City of Stanwood

City Council Packet

Stanwood City Council Regular Meeting

Thursday, June 9, 2022

AGENDA
CITY COUNCIL REGULAR MEETING
Thursday, June 9, 2022 – 7:00 p.m.

Stanwood-Camano School District
Administration Building Board Room
26920 Pioneer Highway, Stanwood, WA 98292

Members of the public may attend Stanwood City Council meetings in-person at the address above, or Via Zoom.
Instructions to join the meeting by telephone or online are posted on the City Website **https://www.stanwooodwa.org**

1. **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**
2. **ROLL CALL**
3. **APPROVAL OF THE AGENDA**
4. **PUBLIC COMMENTS**

   Written comments must be provided to the Clerk by 9:00 a.m. the day of the meeting via this link:https://stanwoodwa.org/FormCenter/City-Clerk-5/City-Council-Meeting-Remote-Public-Comme-61; verbal comments may be provided in-person, or by attending the meeting via Zoom; for assistance call 360-454-5213.
5. **STAFF / DEPARTMENT REPORTS**
6. **COUNCIL COMMITTEE REPORTS**
7. **CONSENT AGENDA**
   a. Approve Vouchers and Payroll Checks **7.1**
   b. Approve, May 26, 2022, City Council Regular Meeting Minutes **7.5**
8. **UNFINISHED BUSINESS**
   a. Second Reading, Ordinance 1505: 2021-2022 Budget Amendment Three **8.1**
   b. Third Reading, Ordinance 1504: Kottsick Annexation **8.11**
9. **PUBLIC HEARING**
10. **NEW BUSINESS**
    a. Accept Department of Commerce Grant for Sebranke Property Cleanup, and Authorize the Mayor to Sign Agreement with Maul Foster and Alongi **10.1**
11. **PUBLIC CLOSING COMMENTS**
12. **EXECUTIVE/LEGISLATIVE REPORTS**
    a. Mayor's Report
    b. City Administrator's Report
    c. Councilmember Reports/Questions
13. **RECESS TO EXECUTIVE SESSION-DISCUSSION OF REAL ESTATE ACQUISITION, KNOWLEDGE OF WHICH COULD AFFECT THE PRICE, RCW 42.30.110(C)]**
14. **RECONVENE AND ADJOURN**

Upcoming Meetings:
June 23, 2022, Regular Meeting
July 14, 2022, Regular Meeting

CITY OF STANWOOD
COUNCIL AGENDA STAFF REPORT

ITEM NUMBER:	**7a**
DATE:	June 9, 2022
SUBJECT:	Approval of Voucher and Payroll Checks
CONTACT PERSON:	Amy Bergemeier, Accounting Specialist
ATTACHMENTS:	A - Voucher Check Detail

SUMMARY STATEMENT

Approve issuance of Washington Federal Bank voucher checks 35390 through 35422 and Washington Federal Bank electronic funds transfers in the amount of $159,190.19. Approve issuance of Washington Federal electronic payroll and benefit funds transfers in the amount of $49,500.00.

RECOMMENDED MOTION

MOTION TO APPROVE ISSUANCE OF WASHINGTON FEDERAL BANK VOUCHER CHECKS 35390 THROUGH 35422 AND WASHINGTON FEDERAL BANK ELECTRONIC FUNDS TRANSFERS IN THE AMOUNT OF $159,190.19. APPROVE ISSUANCE OF WASHINGTON FEDERAL ELECTRONIC PAYROLL AND BENEFIT FUNDS TRANSFERS IN THE AMOUNT OF $49,500.00.

