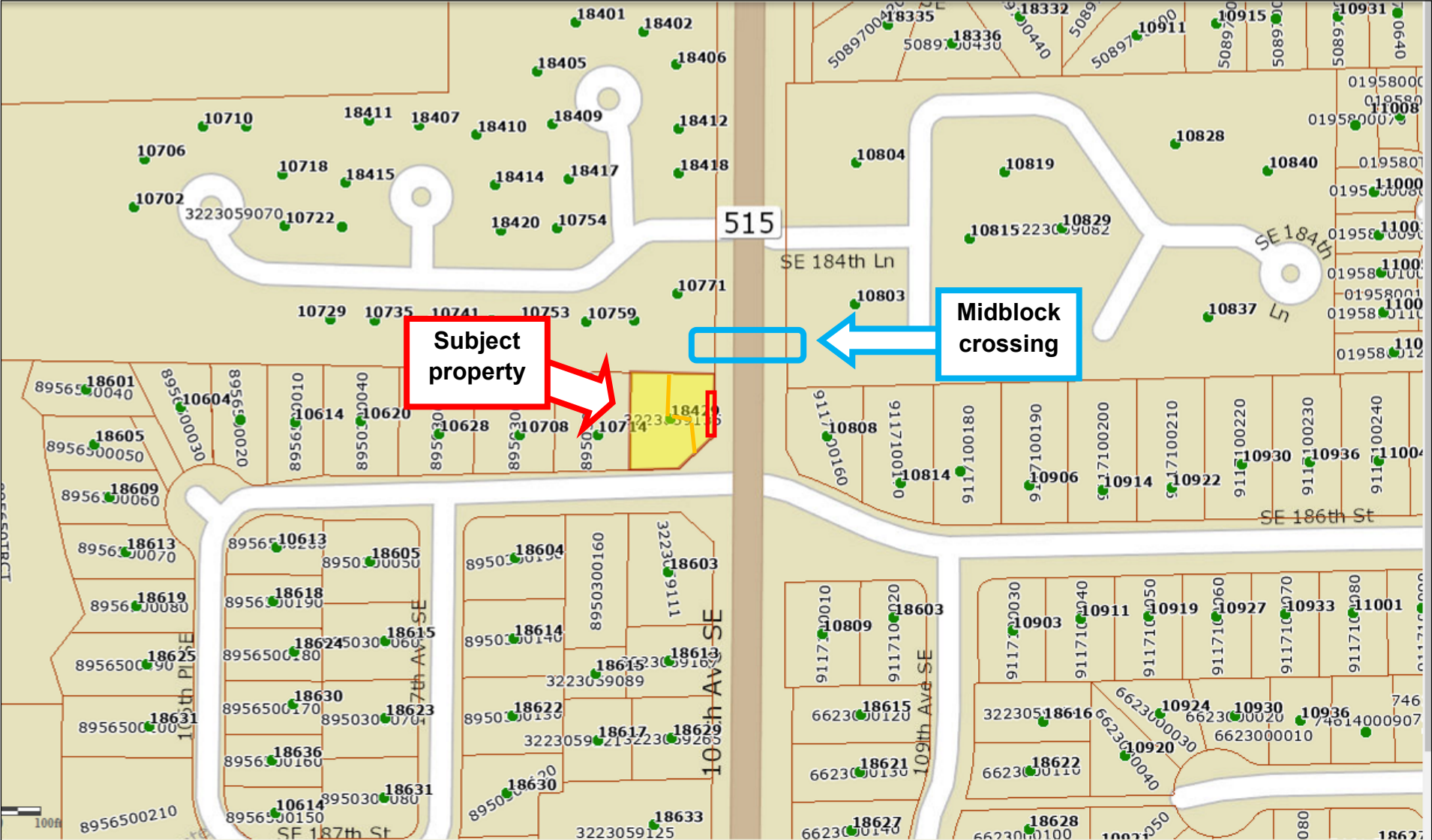
- RapidRide Station
- RapidRide I Line
- I-405 Bus Rapid Transit
- Existing RapidRide F Line
- Commuter Rail
- Light Rail
- 📍 Park and Ride Location



RapidRide I Line | Proposed Ordinance 2024-0226 | Station Location

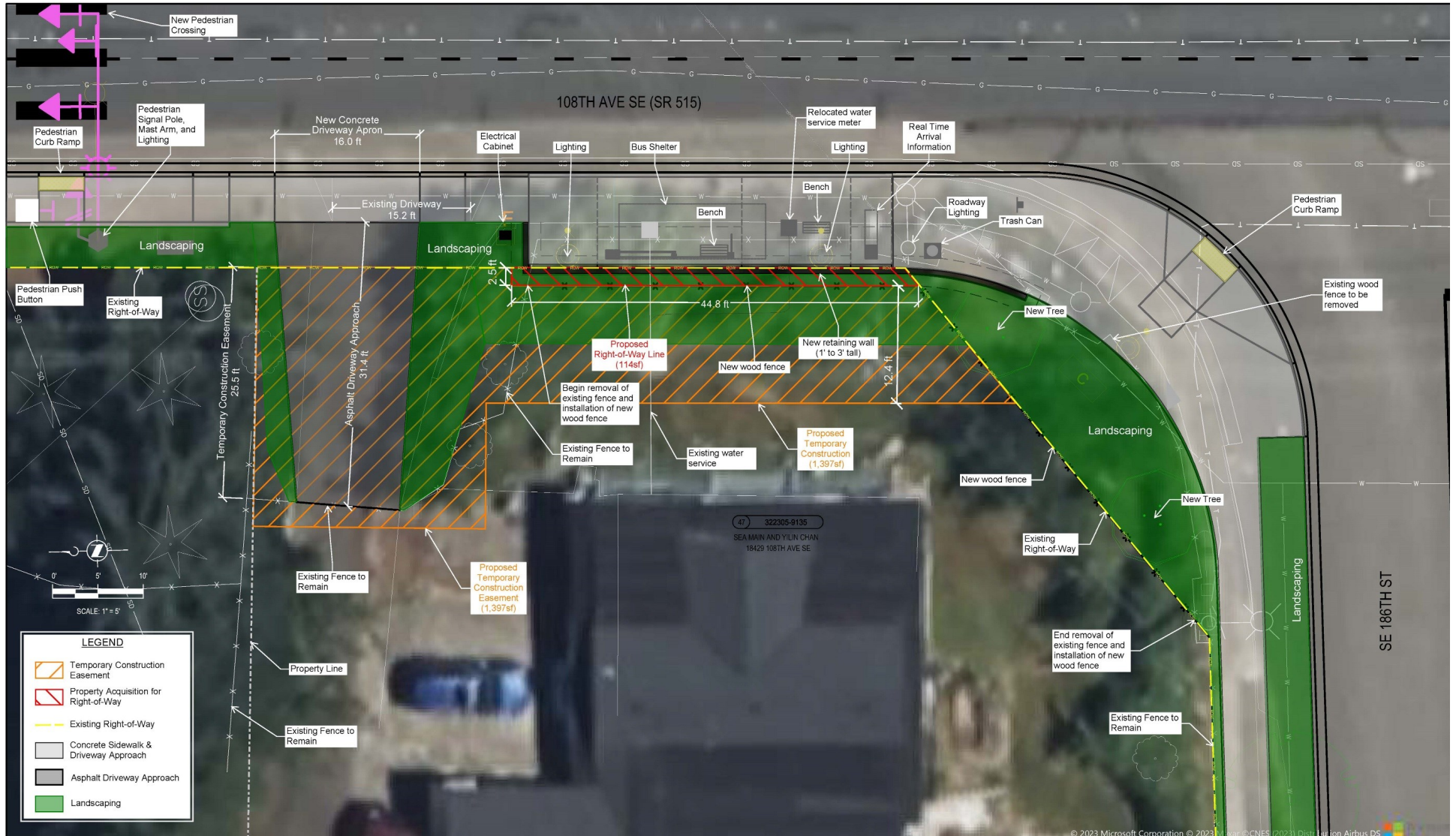


RapidRide I Line | Proposed Ordinance 2024-0226 | Subject Property



The subject property is shaded in yellow. The approximate area of the proposed condemnation (114 sf) for the station location is outlined in red. The approximate area of the proposed temporary construction easement (1,397 sf) is outlined in orange. The approximate location of the planned mid-block crossing for the I Line is shown in blue. This location has been approved by WSDOT and the City of Renton.

RapidRide I Line | Proposed Ordinance 2024-0226 | Acquisition



Existing public right-of-way = yellow dashed line

Proposed acquisition = red hatched area (114 sq ft) | Temporary construction easement = orange hatched area (1,397 sq ft)

Proposed midblock crossing = pink lines and arrows (this is not part of Proposed Ordinance 2024-0226)

RapidRide I Line | Proposed Ordinance 2024-0226 | Station Image



The RapidRide I Line has 82 proposed station locations, with 41 station locations in each direction. Station pair locations are defined in the Locally Preferred Alternative in figures 3-5 through 3-8. The following table details the key cross-street location of each station pair by local jurisdiction.

Local Jurisdiction	Station Pair Locations
Renton	<ul style="list-style-type: none"> • Renton Transit Center • 2nd/3rd Streets and Shattuck • Rainier Avenue S and S 3rd/4th Place • S Renton Transit Center • S Grady Way and Talbot Road S • State Route 515 and S Puget Drive • Talbot Road S and S 23rd Street • Talbot Road S and S 32nd Street • Talbot Road S and S 37th Street • Talbot Road S and S Carr Road • SE Carr Road and 103rd Avenue SE • SE Carr Road and 106th Place SE • 108th Avenue SE and SE 180th Street • 108th Avenue SE and SE 186th Street <<station location affected by PO 2024-0226>> • 108th Avenue SE and SE 192nd Street (Inbound/northbound only)
Kent	<ul style="list-style-type: none"> • 108th Avenue SE and SE 192nd Street (outbound/southbound only) • 108th Avenue SE and SE 200th Street • 108th Avenue SE and SE 208th Street • 108th Avenue SE and SE 217th Street • Benson Road SE and SE 224th Street • 104th Avenue SE and SE 228th Street • 104th Avenue SE and SE 235th Street • 104th Avenue SE and SE 240th Street • 104th Avenue SE and SE 248th Street • 104th Avenue SE and SE 253rd Place • SE 256th Street and 101st Avenue SE • Canyon Drive SE and 94th Avenue S • E Smith Street and Jason Avenue N • Kent Transit Center • Central Avenue S and E Meeker Street • Central Avenue S and E Willis Street • Central Avenue S and S 259th Street • Central Avenue S and S 266th Street

Auburn

- Auburn Way N and 49th Street NE
 - Auburn Way N and 42nd Street NE
 - Auburn Way N and 37th Street NE
 - Auburn Way N and 30th Street NE
 - Auburn Way N and 22nd Street NE
 - Auburn Way N and 15th Street NE
 - Auburn Way N and 9th Street NE
 - Auburn Way N and 1st Street NE
 - Auburn Transit Center
-



King County

**Metropolitan King County Council
Budget and Fiscal Management Committee**

STAFF REPORT

Agenda Item:	8	Name:	Jenny Giambattista
Proposed No.:	2024-0269	Date:	September 11, 2024

SUBJECT

Proposed Ordinance 2024-0269 would authorize the Executive to enter into a loan agreement with the Washington State Department of Ecology for loan financing of a wastewater capital project.

SUMMARY

Proposed Ordinance 2024-0269 would authorize the Executive to enter into a loan agreement in the amount of \$10,163,264 with the Washington State Department of Ecology (Ecology) for loan financing of capital costs associated with the West Duwamish Combined Sewer Overflow (CSO) Project. This loan would have an annual interest rate of 1.6 percent and is estimated to save King County more than \$5.4 million in interest expense over the term of the loan compared to conventional bond financing.

