



## INFORMATIONAL MEMORANDUM

**TO: Transportation and Infrastructure Services Committee**

**FROM: Nora Gierloff, AICP, Community Development Director**

**BY: Nancy Eklund, AICP, Long Range Planning Manager/Recycling Coordinator**

**CC: Mayor Ekberg**

**DATE: August 29, 2022 (T&IS meeting date)**

**SUBJECT: 2021 - 2023 Local Solid Waste Financial Assistance Grant Acceptance**

### **ISSUE**

Council approval is required to authorize the Mayor to sign an Interagency Agreement to receive \$30,464 in grant funding for Recycling activities as defined by the Washington Department of Ecology (DOE) **Local Solid Waste Financial Assistance (LSWFA)** grant from the Washington Department of Ecology grant program. The \$30,464 sum to be received represents 75% of eligible activities totaling \$40,618.67.

### **BACKGROUND**

Tukwila has received a **Local Solid Waste Financial Assistance (LSWFA)** grant from the Washington Department of Ecology to support the Recycling Program’s work from July 1, 2021, through June 30, 2023.

The City has received this grant for many years (10+) and relies on this funding to support its Recycling outreach. For the 2021-2023 grant cycle, the Washington legislature added a new set of eligible tasks and increased the available grant total to cover these tasks. (It is unclear if this funding opportunity will continue into future grant cycles.) The LSWFA grant provides part of DCD’s budget and is regularly included in the City’s overall budget.

Council acceptance of the grant has been delayed this year as staff have worked with the Department of Ecology to determine exactly what tasks are acceptable under the modified grant, and to ensure that the City can both meet the documentation requirements for reimbursement as well as provide the 25% match through other recycling grant funds or through City labor documentation. A signed agreement must be finalized by September 30, 2022, in order to receive the funds.

## **DISCUSSION**

### **Local Solid Waste Financial Assistance**

The LSWFA grant has historically been used by Tukwila to support its Recycling activities. For the 2021-2023 grant cycle, the Washington legislature added Homeless Camp Cleanups as an eligible cost and increased the available grant total to cover this task.

For Recycling activities, the City's 25% local match has been provided through a separate grant from King County, the Waste Reduction and Recycling (WRR) grant. The 25% local match for the City's Homeless Encampment Cleanup costs will be met by in-kind staff costs already expended for this task.

The LSWFA grant funds are allocated as follows:

- *Residential Recycling Collection Events*  
Funds will be used to support events in Spring 2022 and 2023 to collect secondary recyclables (i.e., "hard-to-recycle" goods such as tires, sinks, furniture, bulky yard debris, etc.) from Tukwila and King County residents.
- *Proposal for Reducing Single Use Plastics Campaign*  
Funds will be used to promote compliance with new single use plastic reduction legislation to Tukwila restaurants (to reduce distribution of single use plastic utensils) and to community members (to reduce use of single use plastic bags and single use plastic utensils).
- *Homeless Encampment Cleanup*  
Funds will be used to supplement costs for the City's cleanup of homeless encampments on public property in the City. As an example of costs, in 2021, the City spent \$32,700 on cleanups.

## **FINANCIAL IMPACT**

For the Recycling activities reimbursed under the LSWFA grant, the City's 25% match will be met through another recycling grant the City receives, the King County Waste Reduction & Recycling (WRR) grant. For the Homeless Encampment Cleanup tasks, the 25% local match will be provided through the General Fund's support of City Public Works staff time dedicated to cleanup work. This cleanup task is already a part of the City's scope of work. This grant will require no additional outlay of city funds.

## **RECOMMENDATION**

Forward this item directly to the Consent Agenda of the September 12, 2022, Special meeting. This action will authorize the Mayor to sign an Interagency Agreement with the Washington Department of Ecology and accept grant funding for Tukwila's Recycling Assistance Program through June 30, 2023.

Attachment A:

- Interagency Agreement between the Washington Department of Ecology and the City of Tukwila for the Local Solid Waste Financial Assistance Grant for the 7/1/21 to 6/30/23 grant cycle.



## Agreement No. SWMLSWFA-2021-TukCDD-00103

### SOLID WASTE MANAGEMENT LOCAL SOLID WASTE FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF TUKWILA

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

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#### GENERAL INFORMATION

Project Title:	IMP City of Tukwila
Total Cost:	\$40,618.67
Total Eligible Cost:	\$40,618.67
Ecology Share:	\$30,464.00
Recipient Share:	\$10,154.67
The Effective Date of this Agreement is:	07/01/2021
The Expiration Date of this Agreement is no later than:	06/30/2023
Project Type:	Planning & Implementation

#### Project Short Description:

RECIPIENT will host up to 2 residential recycling collection events, diverting an estimated 48,000 pounds of recyclable materials, 28,000 pounds of organics, and 16,000 pounds of hazardous waste.