CHECK REGISTER

City Of Stanwood | Time: 08:47:47 Date: 05/26/2022

05/19/2022 To: 05/26/2022 | Page: 1

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
2319	05/23/2022	Payroll	3	EFT		3,000.00	May 2022 Draw
2320	05/23/2022	Payroll	3	EFT		1,400.00	May 2022 Draw
2321	05/23/2022	Payroll	3	EFT		1,800.00	May 2022 Draw
2322	05/23/2022	Payroll	3	EFT		2,000.00	May 2022 Draw
2323	05/23/2022	Payroll	3	EFT		2,500.00	May 2022 Draw
2324	05/23/2022	Payroll	3	EFT		2,000.00	May 2022 Draw
2325	05/23/2022	Payroll	3	EFT		1,000.00	May 2022 Draw
2326	05/23/2022	Payroll	3	EFT		2,000.00	May 2022 Draw
2327	05/23/2022	Payroll	3	EFT		2,700.00	May 2022 Draw
2328	05/23/2022	Payroll	3	EFT		2,400.00	May 2022 Draw
2329	05/23/2022	Payroll	3	EFT		4,000.00	May 2022 Draw
2330	05/23/2022	Payroll	3	EFT		1,600.00	May 2022 Draw
2331	05/23/2022	Payroll	3	EFT		1,000.00	May 2022 Draw
2332	05/23/2022	Payroll	3	EFT		2,000.00	May 2022 Draw
2333	05/23/2022	Payroll	3	EFT		1,600.00	May 2022 Draw
2334	05/23/2022	Payroll	3	EFT		2,000.00	May 2022 Draw
2335	05/23/2022	Payroll	3	EFT		500.00	May 2022 Draw
2336	05/23/2022	Payroll	3	EFT		1,500.00	May 2022 Draw
2337	05/23/2022	Payroll	3	EFT		1,800.00	May 2022 Draw
2338	05/23/2022	Payroll	3	EFT		1,000.00	May 2022 Draw
2339	05/23/2022	Payroll	3	EFT		2,350.00	May 2022 Draw
2340	05/23/2022	Payroll	3	EFT		1,200.00	May 2022 Draw
2341	05/23/2022	Payroll	3	EFT		500.00	May 2022 Draw
2342	05/23/2022	Payroll	3	EFT		3,450.00	May 2022 Draw
2343	05/23/2022	Payroll	3	EFT		1,500.00	May 2022 Draw
2344	05/23/2022	Payroll	3	EFT		1,700.00	May 2022 Draw
2345	05/23/2022	Payroll	3	EFT		1,000.00	May 2022 Draw
2370	05/20/2022	Claims	3	EFT	WA St Dept of Revenue **	17,304.44	City of Stanwood
2371	05/20/2022	Claims	3	35390	Ace Hardware *	576.83	20013; 20013; 20013; 20013; 20013; 20013; 20013; 20013; 20013; 20013
2372	05/20/2022	Claims	3	35391	Aramark Uniform Services Inc	107.88	937963000; 937963000
2373	05/20/2022	Claims	3	35392	The Blueline Group, LLC	3,112.50	City of Stanwood; City of
2374	05/20/2022	Claims	3	35393	Builders Exchange of Washington Inc	46.45	CIty of Stanwood
2375	05/20/2022	Claims	3	35394	City of Everett *	470.00	STACITG
2376	05/20/2022	Claims	3	35395	Databar Inc.	2,102.64	8952; 8952; 8952
2377	05/20/2022	Claims	3	35396	Edge Analytical Inc	293.00	STA01; STA01; STA01
2378	05/20/2022	Claims	3	35397	Explorer Media and Marketing	3,700.00	City of Stanwood
2379	05/20/2022	Claims	3	35398	Dani M Gaumond	49.69	City of Stanwood
2380	05/20/2022	Claims	3	35399	Lenz Enterprises Inc	2,124.25	City of Stanwood; City of Stanwood; City of Stanwood; City of Stanwood; City of Stanwood
2381	05/20/2022	Claims	3	35400	Northend Truck Equipment Inc	917.28	55495
2382	05/20/2022	Claims	3	35401	PUD Of Snohomish County *	1,048.55	201942398; 200738672; 200103539; 202423729; 200794063; 222277832
2383	05/20/2022	Claims	3	35402	Pape' Machinery	45.14	6109854; 314673; 314673
2384	05/20/2022	Claims	3	35403	Perteet Inc.	15,771.60	City of Stanwood
2385	05/20/2022	Claims	3	35404	Puget Tech LLC	1,209.00	City of Stanwood
2386	05/20/2022	Claims	3	35405	RH2 Engineering Inc	14,761.83	City of Stanwood; City of
2387	05/20/2022	Claims	3	35406	Refund - I Travel Notary	10.38	City of Stanwood
2388	05/20/2022	Claims	3	35407	Refund - Serenitea LLC	128.70	City of Stanwood
2389	05/20/2022	Claims	3	35408	Ricoh USA, Inc.	124.27	1316669-3800326
2390	05/20/2022	Claims	3	35409	Skagit Valley Publishing	358.88	48893; 48893; 48893; 48893
2391	05/20/2022	Claims	3	35410	Sno Co District Court	486.64	DCT34003; DCT34003
2392	05/20/2022	Claims	3	35411	Sno Co Human Services Dept *	608.32	HSALC088