BACKGROUND

The State Revolving Fund (SRF) Loan Program. The Clean Water Act established the State Revolving Fund low-interest loan program. Washington State administers this program under Chapter 173-98 WAC. It is managed by the Department of Ecology and provides low-interest and forgivable principal loan funding for wastewater treatment construction projects, eligible nonpoint source pollution control projects, and eligible “green” projects. The Department of Ecology makes SRF funding available annually. There is a limit to the amount of funding that an entity is eligible to receive in each SRF loan funding cycle. Since 2000, the WTD has been awarded over \$701 million in SRF loans.

West Duwamish Combined Sewer Overflow (CSO). This project will improve water quality in the Duwamish River through the storage of untreated wastewater discharges and conveyance of stored wastewater to the West Point Treatment Plan in the City of Seattle. The project involves construction of a 1.25-million-gallon underground storage tank near the intersection of Southwest Michigan Street and Second Avenue Southwest on the west side of the Duwamish River, reducing CSOs from the Highland Park and

South Park basins. This will reduce stormwater overflow events to once per year on a rolling average at two discharge points. This project will meet the requirement of the 2013 Consent Decree with State and federal agencies to meet the Washington State standard of no more than one untreated discharge per year per CSP outfall based on a 20-year moving average, by the year 2037. The SRF loan will fund King County's design phase expenditures for the West Duwamish CSO project.

Future Funding for SRF Loan Program. WTD expects more loan funds to be available. SRF loans are awarded annually and WTD applies each year. For Ecology's FY 2025 cycle, WTD has two projects that were awarded funding on Ecology's Final Offer List published July 2024. WTD was awarded \$1.9 million for the design phase of the WPTP Grit Classifier Replacement project and \$8.1 million for the planning phase of the Sammamish Plateau Diversion project in SRF loan funds.

Roughly half of the Bipartisan Infrastructure Law funding was made available as grants/principal forgiveness loans targeted for "disadvantaged communities." Distribution of these grant funds is pending further guidance from EPA to the states regarding eligibility.

ANALYSIS

Proposed Ordinance 2024-0269 would authorize King County to enter into a loan agreement with the Washington State Department of Ecology for loan financing of capital costs associated with the West Duwamish Combined Sewer Overflow Control project. The following are the major agreement terms:

- Total loan amount: \$10,163,264
- Loan Term: 30 years
- Effective Interest Rate¹: 1.6 percent
- Repayment: Semiannual payments of principal and interest commence one year after the project is completed and is repaid over 60 equal semi-annual installments from the Water Quality Capital Improvement Fund.
- Effective date: February 1, 2022. The effective date goes back to the start of the design which allows WTD to go back to this date for purposes of submitting design expenditures for reimbursement.
- Expiration date: July 31, 2025. This expiration date is the last day in which eligible expenditures could be utilized for reimbursement so any expenditures after July 31, 2025 would be ineligible for loan participation.

Savings and Repayment. The estimated savings on utilizing SRF loan financing instead of conventional debt financing are detailed in the fiscal note. For this loan agreement, the 1.6 percent interest rate is projected to save King County more than \$5.4 million in interest expense over 30 years, compared to conventional 30-year bond financing.

¹ Includes 0.3% Ecology Administration Charge

Loan Requirements. The proposed SRF loan comes with various requirements, including quarterly reporting to Ecology. The Wastewater Treatment Division does not anticipate any difficulties in complying with the performance requirements for the loan.

Legal Review. Legal review is pending.

INVITED

- Sharman Herrin, Government Relations Administrator, Wastewater Treatment Division
- Steve Baruso, Grants Administrator, Wastewater Treatment Division

ATTACHMENTS

1. Proposed Ordinance 2024-0269 (and its attachment)
2. Transmittal Letter
3. Fiscal Note



KING COUNTY
Signature Report

ATTACHMENT 1
1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Ordinance

Proposed No. 2024-0269.1

Sponsors Zahilay

1 AN ORDINANCE authorizing the King County executive
2 to enter into an agreement with the Washington state
3 Department of Ecology for loan financing of a wastewater
4 capital project.

5 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

6 **SECTION 1. Findings:**

7 A. The Washington state Department of Ecology has awarded the department of
8 natural resources and parks \$10,163,264 in a State Revolving Fund loan for the fiscal
9 year 2024 cycle.

10 B. The low-interest loan will save King County \$5,385,838 in interest payments
11 over thirty years, which is \$3,553,187 net present value, as compared to conventional
12 bond financing.

13 C. The State Revolving Fund loan will assist in financing the design phase for the
14 West Duwamish CSO Control project that is part of King County's wastewater capital
15 improvement program.

16 **SECTION 2.** A. The King County executive or designee is hereby authorized to
17 enter into this agreement with the Washington state Department of Ecology for the design
18 phase of the West Duwamish CSO Control project.

19 B. The maximum loan amount for the West Duwamish CSO Control project shall
20 be \$10,163,264 plus interest.

21 C. The thirty-year loan agreement shall have an annual interest rate of 1.6
22 percent.

23 D. The loan agreement shall be substantially in the form of Attachment A to this
24 ordinance.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Dave Upthegrove, Chair

ATTEST:

Melani Pedroza, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: A. Agreement No. WQC-2024-KCoNRP-00004, Water Quality Combined Financial Assistance 2024 Agreement Between the State of Washington Department of Ecology and King County Department of Natural Resources and Par

Agreement No. WQC-2024-KCoNRP-00004**WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT****BETWEEN****THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY****AND****KING COUNTY DEPARTMENT OF NATURAL RESOURCES & PARKS - WTD**

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as “ECOLOGY,” and King County Department of Natural Resources & Parks - WTD, hereinafter referred to as the “RECIPIENT,” to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	West Duwamish CSO Control Project
Total Cost:	\$10,163,264.00
Total Eligible Cost:	\$10,163,264.00
Ecology Share:	\$10,163,264.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	02/01/2022
The Expiration Date of this Agreement is no later than:	07/31/2025
Project Type:	Wastewater Facility

Project Short Description:

This project will improve water quality in the Duwamish River through the design for storage of untreated wastewater discharges, and conveyance of stored wastewater to the West Point Wastewater Treatment Plant in the City of Seattle.

This project will reduce combined sewer overflows (CSO) to once per year on a rolling average, at two discharge points. Benefits include improved water quality in the downstream Duwamish River and Elliott Bay by reducing the discharge of untreated wastewater.

Project Long Description:

This project will improve water quality in the Duwamish River through the design for storage of untreated wastewater discharges, and conveyance of stored wastewater to the West Point Wastewater Treatment Plant in the City of Seattle.

This project will reduce CSOs to once per year on a rolling average, at two discharge points. Benefits include improved water quality in the downstream Duwamish River and Elliott Bay by the reducing the discharge of untreated wastewater.

Agreement No: WQC-2024-KCoNRP-00004
Project Title: West Duwamish CSO Control Project
Recipient Name: King County Department of Natural Resources & Parks - WTD

The West Duwamish CSO Control Project will control the West Michigan Street Regulator Station (RS) Overflow, and Terminal 115 Overflow, to the Washington State standard of one-event per year on a rolling 20-year average. Currently, the W. Michigan St. RS Overflow discharges 4.4 times per year on average and the Terminal 115 Overflow discharges 1.9 times per year on average.

The facility will include the following components:

- Below-grade 1.25-million-gallon combined sewage storage tank.
- 100-foot-long-36-inch diameter pipeline, from the existing West Michigan Street RS Outfall to the new storage tank.
- 140-foot-long-36-inch diameter pipeline, from the storage tank to the lower segment of the West Michigan Street RS Outfall.
- Above-grade facility building and outdoor odor control area, electrical and instrumentation and control (I&C) systems, and utility water system.
- Standby emergency generator.
- Stormwater bioretention facility.
- Modifications to the existing T115 overflow structure.
- New WDI diversion structure.

Overall Goal:

To store high combined sewer overflows (CSO) before they are discharged until the system can accommodate them through existing primary treatment and disinfection systems. This will meet the requirement of the 2013 Consent Decree with State and federal agencies to meet the Washington State standard of no more than one untreated discharge per year per CSO outfall based on a 20-year moving average, by the year 2030.

Agreement No: WQC-2024-KCoNRP-00004
Project Title: West Duwamish CSO Control Project
Recipient Name: King County Department of Natural Resources & Parks - WTD

RECIPIENT INFORMATION

Organization Name: King County Department of Natural Resources & Parks - WTD

Federal Tax ID: 91-6001327
UEI Number: EU1QJXNMWKE9

Mailing Address: 201 S Jackson, Suite 500
Seattle, WA 98104-3855

Physical Address: 201 S Jackson, Suite 500
Seattle, Washington 98104-3855

Organization Email: steve.baruso@kingcounty.gov

Contacts

Agreement No: WQC-2024-KCoNRP-00004
 Project Title: West Duwamish CSO Control Project
 Recipient Name: King County Department of Natural Resources & Parks - WTD

<p>Project Manager</p>	<p>Maud de Bel Supervisor</p> <p>201 S Jackson, Suite 500 Seattle, Washington 98104-3855 Email: mdebel@kingcounty.gov Phone: (206) 477-5366</p>
<p>Billing Contact</p>	<p>Steve Baruso Grants Administrator</p> <p>201 S Jackson St. KSC Suite 500 Seattle, Washington 98104 Email: steve.baruso@kingcounty.gov Phone: (206) 477-5366</p>
<p>Authorized Signatory</p>	<p>Kamuron Gurol Division Director</p> <p>201 S Jackson, Suite 500 Seattle, Washington 98104 Email: kgurol@kingcounty.gov Phone: (206) 549-1190</p>

Agreement No: WQC-2024-KCoNRP-00004
 Project Title: West Duwamish CSO Control Project
 Recipient Name: King County Department of Natural Resources & Parks - WTD

ECOLOGY INFORMATION

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

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

Contacts

<p>Project Manager</p>	<p>Kenneth D. Ziebart P.E., Project Manager PO Box 330316 Shoreline, Washington 98133-9716 Email: kzie461@ecy.wa.gov Phone: (206) 594-0163</p>
<p>Financial Manager</p>	<p>Tammie McClure PO Box 47600 Olympia, Washington 98504-7600 Email: tmcc461@ecy.wa.gov Phone: (360) 628-4315</p>
<p>Technical Advisor</p>	<p>Sean Wilson PO Box 330316 Shoreline, Washington 98133-9716 Email: SEWI461@ecy.wa.gov Phone: (425) 577-4864</p>

Agreement No: WQC-2024-KCoNRP-00004
 Project Title: West Duwamish CSO Control Project
 Recipient Name: King County Department of Natural Resources & Parks - WTD

AUTHORIZING SIGNATURES

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

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

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

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

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

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

Washington State
Department of Ecology

King County Department of Natural Resources & Parks
- WTD

By: _____

By: _____

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

Kamuron Gurol Date
 Division Director

Template Approved to Form by
Attorney General's Office

Agreement No: WQC-2024-KCoNRP-00004
 Project Title: West Duwamish CSO Control Project
 Recipient Name: King County Department of Natural Resources & Parks - WTD

SCOPE OF WORK

Task Number: 1 **Task Cost: \$0.00**

Task Title: Grant and Loan Administration

Task Description:

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

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

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

Task Goal Statement:

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

Task Expected Outcome:

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

Recipient Task Coordinator: Steve Baruso

Grant and Loan Administration

Deliverables

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

Agreement No: WQC-2024-KCoNRP-00004
Project Title: West Duwamish CSO Control Project
Recipient Name: King County Department of Natural Resources & Parks - WTD