RECIPIENT will also dispose of solid waste from homeless encampments on publicly-owned land. An estimated 5 sites will be cleaned or supported, resulting in about 4,900 pounds of garbage properly disposed.

RECIPIENT will also prevent about 800 pounds of waste by promoting reuse and recent laws.

#### Project Long Description:

See the Scope of Work section for more detailed information related to individual Tasks.

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Project Title: IMP City of Tukwila

Recipient Name: CITY OF TUKWILA

Overall Goal:

Provide regional solutions and intergovernmental cooperation; prevent or minimize environmental contamination through planning and project implementation; and comply with state and local solid and hazardous waste management plans and laws.

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Project Title: IMP City of Tukwila

Recipient Name: CITY OF TUKWILA

**RECIPIENT INFORMATION**

Organization Name: CITY OF TUKWILA

Federal Tax ID: 91-6001519

Mailing Address: 6300 Southcenter Blvd  
Tukwila, WA 98188

Physical Address: 6300 Southcenter Blvd  
Tukwila, Washington 98188

Organization Email: nancy.eklund@tukwilawa.gov

**Contacts**

Agreement No: SWMLSWFA-2021-TukCDD-00103

Project Title: IMP City of Tukwila

Recipient Name: CITY OF TUKWILA

<p><b>Project Manager</b></p>	<p>Nancy Eklund</p> <p>6300 Southcenter Blvd Seattle, Washington 98136 Email: nancy eklund@tukwilawa.gov Phone: (206) 433-7141</p>
<p><b>Billing Contact</b></p>	<p>Nancy Eklund</p> <p>6300 Southcenter Blvd Seattle, Washington 98136 Email: nancy eklund@tukwilawa.gov Phone: (206) 433-7141</p>
<p><b>Authorized Signatory</b></p>	<p>Allan Ekberg Mayor</p> <p>6200 Southcenter Blvd Tukwila, Washington 98188 Email: allan ekberg@tukwilawa.gov Phone: (206) 433-1850</p>

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 Recipient Name: CITY OF TUKWILA

**ECOLOGY INFORMATION**

Mailing Address: Department of Ecology  
 Solid Waste Management  
 PO BOX 47600  
 Olympia, WA 98504-7600

Physical Address: Solid Waste Management  
 300 Desmond Drive SE  
 Lacey, WA 98503

**Contacts**

<p><b>Project Manager</b></p>	<p>Diana Wadley</p> <p>PO Box 330316                  Shoreline, Washington 98133-9716                  Email: <a href="mailto:dwad461@ecy.wa.gov">dwad461@ecy.wa.gov</a>                  Phone: (425) 429-4639</p>
<p><b>Financial Manager</b></p>	<p>Diana Wadley</p> <p>PO Box 330316                  Shoreline, Washington 98133-9716                  Email: <a href="mailto:dwad461@ecy.wa.gov">dwad461@ecy.wa.gov</a>                  Phone: (425) 429-4639</p>

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Recipient Name: CITY OF TUKWILA

**AUTHORIZING SIGNATURES**

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

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

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

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

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

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

Washington State  
Department of Ecology

CITY OF TUKWILA

By: \_\_\_\_\_

By: \_\_\_\_\_

Laurie Davies  
Solid Waste Management  
Program Manager  
Date

Allan Ekberg  
Mayor  
Date

Template Approved to Form by  
Attorney General's Office



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 Project Title: IMP City of Tukwila  
 Recipient Name: CITY OF TUKWILA

## SCOPE OF WORK

Task Number: 1 **Task Cost: \$12,000.00**

Task Title: CROP Recycling Operations

### Task Description:

The RECIPIENT, via a contractor, will host up to two residential recycling collection events. Organics, household hazardous waste (HHW), and other large or hard-to-recycle items will be collected along with 'usual' recyclables at a convenient City location. Educational materials, which describe how to reduce waste and recycle more using City-sponsored or private sector recycling programs, will also be distributed.