CHECK REGISTER

City Of Stanwood — Time: 08:47:47 Date: 05/26/2022

05/19/2022 To: 05/26/2022 — Page: 2

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
2393	05/20/2022	Claims	3	35412	Sno Co Information Services *	14,548.18	DIS1107
2394	05/20/2022	Claims	3	35413	Sno Co Public Works *	65,159.74	CRSTLOAN
2395	05/20/2022	Claims	3	35414	Sno Co Sheriff's Office - CB	1,570.89	91-6001368; 91-6001368
2396	05/20/2022	Claims	3	35415	Snohomish County 911	9,181.11	City of Stawnood
2397	05/20/2022	Claims	3	35416	Stanwood Auto Parts	312.17	56100; 56100; 56100
2398	05/20/2022	Claims	3	35417	Stanwood High School Horticulture	1,800.00	City of Stanwood 4325-00-0000-402
2399	05/20/2022	Claims	3	35418	Stilly Auto Parts Napa	50.39	27197
2400	05/20/2022	Claims	3	35419	USA Bluebook	796.19	478228; 478228; 478228
2401	05/20/2022	Claims	3	35420	Western Exterminator Company	188.83	City of Stanwood; City of
2402	05/20/2022	Claims	3	35421	Xylem Water Solutions U.S.A., Inc.	146.50	129265
2403	05/20/2022	Claims	3	35422	Ziply Fiber	77.92	360-939-0579-080320-5

Fund	Amount		
001 General Fund	71,398.49		
101 Street Fund	4,032.97		
103 Street Construction Fund	18,884.10		
115 Tourism And Promotion	4,909.00		
401 Sewer Fund	11,497.97		
403 Sewer Construction Fund	6,463.48		
410 Drainage Fund	68,659.87		
411 Drainage Construction Fund	46.45		
421 Water Fund	14,484.86		
422 Water Construction Fund	8,298.35		
630 Agency Fund	14.65		
		Claims:	159,190.19
* Transaction Has Mixed Revenue And Expense Accounts	208,690.19	Payroll:	49,500.00

CERTIFICATION: I, the undersigned do hereby certify under penalty of perjury, that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the City of Stanwood, and that I am authorized to authenticate and certify to said claim.

( ) Finance Director ( ) Auditing Officer ____________ Date: 5-26-22

( ) Deputy Finance Director

CITY OF STANWOOD
COUNCIL AGENDA STAFF REPORT

ITEM NUMBER:	**7b**
DATE:	June 9, 2022
SUBJECT:	City Council May 26, 2022, Regular Meeting Minutes
CONTACT PERSON:	Krista Hintz, Assistant to the Administrator & Communications Manager
ATTACHMENTS:	A – Council Regular Meeting Minutes May 26, 2022

SUMMARY STATEMENT

Minutes of the May 26, 2022, Regular City Council Meeting are attached.

RECOMMENDED MOTION

MOTION TO APPROVE THE MINUTES OF THE MAY 26, 2022, CITY COUNCIL REGULAR MEETING AS PRESENTED.

CITY OF STANWOOD
Regular City Council Meeting
Thursday, May 26, 2022, 7:00 p.m.
Stanwood-Camano School District Administration Building Board Room
26920 Pioneer Highway, Stanwood, WA 98292
Online option via Zoom

MINUTES

1. CALL TO ORDER

Mayor Sid Roberts called the meeting to order at 7:00 p.m.

2. ROLL CALL

Assistant to the Administrator Krista Hintz called the roll with the following Council members present: Dani Gaumond, Marcus Metz, Darren Robb, Steve Shepro, Andreena Bergman, Tim Schmitt. The meeting was quorate. *A motion was made by Councilmember Robb, Second by Councilmember Gaumond to excuse Councilmember Tim Pearce.* The motion carried unanimously.

Also known to be present: City Administrator Shawn Smith, Public Works Director Kevin Hushagen, Community Development Director Patricia Love, Incoming Police Chief Jason Toner, City Attorney Nikki Thompson, Finance Director David Hammond, Human Resources Manager Pat Adams, Economic Development and Marketing Manager Sarah Cho and Assistant to the Administrator and Communications Manager Krista Hintz.

3. APPROVAL OF THE AGENDA

Motion by Councilmember Shepro, Second by Councilmember Metz to approve the agenda.
Motion carried unanimously.