SCOPE OF WORK

Task Number: 2 **Task Cost: \$7,846,436.00**

Task Title: Design

Task Description:

- A. The RECIPIENT will procure engineering services in accordance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT must submit all contracts for engineering services before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will design the West Duwamish CSO Control Project. Plans and specifications developed by the RECIPIENT must be consistent with the requirements of Chapter 173-240 WAC. The plans and specifications, and addenda, will be approved by the RECIPIENT prior to submittal for ECOLOGY review. All construction plans submitted to ECOLOGY for review and approval will be reduced to no larger than 11" x 17" in size. The project manager may request plans be submitted in either PDF or AutoCAD electronic format, and specifications in a searchable PDF or Microsoft Word electronic file. An updated construction cost estimate will be submitted with each plan/specification submittal. The project manager may request a spreadsheet of the estimate in Excel electronic file format.
- C. The RECIPIENT will conduct an Investment Grade Efficiency Audit (IGEA). The RECIPIENT will review their energy use for cost-effective energy savings. The RECIPIENT may submit documentation of an energy efficiency review conducted within the last 5 years as an alternative.
- D. The RECIPIENT will submit requirements outlined in the EID Guidance, Part A, and in the SERP EID, with plans and specification submitted to ECOLOGY for approval.
- E. The RECIPIENT will comply with all applicable state and federal laws and authorities. The RECIPIENT will coordinate with ECOLOGY to determine which federal assurances are required. For SERP, the RECIPIENT will submit the minimum requirements as outlined in the EID Guidance, Part B and in the SERP EID at the time plans and specification are submitted to ECOLOGY for approval. The RECIPIENT will provide an Ecology Cultural Resources Review form as part of the minimum SERP requirements. The RECIPIENT will provide any additional information for ECOLOGY to lead the required cultural resources consultation.
- F. The RECIPIENT will complete an Ecology inadvertent discovery plan template for their project.
- I. The RECIPIENT will notify Ecology when deliverables are available and have been uploaded to EAGL.
- G. All mitigation measures committed to in documents developed in the SERP process, such as the environmental mitigation plan, environmental checklist, environmental report, SEPA environmental impact statement (EIS), the finding of no significant impact/environmental assessment, or record of decision/federal EIS will become revolving fund loan agreement conditions. All recipients of funding for water pollution control facility projects must comply with the SERP in accordance with WAC 173-98-720.

Task Goal Statement:

Agreement No: WQC-2024-KCoNRP-00004
 Project Title: West Duwamish CSO Control Project
 Recipient Name: King County Department of Natural Resources & Parks - WTD

See overall goal.

Task Expected Outcome:

See overall goal.

Design

Deliverables

Number	Description	Due Date
2.1	Executed contracts for engineering services, and documentation of the RECIPIENT’s process for procuring engineering services.	
2.2	One electronic copy of the draft design, and one electronic copy and one paper copy of the final design.	
2.3	Documentation of an energy efficiency review.	
2.4	SERP EID documents.	
2.5	Ecology Cultural Resources Review form.	
2.6	Inadvertent Discovery Plan.	
2.7	Environmental Mitigation Plan.	

Agreement No: WQC-2024-KCoNRP-00004
Project Title: West Duwamish CSO Control Project
Recipient Name: King County Department of Natural Resources & Parks - WTD

SCOPE OF WORK

Task Number: 3 **Task Cost:** \$2,316,828.00

Task Title: Design Oversight - Force Account

Task Description:

A. The RECIPIENT will provide oversight of the consultant’s design portion of the project using Recipient’s forces. The RECIPIENT acknowledges that it has the legal authority to perform the work, and adequate and technically qualified staff to perform the work without compromising other government functions. The RECIPIENT will coordinate design oversight to avoid redundant work effort performed by the consultant in Task 2.

B. The RECIPIENT will provide design oversight and review the design for the West Duwamish CSO Control Project. The RECIPIENT will review plans and specifications for consistency with the requirements of Chapter 173-240 WAC and the Recipient’s own requirements. Elements of the design oversight accomplished by Force Account will include:

- Manage elements of the design scope, including schedule, budget, risks, quality, procurement, completeness of design, and other aspects as needed.
- Oversee the technical and engineering elements of the project.
- Provide support on contract, scheduling, cost, risk, and budget management.
- Provide constructability reviews.

C. The RECIPIENT will provide an exhibit of anticipated work indicating hours, hourly rates, and personnel proposed to be used.

Task Goal Statement:

See overall goal.

Task Expected Outcome:

See overall goal.

Agreement No: WQC-2024-KCoNRP-00004
 Project Title: West Duwamish CSO Control Project
 Recipient Name: King County Department of Natural Resources & Parks - WTD

Design Oversight - Force Account

Deliverables

Number	Description	Due Date
3.1	Design Oversight-Force Account description of work and budget for the Design Oversight-Force Account services.	
3.2	Salary and benefit documentation by staff personal will be provided as backup to the Payment Request/Progress Report submitted for reimbursement of Design Oversight-Force Account expenditures and will include dates worked, hours worked, hourly rate paid, and benefits earned for only the time worked on this project.	

Agreement No: WQC-2024-KCoNRP-00004
 Project Title: West Duwamish CSO Control Project
 Recipient Name: King County Department of Natural Resources & Parks - WTD

BUDGET

Funding Distribution EL240626

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

Funding Title:	SRF Loan (Federal)	Funding Type:	Loan
Funding Effective Date:	02/01/2022	Funding Expiration Date:	07/31/2025

Funding Source:

Title: CWSRF-SFY24 (Federal-Base)

Fund: FD0727

Type: Federal

Funding Source %: 100%

Description: The Clean Water Act (CWA) (33 U.S.C 1251-1387) established the State Revolving Fund (SRF) low interest loans program (40. C.F.R. Part 31, 35 Sub Part K). Washington State administers the program under Chapter 173-98 WAC. This project has been identified as a Designated Equivalency project (DEP) and is subject to all federal requirements EPA applies to Clean Water State Revolving Funds. In addition to the federal requirements outlined in Section 4 and 5 of agreement terms and conditions, the RECIPIENT must maintain documentation of compliance with all federal cross cutters, federal procurement requirements for architectural and engineering services (Chapter 11 of Title 40, U.S.C) and Build America, Buy America Act (BABA). The portion of the project funded by this funding distribution is subject to the Single Audit Act (SAA) and Federal Funding Accountability and Transparency Act (FFATA) and funds disbursed using this funding distribution should be tracked and reported as federal funds on the recipients Schedule of Expenditures of Federal Awards (SEFA) reporting form.

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Federal Awarding Agency: EPA
 Federal Awarding Agency Contact: David Carcia
 Federal Awarding Agency Phone: 206-533-0890
 Federal Awarding Agency Email: carcia.david@epa.gov
 Federal Awarding Agency Address: 1200 Sixth Avenue, Suite 900, Seattle, WA 98101

CFDA Catalog Name: Capitalization Grants for Clean Water State Revolving Funds

CFDA Number: 66.458
 FAIN: 53000123
 Research Grant: No
 Federal Award Date: 7/1/2023
 Total Federal Award Amount: \$13,045,000.00
 Federal Funds Obligated To Recipient: \$10,163,264.00

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

Effective Interest Rate: 1.2% Interest Rate: 0.9% Admin Charge: 0.3%

Terms: 20 years

Project Start Date: 02/01/2022 Project Completion Date: 07/31/2025

Estimated Initiation of Operation date: 07/31/2025

Loan Security: Revenue Secure Lien Obligation of the Recipient

Final Accrued Interest: \$

Final Loan Amount: \$

Repayment Schedule Number: 821

SRF Loan (Federal)	Task Total
Design	\$ 7,846,436.00
Design Oversight - Force Account	\$ 2,316,828.00

Total: \$ 10,163,264.00

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Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
SRF Loan (Federal)	0.00 %	\$ 0.00	\$ 10,163,264.00	\$ 10,163,264.00
Total		\$ 0.00	\$ 10,163,264.00	\$ 10,163,264.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

WQC-2024—Water Quality Program Special Terms and Conditions (Update June 2023)

SECTION 1: DEFINITIONS

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

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

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

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

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

“Accrued Interest” means the interest incurred as loan funds are disbursed.

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

“Build American Buy American (BABA)” means a portion of the Infrastructure Investment and Jobs Act and establishes a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022.

“Bipartisan Infrastructure Law (BIL)” means funding to improve drinking water, wastewater and stormwater infrastructure.

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

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

“Construction Materials” means an article, material, or supply (other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; aggregate binding agents or additives; or non-permanent products) that is or consists primarily of, non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), (including optic glass), lumber, and drywall.

“Cost Effective Analysis” means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water

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quality problem as described in Chapter 173-98-730 WAC.

“Davis Bacon Prevailing Wage Act” means the federal law mandating on-site workers on public works projects be paid certain wages, benefits, and overtime (also known as “prevailing wage” on all government-funded construction, alteration, and repair projects.

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

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

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

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

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount and the estimated schedule for completion of the project.

“Equivalency” means the amount of State Revolving Fund (SRF) funding each funding cycle equivalent to the EPA grant to Ecology.

“Equivalency Project” means State Revolving Fund (SRF) funded project(s) designated by ECOLOGY to receive federal funding and meet additional federal requirements.

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

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

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

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount and the initiation of operation or completion date, whichever comes first.

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

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

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

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

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

“Initiation of Operation Date” means the actual date the facility financed with proceeds of the loan begins to operate for its intended purpose. (For loans only)

“Iron and Steel Products” means products made primarily of iron or steel including but may not be limited to: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

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

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

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

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

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

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

“Manufactured Products” means, items and construction materials composed in whole or in part of non-ferrous metals such as aluminum plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

“Produced in the United States” means for iron and steel products, that all manufacturing processes, from the initial melting state through the application of coatings, occurred in the United States.

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

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

“Prevailing Wage” means hourly wage, usual benefits, and overtime paid in the largest city in each county, to the majority of workers, laborers, and mechanics performing the same work. The rate is established separately for each county.

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

“Project” means the project described in this agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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“Unique Entity Identity Identifier (UEI)” means a 12-character alphanumeric ID assigned by SAM.gov. to an entity doing business with or receiving funds from the federal government. This number replaces the DUNS number.

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

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

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

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

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

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

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

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

- a. Evidence of Land Value and Title. The RECIPIENT shall submit documentation of the cost of the property rights and the type of ownership interest that has been acquired.
- b. Legal Description of Real Property Rights Acquired. The legal description of the real property rights purchased with funding assistance provided through this agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the agreement before final payment.
- c. Conveyance of Rights to the State of Washington. Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT shall execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired, and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT shall use language provided by ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

Documentation Options:

1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. RECIPIENTS shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes. The RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the deed of right.
2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
3. Easements and Leases. The RECIPIENT may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language

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will depend on the situation; therefore, the RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the easement or lease.

d. Real Property Acquisition and Relocation Assistance.

1. Federal Acquisition Policies. See Section 4 of this agreement for requirements specific to Section 319 and SRF funded projects.
2. State Acquisition Policies. When state funds are part of this agreement, the RECIPIENT agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.
3. Housing and Relocation. In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the RECIPIENT agrees to provide any housing and relocation assistance required.

e. Hazardous Substances.

1. Certification. The RECIPIENT shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:
 - i. No hazardous substances were found on the site, or
 - ii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site is deemed “clean.”
2. Responsibility. Nothing in this provision alters the RECIPIENT's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
3. Hold Harmless. The RECIPIENT will defend, protect and hold harmless ECOLOGY and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the RECIPIENT is acquiring.