Work to be performed by the contractor:

- Organize, stage, and staff the event, including scheduling and paying vendors.
- Advertisement of the event.
- Distribution of the outreach materials at the event (some materials are made by the contractor and some are pre-existing from various sources).
- Responsible recycling, reusing, or disposing (such as for some hazardous waste) of the collected materials.
- Selling of compost bins and vermicompost bins as a small co-located feature of these events (note sales revenue is to be credited back to the grant)
- Calculating and reporting outcomes of each event to ECOLOGY.

Who will perform it:

- A contractor, in conjunction with any vendors hired or utilized by said contractor for final management of materials.
- RECIPIENT employee intends to be minimally involved, performing basic oversight.

This task includes development and distribution of promotional materials in a variety of formats to encourage participation. RECIPIENT is encouraged to work with their ECOLOGY grant manager when developing promotional materials, and provide a draft copy for review and approval 10 business days prior to production and distribution of materials. RECIPIENT is reminded of provisions 3 and 19 of the General Terms and Conditions of this Agreement.

This task will not reimburse costs covered by existing product stewardship organizations (E-Cycle Washington, LightRecycle Washington, PaintCare, Call2Recycle) or for costs covered by new product stewardship organizations that are fully implemented during this agreement period.

RECIPIENT is not participating in the PaintCare product stewardship program and will be implementing special collection events. ECOLOGY encourages RECIPIENT to contact PaintCare to coordinate PaintCare's presence at events. PaintCare will take all acceptable products during the event at no charge to the RECIPIENT, resulting in a cost savings to the RECIPIENT. LSWFA will not cover the costs at collection events that are covered by PaintCare.

RECIPIENT will credit the grant for any revenue received from the collection of fees or commodity sales of items this task is directly supporting.

The scope of this task includes recycling activity managed or performed by RECIPIENT at a recycling center such as a transfer

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station or drop box location, or at another location. Disposal of any materials collected or advertised as collected for recycling or reuse or marketed for recycling or reuse under this task is prohibited. RECIPIENT must immediately notify ECOLOGY when they become aware that disposal of materials collected for recycling or reuse occurred. ECOLOGY may deny new costs or require RECIPIENT to repay costs already reimbursed or both.

**Task Goal Statement:**

The goal of this task is to decrease the amount of organic waste, household hazardous waste, and hard-to-recycle items going to landfill by holding collection events in a convenient location for City residents. RECIPIENT and its contractor will also help reduce waste and encourage recycling by distributing educational materials to residents. The events will also provide an opportunity to distribute environmentally friendly products such as compost/vermicompost bins.

**Task Expected Outcome:**

The collection events proposed are expected to net an approximate total of 48,000 pounds of material for recycling, 28,000 pounds of organics diverted from the waste stream, and 16,000 pounds of household hazardous waste properly managed. Depending on vendor availability, there is potential to also collect 7,000 pounds of items for reuse. These metrics represent the percentage of the task's total overall cost that is supported by the Ecology Share plus Recipient Share under this Agreement.

Recipient Task Coordinator: Paul Devine

**CROP Recycling Operations**

**Deliverables**

Number	Description	Due Date
1.1	Task Expected Outcomes are the deliverables and achieved incrementally throughout the biennium.	

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## SCOPE OF WORK

Task Number: 2 **Task Cost:** \$15,285.34

Task Title: Homeless Encampment Response

### Task Description:

#### ACTIVITY - CLEANUP

RECIPIENT will coordinate with other departments and local agencies to cleanup active and/or abandoned encampments and continue to keep them clean. RECIPIENT may investigate active and/or abandoned encampments to assess and prioritize cleanup. Cleanup and disposal are eligible on publicly-owned sites/locations only.

RECIPIENT intends to contract for assistance with this task. Reimbursement for costs incurred by contractors to perform work identified in this task are subject to the same eligibility and reimbursement requirements as the RECIPIENT, and require ECOLOGY approval.

RECIPIENT is encouraged to review the Master Contract provided by Department of Enterprise Services (DES) for information about vendors with experience to cleanup and dispose of materials that meet the RECIPIENT's specific circumstances and need.

#### ACTIVITY – INFRASTRUCTURE, PURCHASED SERVICES

Recipient may purchase services to provide portable toilets and or garbage collection at shelter-in place locations and other locations where the Recipient has previously assessed these services are practical.

Recipient employees and or contractors will investigate active encampments to assess the level of infrastructure needed.

Costs eligible for reimbursement with supporting documentation include:

- RECIPIENT employee time.
- Contracts, purchased services identified in the scope of work.
- Supplies for cleanup: bags, protective gear.
- Cleanup costs: time, transportation, and disposal of materials from encampments.
- Time: planning/coordination of cleanup.
- Costs not listed here but pre-approved in writing by ECOLOGY.