4. CITIZEN COMMENTS

The city received one request for verbal comment.

Kathy Orni, Edwards Development Group, DR Horton
11241 Slater Ave Kirkland, WA
Topic – Kottsick Annexation

5. STAFF / DEPARTMENT REPORTS

Mayor Roberts introduced incoming Police Chief Jason Toner. Chief Toner officially begins his new role June 1, 2022.

6. COMMITTEE REPORTS

a. Community Development Committee Minutes – May 5, 2022
b. Finance Committee Meeting Minutes – May 16, 2022
c. Parks and Trails Advisory Committee Minutes – April 18, 2022
d. Public Works/Parks Committee Minutes – May 2, 2022

7. CONSENT AGENDA

a. Approve Vouchers and Payroll Checks
b. Approve May 12, 2022, City Council Regular Meeting Minutes
c. Approve May 12, 2022, City Council Special Workshop Meeting Minutes

Motion by Councilmember Metz, Second by Councilmember Robb to approve the consent agenda, items A thru C. Motion carried unanimously

8. UNFINISHED BUSINESS

a. Second Reading, Ordinance 1504 - Kottsick Annexation

The first reading of Ordinance 1504-Kottsick Annexation on May 12, 2022, brought many questions regarding traffic, pace of development and what constitutes a benefit to the city. Community Development Director Patricia Love presented the second reading addressing these questions.

<u>Preservation of Farmland:</u>
With the adoption of the Growth Management Act, cities and counties worked together to adopt local comprehensive plans that managed growth within their jurisdictional boundaries and adopted urban growth boundaries that determined where future growth would go. The urban growth boundary is the line that denotes the separation of urban development from rural development, thereby protecting Washington's farmlands from uncontrolled growth.

The City of Stanwood is growing per its adopted plan, not uncontrolled sprawl. The City's first GMA compliant Comprehensive Plan, adopted in 1995, shows that the Kottsick property and the surrounding Copper Station properties were all included in the Urban Growth Area. The Kottsick property is also one of the few remaining properties that hasn't yet been annexed into the City.

The Kottsick property owners have had the land use right to annex into the City and develop at the predetermined zoning since 1995.

<u>Pace of Development:</u>
Cities adopt Comprehensive Plan and Zoning regulations that control the type and density of future development. The pace of development is determined by market forces and property owner decisions. The City does not determine when properties are developed, only that when they are submitted for development, that they meet adopted standards. The 2015-2035 Comprehensive Plan sets the growth targets. The Kottsick annexation is consistent with the city's growth targets. Delaying the growth will require the city's growth to catch up later.

If the City does not adopt its comprehensive plan and zoning densities consistent with the regional and county-wide planning policies, the City can be found in non-compliance with the Growth Management Act and lose out on funding, and grants for our roads and parks, until our plans are found to be in compliance with regional growth strategies and targets

<u>Traffic:</u>
Traffic impacts are measured by Level of Service (LOS) standards. LOS is a measurement of delay measured in seconds. There are six Levels of Service tiers, and if a development creates an impact that makes the street LOS drop below its adopted level of service, the development must either mitigate their impacts on the street network to bring the LOS up to adopted standards or the project can be denied.

The adopted 2015-2035 Transportation Plan identifies 80th Avenue operating at LOS A standard under the existing Comprehensive Plan and zoning designations. The annexation will result in a development that meets or exceeds the city adopted LOS standard.

Sewer Capacity:
Three levels of evaluation were required for the Kottsick Annexation: Copper Station Lift Station Capacity, Main Lift Station Capacity, and Wastewater Plant Capacity and Water Quality Determination. The analysis showed that the City has capacity to serve the annexation with the applicant constructing some off-site gravity flow improvements. The analysis was prepared based on a 136-unit subdivision; the actual subdivision is 127 units.

This year, being one of the wettest winter and spring in recent history, for the last 6 months (rainy season) the plant was at roughly 48% flow, 46% BOD and 34% TSS capacity. The wastewater plant has sufficient capacity to handle the Kottsick annexation's future development.

Public Safety:
Police and Fire both have the capacity to provide services should the annexation be approved.

School Capacity:
There are three elementary schools in the area, the district is looking at capacity at one school while acknowledging the other two do have available capacity.