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

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

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

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

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

G. Funding Recognition: The RECIPIENT must inform the public about any ECOLOGY or EPA funding participation in this

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project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Contact your Ecology Project Team to determine the appropriate recognition for your project.

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

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

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

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

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

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

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

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

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

A. Data Reporting: The RECIPIENT must complete the "Section 319 Initial Data Reporting" form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project for EPA.

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

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

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

"This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology. The contents of this document do not necessarily reflect the views

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and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute endorsement or recommendation for use.”

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

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

SECTION 4: CONDITIONS APPLY TO ALL FEDERAL FUNDING AGREEMENTS, INCLUDING SECTION 319, State Revolving Fund (SRF) Equivalency Projects, and SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANT (OSG)

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

B. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse’s Internet Data Entry System available at: <https://facweb.census.gov/>.

C. Archaeological Resources and Historic Properties (Section 106): This requires completion of the Ecology Cultural Resources Review Form, coordination with Ecology Cultural Resources staff, and receipt of the Ecology Final Determination prior to any property acquisition and above and below ground disturbing activities.

D. Architectural and Engineering Services Procurement: The RECIPIENT must procure architectural and engineering services in accordance with the federal requirements in Chapter 11 of Title 40, U.S.C. (see <https://uscode.house.gov/view.xhtml?path=/prelim@title40/subtitle1/chapter11&edition=prelim>).

E Build America, Buy America (BABA – Pub. L. No. 117-58, 70901-52) (Federally funded SRF Equivalency projects only): The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding agrees to comply with all federal requirements applicable to the assistance received (including those imposed by the Infrastructure Investment and Jobs Act (“IIJA”/BIL), Public Law No. 117-58) which the RECIPIENT understands includes, but is not limited to, the following requirements: that all the iron and steel, manufactured products, and construction materials used in the Project are to be produced in the United States (“Build America, Buy America Requirements”) unless (i) the RECIPIENT has requested and obtained a waiver from the cognizant Agency pertaining to the Project or the Project is otherwise covered by a general applicability waiver; or (ii) all of the contributing Agencies have otherwise advised the RECIPIENT in writing that the Build America, Buy America Requirements are not applicable to the project.

RECIPIENT shall comply with all record keeping and reporting requirements under all applicable legal authorities, including any reports required by the funding authority (such as EPA and/or a state), such as performance indicators of program deliverables, information on costs and project progress. The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding, understands that (i) each contract and subcontract related to the project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the applicable legal requirements and this Agreement may result in a default hereunder that results in a repayment of the assistance agreement in advance of termination and/or repayment of assistance, and/or other remedial actions.

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EPA has granted an adjustment period waiver of the requirements of Section 70914(a) of the BIL, pursuant to Section 70914(b)(1) (public interest waiver), for eligible projects financed by SRF projects that have initiated project design planning prior to May 14, 2022, the statutory effective date of the BABA requirements. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. Sections 70917(a) and (b) of BIL provide a savings provision for existing statutory requirements that meet or exceed BABA requirements. The statutory American Iron and Steel (AIS) requirements of Clean Water Act (CWA) Section 608 and Safe Drinking Water Act (SDWA) Section 1452(a)(4) has previously applied to SRF projects and will continue to do so as part of BABA requirements.

Where manufactured products used in the project are required to be produced in the United States, manufactured product shall mean manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation. The manufactured products included cover the majority of potential water infrastructure products, including complex products made up of a variety of material types and components. For water infrastructure projects, commonly manufactured products would include, but not be limited to, pumps, motors, blowers, aerators, generators, instrumentation and control systems, gauges, meters, measurement equipment, treatment equipment, dewatering equipment, actuators, and many other mechanical and electrical items.

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

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

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

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request. Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

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

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

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

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

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

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

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

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

G. Electronic and information Technology (EIT) Accessibility: RECIPIENTS shall ensure that loan funds provided under this agreement for costs in the development or purchase of EIT systems or products provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology as per Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7.

Systems or products funded under this agreement must be designed to meet the diverse needs of users without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

H. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.

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

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

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character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request. Wage determinations and instructions for their use can be found at <https://sam.gov/>.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request. Where conflicts arise between the State prevailing wage rates and Davis-Bacon Act prevailing wage requirements the more stringent requirement shall govern. Washington State prevailing wage rates can be found at <https://www.lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>

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

L. Unique Entity Identity Identifier (UEI): The RECIPIENT agrees to register with and make their registration public in the System for Award Management (SAM.gov). The RECIPIENT will be assigned a UEI and agree to include their UEI Number under their organization’s information in EAGL. The UEI number must be entered into EAGL before a funding agreement is signed.

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

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

1. Financial Capability Assessment Documentation (upon request)
2. Opinion of RECIPIENT’s Legal Council – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
3. Authorizing Ordinance or Resolution – Must be uploaded to the General Uploads form in EAGL.
4. Federal Funding Accountability and Transparency Act (FFATA) Form (Required for all federally funded SRF Equivalency projects – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
5. CWSRF Federal Reporting Information form – Must be completed in EAGL.
6. Fiscal Sustainability Plan (Asset Management) Certification Form (Only required if the project includes construction of a wastewater or stormwater facility construction) – Must be completed in EAGL.
7. Cost and Effectiveness Analysis Certification Form (Required for all projects receiving SRF Loan funding) – Must be completed in EAGL.
8. State Environmental Review Process (SERP) Documentation (Required for treatment works projects only) – Must be uploaded to the Environmental and Cultural Review form in EAGL.

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

B. American Iron and Steel (Buy American – P.L 113-76, Consolidated Appropriations Act 2014, Section 436): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a “treatment works” as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products

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used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

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

D. Equivalency Projects: ECOLOGY designated equivalency project and alternative designated equivalency project RECIPIENTS agree to accept federal funds and the federal requirements that accompany the funds. This includes all the requirements in Section 4 and this Section.

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

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

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

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

- (i) the execution of this agreement; or
- (ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or
- (iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or
- (iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence, or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

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

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

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest

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

J. Loan Repayment:

Sources of Loan Repayment

1. Nature of RECIPIENT's Obligation. The obligation of the RECIPIENT to repay the loan from the sources identified below and to perform and observe all other agreements and obligations on its part, contained herein, shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all the covenants, agreements, and attachments contained herein.
2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.
3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.
4. For Revenue-Secured: Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.
6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

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

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

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

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

Method and Conditions on Repayments

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

Thereafter, equal payments shall be due every six months.

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

Payments shall be mailed to:

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

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

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

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.
3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.
4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

K. Loan Security

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

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

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

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

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

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

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

M. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an "Opinion of Legal Counsel to the RECIPIENT" to ECOLOGY before this agreement will be signed. ECOLOGY will provide the form.

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

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

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

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

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

- The Davis-Bacon Act, 29 CFR , prevailing wage requirements, certified weekly payroll, etc.
- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33
- The American Iron and Steel Act (Buy American)
- The Build America Buy America Act (BABA) (equivalency projects only)”

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

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

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

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

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

1. The facilities or property transferred are not material to the operation of the funded Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the funded Utility or are no longer necessary, material, or useful to the operation of the funded Utility; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the funded Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the funded Utility from the portion of the funded Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the ECOLOGY.

The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the

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redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.

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

The sewer use ordinance must include provisions to:

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

S. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient ECOLOGY or RECIPIENT funds.
2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

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

Termination and Default Remedies

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

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

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

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

Repayments not made immediately upon such acceleration will incur Late Charges.

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

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

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

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

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

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

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

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

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

GENERAL FEDERAL CONDITIONS

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

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY

EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled

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“CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

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

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

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

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

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

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

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

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

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

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Corporation (or any subsidiary or affiliate of such entities).

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

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GENERAL TERMS AND CONDITIONS

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

GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

07/01/2023 Version

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/2301002.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.
- * For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.

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

RECIPIENT shall:

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

5. ASSIGNMENT

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

6. COMMUNICATION

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

7. COMPENSATION

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

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

8. COMPLIANCE WITH ALL LAWS

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

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

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

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

9. CONFLICT OF INTEREST

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

10. CONTRACTING FOR GOODS AND SERVICES

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

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

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

11. DISPUTES

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

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

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

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

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

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

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

12. ENVIRONMENTAL DATA STANDARDS

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

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

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

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

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

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

13. GOVERNING LAW

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

14. INDEMNIFICATION

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

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

15. INDEPENDENT STATUS

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

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16. KICKBACKS

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

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

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

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

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

18. ORDER OF PRECEDENCE

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

19. PRESENTATION AND PROMOTIONAL MATERIALS

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

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

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

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

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

20. PROGRESS REPORTING

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

21. PROPERTY RIGHTS

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

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22. RECORDS, AUDITS, AND INSPECTIONS

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

All records shall:

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

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

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

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

23. RECOVERY OF FUNDS

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

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

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

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

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

24. SEVERABILITY

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

25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

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27. SUSTAINABLE PRACTICES

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

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

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

28. TERMINATION

a) For Cause

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

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

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

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

b) For Convenience

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

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

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

Agreement No: WQC-2024-KCoNRP-00004
Project Title: West Duwamish CSO Control Project
Recipient Name: King County Department of Natural Resources & Parks - WTD

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

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

c) By Mutual Agreement

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

d) In Event of Termination

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

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

29. THIRD PARTY BENEFICIARY

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

30. WAIVER

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

End of General Terms and Conditions



King County

Dow Constantine
King County Executive
401 Fifth Avenue, Suite 800
Seattle, WA 98104-1818
206-263-9600 Fax 206-296-0194
TTY Relay: 711
www.kingcounty.gov

August 21, 2024

The Honorable Dave Upthegrove
Chair, King County Council
Room 1200
C O U R T H O U S E

Dear Councilmember Upthegrove:

This letter transmits a proposed Ordinance that, if approved, would authorize King County to enter into a loan agreement with the Washington State Department of Ecology (Ecology) for loan financing of capital costs associated with the West Duwamish Combined Sewer Overflow (CSO) Control project.

This proposed legislation authorizes the execution of an Ecology State Revolving Fund (SRF) 30-year loan agreement for state fiscal year 2024 in the amount of \$10,163,264 with an interest rate of 1.6 percent. This low-interest loan will save King County ratepayers \$5,385,838 in interest, compared to 30-year conventional bond financing. The SRF loan will fund King County's design phase expenditures for the West Duwamish CSO project. This project will reduce overflow events to once per year on a rolling average at two discharge points. This project will improve water quality in the downstream Duwamish River and Elliott Bay by reducing the discharge of untreated wastewater and stormwater.

The proposed legislation furthers the King County Strategic Climate Action Plan goal of preparing for climate change by supporting a project that will add storage capacity during wet weather events to improve resilience at West Point Treatment Plant.

Thank you for your consideration of this proposed Ordinance. This important legislation will save King County ratepayers money and protect water quality in the region.

If your staff have any questions, please contact Kamuron Gurol, Division Director of the Wastewater Treatment Division of the Department of Natural Resources and Parks, at 206-263-5767.