Costs not eligible for reimbursement:

- Overtime compensation (all hours are calculated at the regular rate of pay).
- Costs not specifically identified or pre-approved in writing by ECOLOGY.

### Task Goal Statement:

The goal of the task is to protect the environment through cleanup and prevent continued environmental harm at encampments.

### Task Expected Outcome:

With the task budget, RECIPIENT estimates:

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- 4,000 pounds of garbage are cleaned up from 5 encampments and properly disposed.
- 900 pounds of garbage are prevented from improper disposal because garbage collection containers were installed at 3 active encampments and regularly serviced.
- 8 cleanups are performed at 5 encampments (includes multiple cleanups at the same encampments).

RECIPIENT will track and report the pounds of garbage cleaned and properly disposed.

Anticipating multiple cleanups at the same encampment, RECIPIENT will track and report quarterly, the number of encampments cleaned and the number of cleanups performed at each encampment.

Recipient Task Coordinator: Nancy Eklund

**Homeless Encampment Response**

**Deliverables**

Number	Description	Due Date
2.1	Task Expected Outcomes are the deliverables and achieved incrementally throughout the biennium.	

## SCOPE OF WORK

Task Number: 3 **Task Cost:** \$13,333.33

Task Title: CROP Residential Recycling/Waste Prevention

### Task Description:

RECIPIENT, with a consultant, will provide a campaign for residents to reduce waste and increase reuse of items, and secondarily, to promote compliance among restaurants with the new statewide single use bag ban and the serviceware on request law. The RECIPIENT and its consultant are encouraged to work with/build on other entities centering similar work, such as the City of Kirkland, and ECOLOGY staff implementing the laws.

Work to perform may include:

- Create and implement a campaign to reduce or eliminate one-time use of items where feasible. This includes support of Chapter 70A.245 Revised Code of Washington (RCW) requirements around disposable serviceware at food service businesses, and the Chapter 70A.530 RCW law for reusing bags.
- Promotion of the campaign via media such as web and print.
- Provision of durable goods as a tool to kickstart reuse habits, such as reusable bags, portable utensil kits and/or straws. RECIPIENT is encouraged to find the target audience for giveaway kickstart tools by seeking out audiences underserved and unlikely to already have such items.
- Use of community-based social marketing strategies to reaffirm reuse and reduction behaviors in the residential sector. This will include face-to-face interaction and the use of a pledge-like display or similar on which residents may indicate by mark or placement of an object, etc. a commitment to use and reuse the durable goods they receive. This will be paired with encouragement to participate in follow-up survey(s). It may also include prompts and sharing images of residents utilizing their kits to establish it as a social norm.
- Evaluation of the tangible effects of the outreach in terms of pounds of waste prevented. See "Task Expected Outcomes" for details.

Who will perform the work:

- RECIPIENT will hire a consultant to perform most of the work.

Reimbursement for costs incurred by contractors to implement LSWFA funded activities identified in this task are subject to the same eligibility and reimbursement requirements as the RECIPIENT, and require ECOLOGY approval.

This task includes development and distribution of promotional materials in a variety of formats to encourage participation. RECIPIENT is encouraged to work with their ECOLOGY grant manager when developing promotional materials, and provide a draft copy for review and approval 10 business days prior to production and distribution of materials. RECIPIENT is reminded of provisions 3 and 19 of the General Terms and Conditions of this Agreement.

Eligible costs include:

- Consultant time and costs necessary to perform the scoped work.
- Media buys and creation.
- Purchase of subsidized items (see note below).
- Costs not listed here but pre-approved in writing by ECOLOGY.

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Items that are considered entertainment are not eligible for reimbursement such as gift cards and movie tickets. LSWFA allows outreach material that meet the following criteria:

1. Must be pre-approved by ECOLOGY.
2. Must be relevant to the task and support the task’s message.
3. Must promote an environmental action.
4. Must be received by a “participant” in the LSWFA program or task.
5. Must be minimal in cost.

Costs not eligible for reimbursement:

- Overtime compensation (all hours are calculated at the regular rate of pay).
- Costs not specifically identified in the task's scope of work or pre-approved in writing by ECOLOGY.

Task Goal Statement:

The goal of this task is to reduce pollution and natural resource use consumption. RECIPIENT intends to do this via support for residents reducing waste from single-use items and education of business owners about the new laws on single-use bags and serviceware.