Benefits to the City:

a) Development of the property will expand the City's Street grid network as planned to promote traffic circulation and emergency access.
b) 80th Avenue along the property will be improved with curb, gutters, landscaping and sidewalks.
c) Development will be subject to park and traffic impact fees to help finance projects on the City's Capital Improvement Plan.
d) The Development will install 2,210 linear feet of off-site gravity sewer main at their sole expense.
e) The Development will pay sewer and water plant investment fees.
f) New property owners will pay their fair share of property taxes and monthly water, sewer, and drainage fees which spreads the cost of maintenance and future improvements over more people thereby reducing the burden on existing residents.
g) New residents will also support Stanwood businesses by buying local.

If the Council chooses to deny the annexation, Snohomish County may choose to develop the land. Approving the annexation will allow the city to have control over the development standards, potentially avoiding double the density that the county is allowed. The city will also be able to set the road standards for the development, collect park impact fees and property taxes.

Motion by Councilmember Shepro, second by Councilmember Gaumond to approve the second reading of Ordinance 1504 as set forth in Attachment A and Schedule the third and final reading of the Ordinance on June 9, 2022. A Roll Call Vote was taken, motion carried unanimously.

9. NEW BUSINESS

a. Appointment of Economic Development Board Member Ashley Palmer

Economic Development and Marketing Manager Sarah Cho asked Council to consider the mayor's appointment of Ashley Palmer, owner of Flora & Fauna to the Economic Development Board to fill a current vacancy.

Motion by Councilmember Robb, Second by Councilmember Shepro to Appoint Ashley Palmer to the Stanwood Economic Development Board, a one-year term expiring December 31, 2022,

Motion carried unanimously.

b. First Reading Ordinance 1505 2021-2022 Budget Amendment Three

Finance Director David Hammond asked Council to consider Ordinance 1505: 2021-2022 Budget Amendment Three. The recommended changes include minor revisions to revenue estimates, recently authorized projects, changes in timing of capital projects, miscellaneous transfers and corrections, and new requests to include:

- $65,000 Two new Public Works light-medium duty pickups.
- $50,000 Utility Rate Study, supporting Water & Sewer Plan updates.
- SCADA Information Security Program remediation.
- $60,000 Consolidated Asphalt Repair Contract
- $55,000 Twin City Mile Land Survey

Motion by Councilmember Robb, Second by Councilmember Gaumond to Approve the First Reading of Ordinance 1505, Amending the 2021-2022 budget as presented.

A Roll Call Vote was taken; motion carried unanimously.

c. Discuss Six-year Transportation Plan

Public Works Director Kevin Hushagen addressed the Council for a discussion on the Six-year Transportation Improvement Plan. The TIP has been brought before the Public Works Committee three times; Councilmember Robb has twice asked the Council to review the Transportation Improvement Plan, Community Development Director Patricia Love has addressed 80th Ave NW.

One note: S-2 Project, the plan states adding sidewalks to the southside of 273rd PL NW, this should say "northside", the correction will be made before the next meeting.

Councilmember Shepro asked about Main Street Beautification spending, City money versus grant money. Community Development Director Patricia Love spoke to this. The overall Main Street Beautification project has been broken down into smaller projects. The design for the Twin City Mile will be completed, the Camano Street intersection currently bypasses the brick road, this may be reconfigured. Staff is looking at 92nd Ave NW and 271st St NW to make the intersection more pedestrian friendly and functional. The project will go before committee and then to Council. There is the possibility of some of the money coming from grants, Impact fees, and the TBD (Transportation Benefit District).

Councilmember Shepro asked about traffic calming devices, possible flashing lights to indicate limited sight distance on 80th Ave NW. Public Works Director Kevin Hushagen stated it may be possible to add the flashing sign and stated the installation of planned roundabouts on that road will help to slow people down.

d. Authorize Mayor to Sign Contract with Taylor Excavators for SR532 Drainage Berm Project

Public Works Director Kevin Hushagen asked Council to authorize Mayor Roberts to sign a contract with Taylor's Excavators for the SR532 Drainage Berm Project. This is a continuation of IS4, Irvine Slough Phase 4, the project is located on SR 532 at Jimmy's Pizza/The Cookie Mill. The plan is to complete the work during the night to minimize impact to traffic. A full closure with detour will provide the quickest competition. A traffic control plan has been submitted to WSDOT; projected start date is July 5, 2022.

Motion by Councilmember Metz, Second by Councilmember Gaumond to Authorize the Mayor to sign a contract with Taylor's excavators, Inc. for the SR-532 Drainage Berm Project in the amount not to exceed $1,324,317.06 and a contingency in the amount of $132,431.71.