The Honorable Dave Upthegrove

August 21, 2024

Page 2

Sincerely,



for

Dow Constantine

King County Executive

Enclosure

cc: King County Councilmembers

ATTN: Stephanie Cirkovich, Chief of Staff

Melani Hay, Clerk of the Council

Karan Gill, Chief of Staff, Office of the Executive

Penny Lipsou, Council Relations Director, Office of the Executive

John Taylor, Director, Department of Natural Resources and Parks (DNRP)

Kamuron Gurol, Division Director, Wastewater Treatment Division, DNRP

Ordinance/Motion:	2024-XXXX	
Title:	The Washington State Department of Ecology State Revolving Fund Loan Agreement for the West Duwamish CSO Control Project	
Affected Agency and/or Agencies:	The Wastewater Treatment Division (WTD), Department of Natural Resources and Parks (DNRP)	
Note Prepared By:	Kenneth W. Rice, WTD	
Date Prepared:	3/19/2024	
Note Reviewed By:	Andres Bas Moore, WTD	Elena Davert, PSB
Date Reviewed:	3/28/2024	8-Aug-24

Description of request:
 This ordinance authorizes the King County Executive to enter into an agreement with the Washington State Department of Ecology (Ecology) for loan financing of the design phase associated with the West Duwamish CSO Control Project.

Revenue to:

Agency	Fund Code	Revenue Source	2023-2024	2025	2026-2027
Water Quality Capital Improvement Fund/Wastewater	3611	SRF Loan	\$10,163,264	\$0	\$0
Water Quality Capital Improvement Fund/Wastewater	3611	Revenue Bond Proceeds	(\$10,163,264)	\$0	\$0
TOTAL			\$0	\$0	\$0

Expenditures from:

Agency	Fund Code	Department	2023-2024	2025	2026-2027
Water Quality Capital Improvement Fund/Wastewater	8920	DNRP	\$0	\$429,213	\$858,427
Water Quality Capital Improvement Fund/Wastewater	8920	DNRP	\$0	(\$608,741)	(\$1,217,483)
TOTAL			\$0	(\$179,528)	(\$359,056)

Expenditures by Categories

	2023-2024	2025	2026-2027
Debt Service	\$0	(\$179,528)	(\$359,056)
TOTAL	\$0	(\$179,528)	(\$359,056)

Does this legislation require a budget supplemental? No

Notes and Assumptions:
 1) Total savings in debt service payments compared to bond funding is estimated at \$5,385,838 with a present value of \$3,553,187 (2024, 2.93% discount rate).
 2) SRF loan proceeds are presumed to displace bond-funded expenditures one-for-one.
 3) Debt service begins in 2025 and assumes the SRF loan has been fully drawn upon, including both principal and interest.



King County

**Metropolitan King County Council
Budget and Fiscal Management Committee**

STAFF REPORT

Agenda Item:	9	Name:	Jenny Giambattista
Proposed No.:	2024-0270	Date:	September 11, 2024

SUBJECT

Proposed Ordinance 2024-0270 would authorize the Executive to enter into a loan agreement with the Washington State Department of Ecology for loan financing of a wastewater capital project.

SUMMARY

Proposed Ordinance 2024-0270 would authorize the Executive to enter into a loan agreement in the amount of \$14,937,044 with the Washington State Department of Ecology (Ecology) for loan financing of capital costs associated with West Point Treatment Plant Raw Sewage Pump Replacement Project. This loan would have an annual interest rate of 1.6 percent and is estimated to save King County more than \$7.9 million in interest expense over the term of the loan compared to conventional bond financing.

BACKGROUND

The State Revolving Fund (SRF) Loan Program. The Clean Water Act established the State Revolving Fund low-interest loan program. Washington State administers this program under Chapter 173-98 WAC. It is managed by the Department of Ecology and provides low-interest and forgivable principal loan funding for wastewater treatment construction projects, eligible nonpoint source pollution control projects, and eligible “green” projects. The Department of Ecology makes SRF funding available annually. There is a limit to the amount of funding that an entity is eligible to receive in each SRF loan funding cycle. Since 2000, the WTD has been awarded over \$701 million in SRF loans.

West Point Treatment Plant Raw Sewage Pump Replacement Project. The purpose of this project is to improve the Raw Sewage Pump system to increase the capacity of the pump station. The improvements will provide for transfer of the incoming wastewater to the treatment process and avoid the release of raw, untreated wastewater to Elliott Bay. The SRF loan will fund King County’s design phase expenditures for this project.

Future Funding for SRF Loan Program. WTD expects more loan funds to be available. SRF loans are awarded annually and WTD applies each year. For Ecology’s FY 2025 cycle, WTD has two projects that were awarded funding on Ecology’s Final Offer List published July 2024. WTD was awarded \$1.9 million for the design phase of the WPTP Grit Classifier Replacement project and \$8.1 million for the planning phase of the Sammamish Plateau Diversion project in SRF loan funds.

Roughly half of the Bipartisan Infrastructure Law funding was made available as grants/principal forgiveness loans targeted for “disadvantaged communities.” Distribution of these grant funds is pending further guidance from EPA to the states regarding eligibility.

ANALYSIS

Proposed Ordinance 2024-0270 would authorize King County to enter into a loan agreement with the Washington State Department of Ecology for loan financing of capital costs associated with the West Point Treatment Plant Raw Sewage Pump Replacement Project. The following are the major agreement terms:

- Total loan amount: \$14,937,044
- Loan Term: 30 years
- Effective Interest Rate¹: 1.6 percent
- Repayment: Semiannual payments of principal and interest commence one year after the project is completed and is repaid over 60 equal semi-annual installments from the Water Quality Capital Improvement Fund.
- Effective date: March 1, 2022. The effective date goes back to the start of the design which allows WTD to go back to this date for purposes of submitting design expenditures for reimbursement.
- Expiration date: December 31, 2024. This expiration date is the last day in which eligible expenditures could be utilized for reimbursement so any expenditures after December 31, 2024 would be ineligible for loan participation. The design for this project was completed in 2024.

Savings and Repayment. The estimated savings on utilizing SRF loan financing instead of conventional debt financing are detailed in the fiscal note. For this loan agreement, the 1.6 percent interest rate is projected to save King County more than \$7.9 million in interest expense over 30 years, compared to conventional 30-year bond financing.

Loan Requirements. The proposed SRF loan comes with various requirements, including quarterly reporting to Ecology. The Wastewater Treatment Division does not anticipate any difficulties in complying with the performance requirements for the loan.

Legal Review. Legal review is pending.

¹ Includes 0.3% Ecology Administration Charge

INVITED

- Sharman Herrin, Government Relations Administrator, Wastewater Treatment Division
- Steve Baruso, Grants Administrator, Wastewater Treatment Division

ATTACHMENTS

1. Proposed Ordinance 2024-0270 (and its attachment)
2. Transmittal Letter
3. Fiscal Note



KING COUNTY
Signature Report

ATTACHMENT 1
1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Ordinance

Proposed No. 2024-0270.1

Sponsors Zahilay

1 AN ORDINANCE authorizing the King County executive
2 to enter into an agreement with the Washington state
3 Department of Ecology for loan financing of a wastewater
4 capital project.

5 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

6 **SECTION 1. Findings:**

7 A. The Washington state Department of Ecology has awarded the department of
8 natural resources and parks \$14,937,044 in a State Revolving Fund loan for the fiscal
9 year 2024 cycle.

10 B. The low-interest loan will save King County \$7,915,616 in interest payments
11 over thirty years, which is the \$5,222,152 net present value, as compared to conventional
12 bond financing.

13 C. The State Revolving Fund loan will assist in financing the design phase for the
14 West Point Treatment Plant Raw Sewage Pump Replacement project that is part of King
15 County's wastewater capital improvement program.

16 **SECTION 2.** A. The King County executive or designee is hereby authorized to
17 enter into this agreement with the Washington state Department of Ecology for the design
18 phase of the West Point Treatment Plant Raw Sewage Pump Replacement project.

19 B. The maximum loan amount for the West Point Treatment Plant Raw Sewage
20 Pump Replacement project shall be \$14,937,044 plus interest.

21 C. The thirty-year loan agreement shall have an annual interest rate of 1.6
22 percent.

23 D. The loan agreement shall be substantially in the form of Attachment A to this
24 ordinance.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Dave Upthegrove, Chair

ATTEST:

Melani Pedroza, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: A. Agreement No. WQC-2024-KCoNRP-00199, Water Quality Combined Financial Assistance 2024 Agreement Between the State of Washington Department of Ecology and King County Department of Natural Resources and Parks - WTD

Agreement No. WQC-2024-KCoNRP-00199

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

KING COUNTY - DEPARTMENT OF NATURAL RESOURCES AND PARKS - WTD

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as “ECOLOGY,” and King County - Department of Natural Resources and Parks - WTD, hereinafter referred to as the “RECIPIENT,” to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	West Point Treatment Plant Raw Sewage Pump Replacement
Total Cost:	\$14,937,044.00
Total Eligible Cost:	\$14,937,044.00
Ecology Share:	\$14,937,044.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	03/01/2022
The Expiration Date of this Agreement is no later than:	12/31/2024
Project Type:	Wastewater Facility

Project Short Description:

This project preserves water quality in Elliott Bay by designing needed improvements at the West Point Treatment Plant in King County. Replacement pumps for existing raw sewage pumps were installed in 1966 and were designed for increased reliability and to satisfy the firm pumping capacity criteria following Ecology’s standards. The eventual construction of these improvements will increase raw wastewater capacity and avoid the discharge of untreated wastewater.

Project Long Description:

This project preserves water quality in Elliott Bay by designing needed improvements at the West Point Treatment Plant (WTP) in King County. Replacement pumps for the existing raw sewage pumps were installed in 1966 and will be designed for increased reliability and to satisfy the firm pumping capacity criteria following Ecology’s standards. The eventual construction of these improvements, will increase raw wastewater capacity and avoid the discharge of

Agreement No: WQC-2024-KCoNRP-00199
Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
Recipient Name: King County - Department of Natural Resources and Parks - WTD

untreated wastewater.

The purpose of this project is to improve the Raw Sewage Pump (RSP) system to increase the firm capacity of the pump station from 330 million gallons per day (MGD) to 440 MGD. The RSPs were originally designed with a capacity of approximately 120 MGD each. When the WTP was upgraded to provide secondary treatment in the 1990s, the RSPs were rerated to approximately 110 MGD, with a total rated capacity of approximately 440 MGD, when all four pumps were in operation, to match the WTP's hydraulic capacity. The firm capacity of the RSPs is 330 MGD with one pump out of service.

The Washington State Department of Ecology (Ecology) Criteria for Sewage Works Design ("Orange Book"; Ecology, 2008) requires that pump stations have a firm capacity equal to or greater than the peak hourly design flow. For the WTP, this equates to a firm capacity equal to the plant's hydraulic capacity of 440 MGD. Under this Project, the County plans to increase the firm capacity of the RSPs to 440 MGD, bringing the WTP into compliance with Orange Book requirements. The project will achieve the capacity increase by replacing the existing biogas-driven engine pumps with higher-capacity electric motor-driven pumps. Structural improvements and repairs will also be included in the project.

Elements of the design will include:

- Four 147 MGD dry pit bearing frame pumps in the existing pump room.
- 54-inch-diameter discharge spool pieces and associated couplings.
- Four concrete equipment pads with integrated pedestals.
- Four new formed suction inlets to meet Hydraulic Institute performance criteria.
- Four 900-horsepower (hp) electric motors on the engine level.
- Elevated motor support platform on the engine level.
- Replacement of the existing hot water boiler.
- RSP building seismic upgrade including roof replacement.
- HazMat mitigations
- RSP ancillaries to support pump system improvement.

Overall Goal:

To upgrade the Raw Sewage Pump (RSP) system to increase firm capacity of the pump station to match the WTP's peak hourly design flow rate in accordance with Ecology standards. The improvements will provide for transfer of the incoming wastewater to the treatment process and avoid the release of raw, untreated wastewater to Elliott Bay through the replacement of the 1966 RSPs .