Task Expected Outcome:

With the Task Cost, RECIPIENT expects to reduce solid waste by approximately 800 pounds over the two-year grant period. RECIPIENT will estimate waste prevention achieved by replacement of single-use items with durable items and similar consumption changes. This will be done via surveys of residential participants regarding their waste habits before and after outreach. All residential recipients of the waste-preventing durable goods will be strongly encouraged to indicate their commitment to use the items (such as via the pledge-like display described in "Task Description"), and will be encouraged to participate in follow-up survey(s) (the information for which will be included with the goods). The survey may also seek feedback on how the durable products provided have performed for the resident. As an incentive for survey participation, RECIPIENT has indicated potential entry into a drawing for a gift card, and RECIPIENT knows that cost would be ineligible under this Task.

Recipient Task Coordinator: Nancy Eklund

**CROP Residential Recycling/Waste Prevention**

**Deliverables**

Number	Description	Due Date
3.1	Task Expected Outcomes are the deliverables and achieved incrementally throughout the biennium.	

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**BUDGET**

**Funding Distribution EG220146**

**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: City of Tukwila Funding Type: Grant  
 Funding Effective Date: 07/01/2021 Funding Expiration Date: 06/30/2023

Funding Source:

Title: Model Toxics Control Operating Account (MTCOA)  
 Fund: FD  
 Type: State  
 Funding Source %: 100%  
 Description: Local Solid Waste Financial Assistance

Approved Indirect Costs Rate: Approved State Indirect Rate: 30%  
 Recipient Match %: 25%  
 InKind Interlocal Allowed: No  
 InKind Other Allowed: No  
 Is this Funding Distribution used to match a federal grant? No

City of Tukwila	Task Total
CROP Recycling Operations	\$ 12,000.00
Homeless Encampment Response	\$ 15,285.34
CROP Residential Recycling/Waste Prevention	\$ 13,333.33

**Total: \$ 40,618.67**

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### **Funding Distribution Summary**

#### **Recipient / Ecology Share**

<b>Funding Distribution Name</b>	<b>Recipient Match %</b>	<b>Recipient Share</b>	<b>Ecology Share</b>	<b>Total</b>
City of Tukwila	25.00 %	\$ 10,154.67	\$ 30,464.00	\$ 40,618.67
<b>Total</b>		<b>\$ 10,154.67</b>	<b>\$ 30,464.00</b>	<b>\$ 40,618.67</b>

#### **AGREEMENT SPECIFIC TERMS AND CONDITIONS**

N/A

#### **SPECIAL TERMS AND CONDITIONS**

If the scope of this Agreement includes recycling activity managed or performed by the RECIPIENT at a recycling center (such as a transfer station or drop box location) or other locations, Ecology will not reimburse disposal costs for materials collected or advertised as collected for recycling/reuse or marketed for recycling/reuse under this Agreement, unless approved in writing by Ecology. RECIPIENT must immediately notify ECOLOGY when the RECIPIENT becomes aware that disposal of materials occurred or may occur due to the market conditions for recycled/reused materials. ECOLOGY may deny new costs or require repayment of costs already reimbursed or remove the task from the Agreement or terminate the Agreement.

Ecology will conduct a risk assessment of all Local Solid Waste Financial Assistance recipients. The level of risk determines the level of oversight required by Ecology throughout the biennium. If the RECIPIENT's performance or project circumstances change, Ecology may reassess risk and notify the RECIPIENT of any changes to administrative requirements.

RECIPIENT shall update the Spending Plan and Outcomes Data Collection form at least quarterly. The Spending Plan and Outcomes Data Collection form must be completed concurrent with the submittal of each payment Request/Progress Report. RECIPIENT shall report outcomes in a manner consistent with instructions in the Local Solid Waste Financial Assistance guidelines.

RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial (including payment requests), performance, and other reports required by this Agreement. Ecology shall have the right to deny reimbursement of payment requests received after this date.

#### **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



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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 "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) <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) <http://www.usaspending.gov>.

For more details on FFATA requirements, see [www.fsrc.gov](http://www.fsrc.gov) <http://www.fsrc.gov>.

#### C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE

Agreement No: SWMLSWFA-2021-TukCDD-00103  
Project Title: IMP City of Tukwila  
Recipient Name: CITY OF TUKWILA

### 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>, 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

06/24/2021 Version

#### 1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

#### 2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

#### 3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

#### 4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
    - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.
- \* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.

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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](mailto: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

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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