A Roll Call Vote was taken, motion carried unanimously.

e. Authorize Mayor to Sign Contract with Transblue for Asphalt Repair Project

Public Works Director Kevin Hushagen asked Council to authorize Mayor Roberts to sign a contract with TransBlue for the Asphalt Repair Project. There are several places in town that need asphalt repair.

Motion by Councilmember Gaumond, Second by Councilmember Robb to Authorize Mayor Roberts to sign a contract with TransBlue for the Asphalt Repair Project in the amount not to exceed $60,747.12.

A Roll Call Vote was taken, motion carried unanimously.

f. Adopt Resolution 2022-09 Updating the Non-Represented Employee Salary Schedule

Human Resources Manager Pat Adams presented Resolution 2022-09, updating the Non-Represented Employee Salary Schedule to reclassify and upgrade the Senior Planner to the position of Parks Planning Manager, and the Engineering Technician to Associate Engineer.

Reclassifying the Senior Planner to the Parks Planning Manager is one of the first steps in a three-phase process to implementing a dedicated Parks & Recreation Department. The creation of a dedicated Parks Team allows for a more unified approach to park services. The reclassification fiscal impact for the remainder of 2022 is a 2.76% salary increase, $1,024.00.

Reclassifying the Engineering Technician to Associate Engineer. Over the past year it has become apparent that there is a need for the services of a full-time professional engineer. Alan Lytton has been performing these duties since the promotion of Shawn Smith to City Administrator. The fiscal impact for the remainder of the year is $17,184.00.

Motion by Councilmember Metz, Second by Councilmember Shepro to adopt Resolution 2022-09 updating the Non-represented Employee Salary Schedule to include the new classifications of Parks Planning Manager and Associate Engineer as presented.

A Roll Call Vote was taken motion carried unanimously.

9. CITIZEN CLOSING COMMENTS

None

10. REPORTS OF OFFICERS AND COMMITTEES

a. Mayor's Report

- Our hearts and prayers and thoughts go out to Uvalde, Texas
- Mayor Roberts and Councilmembers Gaumond and Bergman attended Snohomish County Cities event in Everett for a discussion on ARPA funding
- Shout out to Public Works for their maintenance efforts to keep Stanwood looking good
- The Mayor’s Newsletter will return
- Walks with the Mayor takes place the first Friday of the month
- Snohomish County Public Safety Town Hall Meeting in Marysville June 8th
- Snohomish County ARPA Fund meeting in Arlington, June 23rd

b. City Administrator's report

- Monday is Memorial Day, offices will be closed
- Farmers Market starts June 3rd, Fridays 2-6pm

- Church Creek Park will be closed for repairs May 30- mid July
- The Idlers Car show is June 26th

c. Councilmember Reports and Questions

- Councilmember Schmitt
  Flags are on display along Main Street as a reminder of the holiday's meaning
  The city has a call for photography out, it is easy to snap a photo and send it in

- Councilmember Bergman
  The Pickers Market was a huge success
  Have a safe Memorial Weekend

- Councilmember Shepro
  Welcome Back to our visitors
  Receiving a lot of email from residents and ask Council to take the emails seriously and respond as able

- Councilmember Robb
  Welcome aboard to Chief Toner

- Councilmember Metz
  Excited for the return of the Fair and Car Show

- Councilmember Gaumond
  Welcome Jason Toner as our new Police Chief
  Excited for a three-day weekend.

11. ADJOURN

The meeting was adjourned at 8:43 p.m.

CITY OF STANWOOD

____
Sid Roberts, Mayor

ATTEST:

____
Krista Hintz, Assistant to the Administrator

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CITY OF STANWOOD
CITY COUNCIL
AGENDA STAFF REPORT

ITEM NUMBER:	**8a**
DATE:	June 9, 2022
SUBJECT:	2021-22 Budget Amendment Three
CONTACT PERSON:	David A. Hammond, Finance Director
ATTACHMENT:	A – Ordinance 1505 - 2021-2022 Budget Amendment Three

PURPOSE

The issue before council is to review mid-year budget updates and consider second reading and adoption of Ordinance 1505 - 2021-2022 Budget Amendment Three.

RECOMMENDATION

Review requested amendments and approve second reading and adoption of Ordinance 1505 - 2021-2022 Budget Amendment Three.