Agreement No: WQC-2024-KCoNRP-00199
Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
Recipient Name: King County - Department of Natural Resources and Parks - WTD

RECIPIENT INFORMATION

Organization Name: King County - Department of Natural Resources and Parks - WTD

Federal Tax ID: 91-6001327
UEI Number: EU1QJXNMWKE9

Mailing Address: 201 S Jackson, Suite 500
Seattle, WA 98104-3855

Physical Address: 201 S Jackson, Suite 500
Seattle, Washington 98104-3855

Organization Email: steve.baruso@kingcounty.gov

Contacts

Agreement No: WQC-2024-KCoNRP-00199
 Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
 Recipient Name: King County - Department of Natural Resources and Parks - WTD

<p>Project Manager</p>	<p>Mizanur Rahman Capital Project Manager</p> <p>201 S Jackson, Suite 500 Seattle, Washington 98104-3855 Email: mizanur.rahman@kingcounty.gov Phone: (206) 477-5366</p>
<p>Billing Contact</p>	<p>Steve Baruso Grants Administrator</p> <p>201 S Jackson St. KSC Suite 500 Seattle, Washington 98104 Email: steve.baruso@kingcounty.gov Phone: (206) 477-5366</p>
<p>Authorized Signatory</p>	<p>Kamuron Gurol Division Director</p> <p>201 S Jackson, Suite 500 Seattle, Washington 98104 Email: kgurol@kingcounty.gov Phone: (206) 549-1190</p>

Agreement No: WQC-2024-KCoNRP-00199
 Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
 Recipient Name: King County - Department of Natural Resources and Parks - WTD

ECOLOGY INFORMATION

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

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

Contacts

<p>Project Manager</p>	<p>Kenneth D. Ziebart P.E., Project Manager PO Box 330316 Shoreline, Washington 98133-9716 Email: kzie461@ecy.wa.gov Phone: (206) 594-0163</p>
<p>Financial Manager</p>	<p>Tammie McClure PO Box 47600 Olympia, Washington 98504-7600 Email: tmcc461@ecy.wa.gov Phone: (360) 628-4315</p>
<p>Technical Advisor</p>	<p>Shawn McKone PO Box 330316 Shoreline, Washington 98133-9716 Email: shmc461@ecy.wa.gov Phone: (206) 594-0158</p>

Agreement No: WQC-2024-KCoNRP-00199
Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
Recipient Name: King County - Department of Natural Resources and Parks - WTD

AUTHORIZING SIGNATURES

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

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

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

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

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

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

Washington State
Department of Ecology

King County - Department of Natural Resources and Parks - WTD

By: _____

By: _____

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

Kamuron Gurol Date
Division Director

Template Approved to Form by
Attorney General's Office

Agreement No: WQC-2024-KCoNRP-00199
 Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
 Recipient Name: King County - Department of Natural Resources and Parks - WTD

SCOPE OF WORK

Task Number: 1 **Task Cost: \$0.00**

Task Title: Grant and Loan Administration

Task Description:

- A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: Maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and the EAGL (Ecology Administration of Grants and Loans) recipient closeout report (including photos, if applicable). In the event that the RECIPIENT elects to use a contractor to complete project elements, the RECIPIENT shall retain responsibility for the oversight and management of this funding agreement.
- B. The RECIPIENT shall keep documentation that demonstrates the project is in compliance with applicable procurement, contracting, and interlocal agreement requirements; permitting requirements, including application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items. This documentation shall be available upon request.
- C. The RECIPIENT shall maintain effective communication with ECOLOGY and maintain up-to-date staff contact information in the EAGL system. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

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

Task Expected Outcome:

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

Recipient Task Coordinator: Steve Baruso

Grant and Loan Administration

Deliverables

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

Agreement No: WQC-2024-KCoNRP-00199
Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
Recipient Name: King County - Department of Natural Resources and Parks - WTD

SCOPE OF WORK

Task Number: 2 **Task Cost:** \$11,031,172.00

Task Title: Project Design

Task Description:

- A. The RECIPIENT will procure engineering services in accordance with state law. The RECIPIENT will include ECOLOGY's specification insert in the contract documents. The RECIPIENT must submit all contracts for engineering services before ECOLOGY will provide reimbursement for work performed under this task.
- B. The RECIPIENT will design the replacement of the raw sewage pumps at the West Point WWTP. Plans and specifications developed by the RECIPIENT must be consistent with the requirements of Chapter 173-240 WAC. The plans and specifications, construction contract documents, and addenda will be approved by the RECIPIENT prior to submittal for ECOLOGY review. All construction plans submitted to ECOLOGY for review and approval will be reduced to no larger than 11" x 17" in size. The project manager may request plans be submitted in either PDF or AutoCAD electronic format, and specifications in a searchable PDF or Microsoft Word electronic file.
- C. An updated construction cost estimate will be submitted with each plan/specification submittal. The Ecology project manager may request a spreadsheet of the estimate in Excel electronic file format.
- D. The RECIPIENT will conduct an Investment Grade Efficiency Audit (IGEA). The RECIPIENT will review their energy use for cost-effective energy savings. The RECIPIENT may submit documentation of an energy efficiency review conducted within the last 5 years as an alternative.
- E. The RECIPIENT will submit requirements outlined in the EID Guidance, Part A, and in the SERP EID, with plans and specification submitted to ECOLOGY for approval.
- F. As a condition of receiving this funding, the RECIPIENT will comply with all applicable state and federal laws and authorities. The RECIPIENT will coordinate with ECOLOGY to determine which federal assurances are required. For SERP, the RECIPIENT will submit the minimum requirements as outlined in the EID Guidance, Part B and in the SERP EID at the time plans and specification are submitted to ECOLOGY for approval.
- G. The RECIPIENT will provide an Ecology Cultural Resources Review form as part of the minimum SERP requirements. The RECIPIENT will provide any additional information for ECOLOGY to lead the required cultural resources consultation.
- H. The RECIPIENT will complete an Ecology inadvertent discovery plan template for their project.
- I. The RECIPIENT will notify Ecology when deliverables are available and have been uploaded to EAGL.
- J. All mitigation measures committed to in documents developed in the SERP process, such as the environmental mitigation plan, environmental checklist, environmental report, SEPA environmental impact statement (EIS), the finding of no significant impact/environmental assessment, or record of decision/federal EIS will become revolving fund loan agreement conditions. All recipients of funding for water pollution control facility projects must comply with the SERP in accordance with WAC

Agreement No: WQC-2024-KCoNRP-00199
 Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
 Recipient Name: King County - Department of Natural Resources and Parks - WTD

173-98-720.

Task Goal Statement:

See overall goal.

Task Expected Outcome:

See overall goal.

Project Design

Deliverables

Number	Description	Due Date
2.1	Executed contracts for engineering services, and documentation of the RECIPIENT’s process for procuring engineering services.	
2.2	Copies of the draft, and the final, design, including cost estimates.	
2.3	Documentation of an energy efficiency review.	
2.4	SERP EID documents.	
2.5	Ecology Cultural Resources Review form.	
2.6	Inadvertent Discovery Plan.	

Agreement No: WQC-2024-KCoNRP-00199
Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
Recipient Name: King County - Department of Natural Resources and Parks - WTD

SCOPE OF WORK

Task Number: 3 **Task Cost:** \$3,905,872.00

Task Title: Design Oversight - Force Account

Task Description:

A. The RECIPIENT will provide oversight of the consultant’s design portion of the project using its own forces. The RECIPIENT acknowledges that it has the legal authority to perform the work, and adequate and technically qualified staff to perform the work without compromising other government functions. The RECIPIENT will coordinate design oversight to avoid redundant work effort performed by the consultant in Task 2.

B. The RECIPIENT will provide design oversight and review the design for the Raw Sewage Pumps. The RECIPIENT will review plans and specifications for consistency with the requirements of Chapter 173-240 WAC and the Recipient’s own requirements. Elements of the design oversight accomplished by Force Account will include:

- Manage elements of the design scope, including schedule, budget, risks, quality, procurement, completeness of design, and other aspects as needed.
- Oversee the technical and engineering elements of the project.
- Provide support on contract, scheduling, cost, risk, and budget management.
- Provide constructability reviews.

C. The RECIPIENT will provide an exhibit of anticipated work indicating hours, hourly rates, and personnel proposed to be used.

Task Goal Statement:

See overall goal.

Task Expected Outcome:

See overall goal.

Agreement No: WQC-2024-KCoNRP-00199
 Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
 Recipient Name: King County - Department of Natural Resources and Parks - WTD

Design Oversight - Force Account

Deliverables

Number	Description	Due Date
3.1	Design Oversight-Force Account description of work and budget for the Design Oversight-Force Account services.	
3.2	Salary and benefit documentation by staff personnel will be provided as backup to the Payment Request/Progress Report submitted for reimbursement of Design Oversight-Force Account expenditures, and will include dates worked, hours worked, hourly rate paid, and benefits earned for only the time worked on this project.	

Agreement No: WQC-2024-KCoNRP-00199
 Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
 Recipient Name: King County - Department of Natural Resources and Parks - WTD

BUDGET

Funding Distribution EL240602

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

Funding Title:	SRF Loan (Federal)	Funding Type:	Loan
Funding Effective Date:	03/01/2022	Funding Expiration Date:	12/31/2024

Funding Source:

Title: CWSRF-SFY24 (Federal-Base)

Fund: FD0727

Type: Federal

Funding Source %: 100%

Description: The Clean Water Act (CWA) (33 U.S.C 1251-1387) established the State Revolving Fund (SRF) low interest loans program (40. C.F.R. Part 31, 35 Sub Part K). Washington State administers the program under Chapter 173-98 WAC. This project has been identified as a Designated Equivalency project (DEP) and is subject to all federal requirements EPA applies to Clean Water State Revolving Funds. In addition to the federal requirements outlined in Section 4 and 5 of agreement terms and conditions, the RECIPIENT must maintain documentation of compliance with all federal cross cutters, federal procurement requirements for architectural and engineering services (Chapter 11 of Title 40, U.S.C) and Build America, Buy America Act (BABA). The portion of the project funded by this funding distribution is subject to the Single Audit Act (SAA) and Federal Funding Accountability and Transparency Act (FFATA) and funds disbursed using this funding distribution should be tracked and reported as federal funds on the recipients Schedule of Expenditures of Federal Awards (SEFA) reporting form.

Agreement No: WQC-2024-KCoNRP-00199
 Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
 Recipient Name: King County - Department of Natural Resources and Parks - WTD

Federal Awarding Agency: EPA
 Federal Awarding Agency Contact: David Carcia
 Federal Awarding Agency Phone: 206-533-0890
 Federal Awarding Agency Email: carcia.david@epa.gov
 Federal Awarding Agency Address: 1200 Sixth Avenue, Suite 900, Seattle, WA 98101

CFDA Catalog Name: Capitalization Grants for Clean Water State Revolving Funds

CFDA Number: 66.458
 FAIN: 53000123
 Research Grant: No
 Federal Award Date: 7/1/2023
 Total Federal Award Amount: \$13,045,000.00
 Federal Funds Obligated To Recipient: \$2,881,736.00

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

Effective Interest Rate: 1.2% Interest Rate: 0.9% Admin Charge: 0.3%

Terms: 20 years

Project Start Date: 03/01/2022 Project Completion Date: 12/31/2024

Estimated Initiation of Operation date: 12/31/2024

Loan Security: Revenue Secure Lien Obligation of the Recipient

Final Accrued Interest: \$

Final Loan Amount: \$

Repayment Schedule Number: 874

SRF Loan (Federal)	Task Total
Project Design	\$ 2,881,736.00

Total: \$ 2,881,736.00

Agreement No: WQC-2024-KCoNRP-00199
 Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
 Recipient Name: King County - Department of Natural Resources and Parks - WTD

BUDGET

Funding Distribution EL240603

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

Funding Title: SRF Loan (State) Funding Type: Loan
 Funding Effective Date: 03/01/2022 Funding Expiration Date: 12/31/2024

Funding Source:

Title: CWSRF-SFY24 (State)

Fund: FD0727

Type: State

Funding Source %: 100%

Description: The Clean Water Act (CWA) (33 U.S.C 1251-1387) established the State Revolving Fund (SRF) low interest loans program (40. C.F.R. Part 31, 35 Sub Part K). Washington State administers the program under Chapter 173-98 WAC. The portion of this project funded with this funding distribution comes from non-federal source and are not subject to Federal Funding Accountability and Transparency Act (FFATA) and Single Audit Act (SAA). However, this project is subject to the federal requirements outlined in Section 4 and 5 of agreement terms and conditions.