SUMMARY STATEMENT

This report provides staff recommended adjustments to the 2021-2022 budget. The recommended changes include minor revisions to revenue estimates, recently authorized projects, changes in timing of capital projects, miscellaneous transfers, and corrections, and three new requests.

This amendment was reviewed and first reading was approved unanimously at the May 26, 2022 Regular Council Meeting.

Revenue estimate changes:

- Gambling taxes have picked up post Covid closures.
- Late penalties have returned to normal post Covid moratorium.

Projects newly authorized by council:

- Budgeting Software
- Second phase records management project, digitization of permits
- Assist RFA with Ambulance purchase
- Assistance to Senior Center
- Assistance with special events
- Brick Road Gateway

- City Beautification – install light/banner poles
- Flashing cross walk signs
- Comprehensive plan update
- Municipal Code update
- Security updates-SCADA

Changes to timing and identification of capital projects:

- Viking Way construction begins 2023
- Specific Overlay projects identified, based on Transportation Improvement Board Funding
    - 72nd Ave (272nd to 276th)
    - 68th Ave (276th to 280th)
- Sidewalk Projects
    - 92nd (271st to Heritage Park)
    - 273rd (100th to 102nd)
- Removed 72nd Ave Study
- Removed 106th Bypass Design
- 80th Ave Reconstruction (moved design forward to 2022)
- Stanwood Port Susan Trail Construction will move into 2023
- IS4, revised timing, Phase 2 construction moved to 2023.

Miscellaneous transfers and corrections:

- Corrected Direct Allocations of Staff based on positions added in prior biennium.
- Updated Indirect Allocations, based on positions added.
- Annual insurance premiums increased $50,000 and allocation was updated.
- Final payment for truck that was budgeted in 2021, but was ultimately paid in 2022
- Close out debt service fund because all General Obligation Debt has been retired.
- Correct allocation of 2021 water/sewer bond debt service between water and sewer funds.
- Correct Snohomish County PW Loan annual debt service.
- Water, Sewer and Drainage Operating Funds-Transfer surplus to capital funds.
- One vehicle purchased in 2021 charge to Drainage, should be Water.
- Drainage Capital bond proceeds increased from $1,000,000 to $3,500,000.

New requests:

- $130,000 Two new Public Works light-medium duty pickups.
- $50,000 Utility Rate Study, supporting Water & Sewer Plan updates.
- $150,000 SCADA Information Security Program remediation.
- $60,000 Consolidated Asphalt Repair Contract
- $55,000 Twin City Mile Land Survey

COMMITTEE REVIEW

This amendment was reviewed and supported by the Finance Committee at their May 16th meeting.

RECOMMENDED MOTION

I MOVE TO APPROVE SECOND READING AND ADOPTION OF ORDINANCE 1505 AMENDING THE 2021-2022 BUDGET AS PRESENTED

Proposed Line-Item Amendments, By Fund:

Fund Name	Revenue Account Name	Budget	Proposed Change	Amended Budget	Description
General Fund					
	Gambling Tax	3,030	29,000	32,030	Activity increasing after nearly zero during Covid
	Dept of Commerce	0	62,500	62,500	Commerce Grant - Comprehensive Plan
	Transfer in from 205 Debt Serv	0	21,036	21,036	Debt fully paid, transfer balance to General Fund
		3,030	112,536	115,566	

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
General Fund	Salaries - Clerk	105,595	29,291	134,886	Budgeted at deputy clerk rate
	Professional services - Clerk	229,800	116,165	345,965	Adj rec. mgmt- dept change & change order
	Salaries - Executive	81,598	68,812	150,410	FTE allocation changes
	Professional services - Clerk	70,000	-53,550	16,450	Budget S/W, Remove Strat. Plan, Adj Records management project
	Salaries - Administration	445,413	3,232	448,645	FTE allocation changes
	Salaries indirect cost allocation	-266,452	-51,997	-318,449	update cost allocation
	Benefits indirect cost allocation	-129,978	-14,358	-144,336	update cost allocation
	Supplies indirect cost allocation	-8,795	-3,131	-11,926	update cost allocation
	Services indirect cost allocaiton	-94,497	-153,554	-248,051	update cost allocation
	Salaries Buildings & Grounds	89,138	-6,948	82,190	FTE allocation changes
	Insurance	50,137	70,363	120,500	Increase WA Cities Insurance Premium
	Professional services - Fire	45,025	194,755	239,780	RFA assistance for ambulance purchase & increase in marshall services, etc
	Salaries - Community Development	548,765	-73,473	475,292	vacant position
	Professional services - CD	210,500	252,550	463,050	Comp Plan & Code Re-write
	Senior Center	10,000	25,000	35,000	Revenue Replacement for Senior Center
	Machinery & Equipment	0	4,000	4,000	Security at PW Shop & Yard
	Transfer to Debt Service	298,000	-298,000	0	
	Transfer to Streets Operating	300,000	40,000	340,000	
		1,984,249	149,157	2,133,406	