Approved Indirect Costs Rate: Approved State Indirect Rate: 30%

Recipient Match %: 0%

InKind Interlocal Allowed: No

InKind Other Allowed: No

Is this Funding Distribution used to match a federal grant? No

Effective Interest Rate: 1.2% Interest Rate: 0.9% Admin Charge: 0.3%

Terms: 20 years

Project Start Date: 03/01/2022 Project Completion Date: 12/31/2024

Estimated Initiation of Operation date: 12/31/2024

Loan Security: Revenue Secure Lien Obligation of the Recipient

Final Accrued Interest: \$

Final Loan Amount: \$

Repayment Schedule Number: 875

Agreement No: WQC-2024-KCoNRP-00199
Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
Recipient Name: King County - Department of Natural Resources and Parks - WTD

SRF Loan (State)	Task Total
Grant and Loan Administration	\$ 0.00
Project Design	\$ 2,852,436.00
Design Oversight - Force Account	\$ 3,905,872.00

Total: \$ 6,758,308.00

Agreement No: WQC-2024-KCoNRP-00199
Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
Recipient Name: King County - Department of Natural Resources and Parks - WTD

BUDGET

Funding Distribution EL240643

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

Funding Title: SRF Loan (BIL Federal) Funding Type: Loan
Funding Effective Date: 03/01/2022 Funding Expiration Date: 12/31/2024

Funding Source:

Title: CWSRF-SFY24 (Federal-BIL)

Fund: FD0727

Type: Federal

Funding Source %: 100%

Description: The Clean Water Act (CWA) (33 U.S.C 1251-1387) established the State Revolving Fund (SRF) low interest loans program (40. C.F.R. Part 31, 35 Sub Part K). Washington State administers the program under Chapter 173-98 WAC. This project has been identified to receive Bipartisan Infrastructure Law (BIL) funding and is a Designated Equivalency project (DEP). This project is subject to all federal requirements EPA applies to Clean Water State Revolving Funds. In addition to the federal requirements outlined in Section 4 and 5 of agreement terms and conditions, the RECIPIENT must maintain documentation of compliance with all federal cross cutters, federal procurement requirements for architectural and engineering services (Chapter 11 of Title 40, U.S.C) and Build America, Buy America Act (BABA). The portion of the project funded by this funding distribution is subject to the Single Audit Act (SAA) and Federal Funding Accountability and Transparency Act (FFATA) and funds disbursed using this funding distribution should be tracked and reported as federal funds on the recipients Schedule of Expenditures of Federal Awards (SEFA) reporting form.

Agreement No: WQC-2024-KCoNRP-00199
 Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
 Recipient Name: King County - Department of Natural Resources and Parks - WTD

Federal Awarding Agency: EPA
 Federal Awarding Agency Contact: David Carcia
 Federal Awarding Agency Phone: 206-533-0890
 Federal Awarding Agency Email: carcia.david@epa.gov
 Federal Awarding Agency Address: 1200 Sixth Avenue, Suite 900, Seattle, WA 98101

CFDA Catalog Name: Capitalization Grants for Clean Water State Revolving Funds

CFDA Number: 66.458
 FAIN: 02J44401
 Research Grant: No
 Federal Award Date: 7/1/2023
 Total Federal Award Amount: \$36,248,000.00
 Federal Funds Obligated To Recipient: \$5,297,000.00

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

Effective Interest Rate: 1.2% Interest Rate: 0.9% Admin Charge: 0.3%

Terms: 20 years

Project Start Date: 03/01/2022 Project Completion Date: 12/31/2024

Estimated Initiation of Operation date: 12/31/2024

Loan Security: Revenue Secure Lien Obligation of the Recipient

Final Accrued Interest: \$

Final Loan Amount: \$

Repayment Schedule Number: 835

SRF Loan (BIL Federal)	Task Total
Project Design	\$ 5,297,000.00

Total: \$ 5,297,000.00

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 Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
 Recipient Name: King County - Department of Natural Resources and Parks - WTD

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
SRF Loan (Federal)	0.00 %	\$ 0.00	\$ 2,881,736.00	\$ 2,881,736.00
SRF Loan (State)	0.00 %	\$ 0.00	\$ 6,758,308.00	\$ 6,758,308.00
SRF Loan (BIL Federal)	0.00 %	\$ 0.00	\$ 5,297,000.00	\$ 5,297,000.00
Total		\$ 0.00	\$ 14,937,044.00	\$ 14,937,044.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

WQC-2024—Water Quality Program Special Terms and Conditions (Update June 2023)

SECTION 1: DEFINITIONS

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

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

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

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

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

“Accrued Interest” means the interest incurred as loan funds are disbursed.

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

“Build American Buy American (BABA)” means a portion of the Infrastructure Investment and Jobs Act and establishes a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022.

“Bipartisan Infrastructure Law (BIL)” means funding to improve drinking water, wastewater and stormwater infrastructure.

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

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

“Construction Materials” means an article, material, or supply (other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; aggregate binding agents or additives; or non-permanent products) that is or consists primarily of, non-ferrous metals, plastic and polymer-based products (including

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polyvinylchloride, composite building materials, and polymers used in fiber optic cables), (including optic glass), lumber, and drywall.

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

“Davis Bacon Prevailing Wage Act” means the federal law mandating on-site workers on public works projects be paid certain wages, benefits, and overtime (also known as “prevailing wage” on all government-funded construction, alteration, and repair projects.

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

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

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

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

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount and the estimated schedule for completion of the project.

“Equivalency” means the amount of State Revolving Fund (SRF) funding each funding cycle equivalent to the EPA grant to Ecology.

“Equivalency Project” means State Revolving Fund (SRF) funded project(s) designated by ECOLOGY to receive federal funding and meet additional federal requirements.

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

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

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

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount and the initiation of operation or completion date, whichever comes first.

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

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

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

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

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

“Initiation of Operation Date” means the actual date the facility financed with proceeds of the loan begins to operate for its intended purpose. (For loans only)

“Iron and Steel Products” means products made primarily of iron or steel including but may not be limited to: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves,

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structural steel, reinforced precast concrete, and construction materials.

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

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

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

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

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

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

“Manufactured Products” means, items and construction materials composed in whole or in part of non-ferrous metals such as aluminum plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

“Produced in the United States” means for iron and steel products, that all manufacturing processes, from the initial melting state through the application of coatings, occurred in the United States.

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

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

“Prevailing Wage” means hourly wage, usual benefits, and overtime paid in the largest city in each county, to the majority of workers, laborers, and mechanics performing the same work. The rate is established separately for each county.

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

“Project” means the project described in this agreement.

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

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

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

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

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

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

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

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

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

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

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

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been determined to

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be eligible for ECOLOGY grant or loan funding, including any required recipient match.

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

“Unique Entity Identifier (UEI)” means a 12-character alphanumeric ID assigned by SAM.gov. to an entity doing business with or receiving funds from the federal government. This number replaces the DUNS number.

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

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

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

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

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

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

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

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

- a. Evidence of Land Value and Title. The RECIPIENT shall submit documentation of the cost of the property rights and the type of ownership interest that has been acquired.
- b. Legal Description of Real Property Rights Acquired. The legal description of the real property rights purchased with funding assistance provided through this agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the agreement before final payment.
- c. Conveyance of Rights to the State of Washington. Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT shall execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired, and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT shall use language provided by ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

Documentation Options:

1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. RECIPIENTS shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes. The RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the deed of right.
2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by

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reference in the easement document.

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

d. Real Property Acquisition and Relocation Assistance.

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

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

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

e. Hazardous Substances.

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

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

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

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

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

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

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

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

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

F. Equipment Purchase: Equipment purchases over \$5,000 and not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase. All

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equipment purchases over \$5,000 and not included in a contract for work being completed on the funded project, must also be reported on the Equipment Purchase Report in EAGL.

G. Funding Recognition: The RECIPIENT must inform the public about any ECOLOGY or EPA funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Contact your Ecology Project Team to determine the appropriate recognition for your project.

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

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

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

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

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

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

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

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

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

A. Data Reporting: The RECIPIENT must complete the "Section 319 Initial Data Reporting" form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project for EPA.

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

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

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement:

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(Applies to Section 319 funded projects only)

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

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

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

SECTION 4: CONDITIONS APPLY TO ALL FEDERAL FUNDING AGREEMENTS, INCLUDING SECTION 319, State Revolving Fund (SRF) Equivalency Projects, and SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANT (OSG)

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

B. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse’s Internet Data Entry System available at: <https://facweb.census.gov/>.

C. Archaeological Resources and Historic Properties (Section 106): This requires completion of the Ecology Cultural Resources Review Form, coordination with Ecology Cultural Resources staff, and receipt of the Ecology Final Determination prior to any property acquisition and above and below ground disturbing activities.

D. Architectural and Engineering Services Procurement: The RECIPIENT must procure architectural and engineering services in accordance with the federal requirements in Chapter 11 of Title 40, U.S.C. (see <https://uscode.house.gov/view.xhtml?path=/prelim@title40/subtitle1/chapter11&edition=prelim>).

E Build America, Buy America (BABA – Pub. L. No. 117-58, 70901-52) (Federally funded SRF Equivalency projects only): The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding agrees to comply with all federal requirements applicable to the assistance received (including those imposed by the Infrastructure Investment and Jobs Act (“IIJA”/BIL), Public Law No. 117-58) which the RECIPIENT understands includes, but is not limited to, the following requirements: that all the iron and steel, manufactured products, and construction materials used in the Project are to be produced in the United States (“Build America, Buy America Requirements”) unless (i) the RECIPIENT has requested and obtained a waiver from the cognizant Agency pertaining to the Project or the Project is otherwise covered by a general applicability waiver; or (ii) all of the contributing Agencies have otherwise advised the RECIPIENT in writing that the Build America, Buy America Requirements are not applicable to the project.

RECIPIENT shall comply with all record keeping and reporting requirements under all applicable legal authorities, including any reports required by the funding authority (such as EPA and/or a state), such as performance indicators of program deliverables, information on costs and project progress. The RECIPIENT identified by ECOLOGY as receiving federal equivalency funding, understands that (i) each contract and subcontract related to the project is subject to audit by appropriate federal and

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state entities and (ii) failure to comply with the applicable legal requirements and this Agreement may result in a default hereunder that results in a repayment of the assistance agreement in advance of termination and/or repayment of assistance, and/or other remedial actions.

EPA has granted an adjustment period waiver of the requirements of Section 70914(a) of the BIL, pursuant to Section 70914(b)(1) (public interest waiver), for eligible projects financed by SRF projects that have initiated project design planning prior to May 14, 2022, the statutory effective date of the BABA requirements. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. This action permits the use of non-domestic manufactured products and construction materials in such projects funded by a Clean Water or Drinking Water SRF that may otherwise be prohibited under the BABA requirements of Section 70914. Sections 70917(a) and (b) of BIL provide a savings provision for existing statutory requirements that meet or exceed BABA requirements. The statutory American Iron and Steel (AIS) requirements of Clean Water Act (CWA) Section 608 and Safe Drinking Water Act (SDWA) Section 1452(a)(4) has previously applied to SRF projects and will continue to do so as part of BABA requirements.

Where manufactured products used in the project are required to be produced in the United States, manufactured product shall mean manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation. The manufactured products included cover the majority of potential water infrastructure products, including complex products made up of a variety of material types and components. For water infrastructure projects, commonly manufactured products would include, but not be limited to, pumps, motors, blowers, aerators, generators, instrumentation and control systems, gauges, meters, measurement equipment, treatment equipment, dewatering equipment, actuators, and many other mechanical and electrical items.

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

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

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

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The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request. Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

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

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

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

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

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

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

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

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

G. Electronic and information Technology (EIT) Accessibility: RECIPIENTS shall ensure that loan funds provided under this agreement for costs in the development or purchase of EIT systems or products provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology as per Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7.

Systems or products funded under this agreement must be designed to meet the diverse needs of users without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

H. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.

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

J. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in

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whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes, or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and subcontracts more than \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act and make such records available for review upon request. Wage determinations and instructions for their use can be found at <https://sam.gov/>.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW and make such records available for review upon request. Where conflicts arise between the State prevailing wage rates and Davis-Bacon Act prevailing wage requirements the more stringent requirement shall govern. Washington State prevailing wage rates can be found at <https://www.lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>

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

L. Unique Entity Identity Identifier (UEI): The RECIPIENT agrees to register with and make their registration public in the System for Award Management (SAM.gov). The RECIPIENT will be assigned a UEI and agree to include their UEI Number under their organization’s information in EAGL. The UEI number must be entered into EAGL before a funding agreement is signed.

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

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

1. Financial Capability Assessment Documentation (upon request)
2. Opinion of RECIPIENT’s Legal Council – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
3. Authorizing Ordinance or Resolution – Must be uploaded to the General Uploads form in EAGL.
4. Federal Funding Accountability and Transparency Act (FFATA) Form (Required for all federally funded SRF Equivalency projects – Form available on the Ecology website must be completed and uploaded to the General Uploads form in EAGL.
5. CWSRF Federal Reporting Information form – Must be completed in EAGL.
6. Fiscal Sustainability Plan (Asset Management) Certification Form (Only required if the project includes construction of a wastewater or stormwater facility construction) – Must be completed in EAGL.
7. Cost and Effectiveness Analysis Certification Form (Required for all projects receiving SRF Loan funding) – Must be completed in EAGL.
8. State Environmental Review Process (SERP) Documentation (Required for treatment works projects only) – Must be uploaded to the Environmental and Cultural Review form in EAGL.

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

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B. American Iron and Steel (Buy American – P.L 113-76, Consolidated Appropriations Act 2014, Section 436): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a “treatment works” as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT’S compliance with this provision.

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

D. Equivalency Projects: ECOLOGY designated equivalency project and alternative designated equivalency project RECIPIENTS agree to accept federal funds and the federal requirements that accompany the funds. This includes all the requirements in Section 4 and this Section.

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

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

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

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

- (i) the execution of this agreement; or
- (ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or
- (iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or
- (iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence, or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

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

When the Project Completion Date has occurred, ECOLOGY and the RECIPIENT shall execute an amendment to this loan agreement which details the final loan amount (Final Loan Amount), and ECOLOGY shall prepare a final loan repayment

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schedule. The Final Loan Amount shall be the combined total of actual disbursements made on the loan and all accrued interest to the computation date.

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

J. Loan Repayment:

Sources of Loan Repayment

1. Nature of RECIPIENT's Obligation. The obligation of the RECIPIENT to repay the loan from the sources identified below and to perform and observe all other agreements and obligations on its part, contained herein, shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all the covenants, agreements, and attachments contained herein.
2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.
3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all the taxable property within the boundaries of the RECIPIENT.
4. For Revenue-Secured: Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.
6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

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

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

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

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

Method and Conditions on Repayments

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

Thereafter, equal payments shall be due every six months.

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

Payments shall be mailed to:

Department of Ecology
 Cashiering Unit

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P.O. Box 47611

Olympia WA 98504-7611

In lieu of mailing payments, electronic fund transfers can be arranged by working with ECOLOGY's Financial Manager. No change to the amount of the semiannual principal and interest payments shall be made without a mutually signed amendment to this agreement. The RECIPIENT shall continue to make semiannual payments based on this agreement until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended agreement.

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.
3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.
4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

K. Loan Security

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

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

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

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

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

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

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

M. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an "Opinion of Legal Counsel to the RECIPIENT" to ECOLOGY before this agreement will be signed. ECOLOGY will provide the form.

N. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the

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Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

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

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

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

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

- The Davis-Bacon Act, 29 CFR , prevailing wage requirements, certified weekly payroll, etc.
- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33
- The American Iron and Steel Act (Buy American)
- The Build America Buy America Act (BABA) (equivalency projects only)”

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

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct.

There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT, which has not been disclosed in writing to ECOLOGY.

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

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

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

1. The facilities or property transferred are not material to the operation of the funded Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the funded Utility or are no longer necessary, material, or useful to the operation of the funded Utility; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the funded Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the funded Utility from the

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portion of the funded Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.

4. Expressed written agreement by the ECOLOGY.

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

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

The sewer use ordinance must include provisions to:

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

S. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient ECOLOGY or RECIPIENT funds.
2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

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

Termination and Default Remedies

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

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

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

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

Repayments not made immediately upon such acceleration will incur Late Charges.

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

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

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of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property. Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

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

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

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

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

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

GENERAL FEDERAL CONDITIONS

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

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY

EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a

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person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

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

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

REQUIREMENTS:

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

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

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

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

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

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

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

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component

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of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#) <https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

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

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GENERAL TERMS AND CONDITIONS

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

GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

07/01/2023 Version

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/2301002.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.
- * For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.

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

RECIPIENT shall:

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

5. ASSIGNMENT

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

6. COMMUNICATION

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

7. COMPENSATION

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

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

8. COMPLIANCE WITH ALL LAWS

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

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

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

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

9. CONFLICT OF INTEREST

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

10. CONTRACTING FOR GOODS AND SERVICES

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

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

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

11. DISPUTES

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

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

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

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

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

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

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

12. ENVIRONMENTAL DATA STANDARDS

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

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

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

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

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

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

13. GOVERNING LAW

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

14. INDEMNIFICATION

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

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

15. INDEPENDENT STATUS

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

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16. KICKBACKS

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

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

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

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

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

18. ORDER OF PRECEDENCE

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

19. PRESENTATION AND PROMOTIONAL MATERIALS

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

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

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

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

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

20. PROGRESS REPORTING

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

21. PROPERTY RIGHTS

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

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22. RECORDS, AUDITS, AND INSPECTIONS

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

All records shall:

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

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

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

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

23. RECOVERY OF FUNDS

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

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

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

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

24. SEVERABILITY

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

25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

Agreement No: WQC-2024-KCoNRP-00199
 Project Title: West Point Treatment Plant Raw Sewage Pump Replacement
 Recipient Name: King County - Department of Natural Resources and Parks - WTD

27. SUSTAINABLE PRACTICES

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

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

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

28. TERMINATION

a) For Cause

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

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

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

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

b) For Convenience

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

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

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

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

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

c) By Mutual Agreement

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

d) In Event of Termination

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

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

29. THIRD PARTY BENEFICIARY

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

30. WAIVER

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

End of General Terms and Conditions



King County

Dow Constantine
King County Executive
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TTY Relay: 711
www.kingcounty.gov

August 21, 2024

The Honorable Dave Upthegrove
Chair, King County Council
Room 1200
C O U R T H O U S E

Dear Councilmember Upthegrove:

This letter transmits a proposed Ordinance that, if approved, would authorize King County to enter into a loan agreement with the Washington State Department of Ecology (Ecology) for loan financing of capital costs associated with the West Point Treatment Plant (WPTP) Raw Sewage Pump Replacement project.

This proposed legislation authorizes the execution of an Ecology State Revolving Fund (SRF) 30-year loan agreement for state fiscal year 2024 in the amount of \$14,937,044 with an interest rate of 1.6 percent. This low-interest loan will save King County ratepayers \$7,915,616 in interest expense, compared to 30-year conventional bond financing. The project to replace the raw sewage pumps at WPTP will increase wastewater capacity and avoid the discharge of untreated wastewater. The SRF loan will fund King County's design phase expenditures for this project.

The proposed legislation furthers the King County Strategic Climate Action Plan goal of preparing for climate change by ensuring the resilience of the WPTP.

Thank you for your consideration of this proposed Ordinance. This important legislation will save King County ratepayers money and protect water quality in our region.

If your staff have any questions, please contact Kamuron Gurol, Division Director of the Wastewater Treatment Division of the Department of Natural Resources and Parks, at 206-263-5767.

The Honorable Dave Upthegrove

August 21, 2024

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Sincerely,



for

Dow Constantine

King County Executive

Enclosure

cc: King County Councilmembers

ATTN: Stephanie Cirkovich, Chief of Staff

Melani Hay, Clerk of the Council

Karan Gill, Chief of Staff, Office of the Executive

Penny Lipsou, Council Relations Director, Office of the Executive

John Taylor, Director, Department of Natural Resources and Parks (DNRP)

Kamuron Gurol, Division Director, Wastewater Treatment Division, DNRP

Ordinance/Motion:	2024-XXXX		
Title:	The Washington State Department of Ecology State Revolving Fund Loan Agreement for the West Point Treatment Plant Raw Sewage Pump Replacement Project		
Affected Agency and/or Agencies:	The Wastewater Treatment Division (WTD), Department of Natural Resources and Parks (DNRP)		
Note Prepared By:	Kenneth Wesley Rice, WTD		
Date Prepared:	3/19/2024		
Note Reviewed By:	Andres Bas Moore, WTD	Elena Davert, PSB	
Date Reviewed:	3/28/2024	8/8/2024	

Description of request:
 This ordinance authorizes the King County Executive to enter into an agreement with the Washington State Department of Ecology (Ecology) for loan financing of the design phase associated with the West Point Treatment Plant Raw Sewage Pump Replacement Project.

Revenue to:

Agency	Fund Code	Revenue Source	2023-2024	2025	2026-2027
Water Quality Capital Improvement Fund/Wastewater	3611	SRF Loan	\$14,937,044	\$0	\$0
Water Quality Capital Improvement Fund/Wastewater	3611	Revenue Bond Proceeds	(\$14,937,044)	\$0	\$0
TOTAL			\$0	\$0	\$0

Expenditures from:

Agency	Fund Code	Department	2023-2024	2025	2026-2027
Water Quality Capital Improvement Fund/Wastewater	8920	DNRP	\$0	\$630,819	\$1,261,638
Water Quality Capital Improvement Fund/Wastewater	8920	DNRP	\$0	(\$894,673)	(\$1,789,345)
TOTAL			\$0	(\$263,854)	(\$527,708)

Expenditures by Categories

	2023-2024	2025	2026-2027
Debt Service	\$0	(\$263,854)	(\$527,708)
TOTAL	\$0	(\$263,854)	(\$527,708)

Does this legislation require a budget supplemental? No

Notes and Assumptions:
 1) Total savings in debt service payments compared to bond funding is estimated at \$7,915,616 with a present value of \$5,222,152 (2024, 2.93% discount rate).
 2) SRF loan proceeds are presumed to displace bond-funded expenditures one-for-one.
 3) Debt service begins in 2025 and assumes the SRF loan has been fully drawn upon, including both principal and interest.