Fund Name	Revenue Account Name	Budget	Proposed Change	Amended Budget	Description
Streets Fund					
	Transfer In from General Fund	300,000	40,000	340,000	Support Consolidated Asphalt Repair Contract
				340,000	

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Street Impact Fee					
	Transfer to Street Construction	0	99,600	99,600	Correct Error and increase impact fee eligible uses

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Streets	Salaries	282,983	-1,842	281,141	FTE allocation changes
	Prof Services	16,500	1,841	18,341	ClearGov Budget software
	Insurance	13,742	3,128	16,870	Increase WA Cities Insurance Premium
	Repair & Maintenance	40,000	40,000	80,000	Consolidated Asphalt Repair Contract
	Machinery & Equipment	0	3,250	3,250	Security at PW Shop & Yard
		353,225	46,377	399,602	

Fund Name	Revenue Account Name	Budget	Proposed Change	Amended Budget	Description
Street Construction					
	WSDOT Safe Routes to Schools	660,000	-660,000	-	Project deferred to 2023
	Transportation Improvement Board	990,000	-660,000	330,000	Project deferred to 2023
	Transfer In From St Impact	50,000	49,600	99,600	Impact fees allocated to eligible proj
	Transfer in From TBD	1,578,902	-944,302	634,600	Project deferred to 2023
	Transfer In From Drainage PIF	40,500	-40,500	-	Project deferred to 2024
		3,319,402	-2,255,202	1,064,200	

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Street Construction					
	Sidewalk Installation	417,452	-417,452	0	Allocated to specific projects
	Viking Way Eng	175,000	30,000	205,000	Increased project cost
	Cross Walk flashing lights	-	50,000	50,000	Two new flashing lights for crosswalks
	Viking Way Construction	586,000	-586,000	0	Project deferred to 2023
	Sidewalk 92nd (271st to Heritage Pk)	-	200,000	200,000	Specific sidewalk project
	72nd Overlay (SR 532 To Pioneer Hwy)	439,500	-439,500	0	Other overlays selected for 2022 based on TIB funding
	68th Ave Overlay (276th to 280th)	-	175,000	175,000	Overlay selected in 2022 for TIB funding
	80th Ave. Reconstruction (phase one)	-	100,000	100,000	Design moved to 2022 in TIP Update
	72nd Ave Overlay (272nd to 276th)	-	175,000	175,000	Overlay selected in 2022 for TIB funding
	Sidewalk 273rd (100th to 102nd)	-	180,000	180,000	Specific sidewalk project
	City Beautification	405,000	155,000	560,000	Pioneer lighting, gateway & Twin City Mile Land Survey
	106th Bypass Design & Eng	330,000	-330,000	0	Removed from TIP
	72nd Ave Improvements	50,000	-50,000	0	Removed from TIP
		2,402,952	-757,952	1,645,000	

Fund Name	Revenue Account Name	Budget	Proposed Change	Amended Budget	Description
Park & Trail Improvement					
	Transfer In from REET	545,000	-100,000	445,000	Use most restrictive funding sources first, align with TIP
	Transfer in from TBD	0	100,000	100,000	Use most restrictive funding sources first, align with TIP
		545,000	0	545,000	

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Park & Trail Improvement					
	Stanwood Port Susan Trail	1,554,000	-474,000	1,080,000	Construction timing change

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Equipment Reserve					
	Machinery & Equip Parks	0	68,700	68,700	Portable stage, correction of 2021 truck charge
	M & E - Streets	0	77,700	77,700	Vehicles budgeted 2021, paid 2022, add two vehicles
	M & E - B & G	0	38,700	38,700	Vehicles budgeted 2021, paid 2022, add two vehicles
		0	185,100	185,100	

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Transportation Benefit District					
	Transfer to Street Constr	578,902	55,698	634,600	
	Transfer to Parks & Trails	0	100,000	100,000	Support for Port Susan Trail design
		578,902	155,698	734,600	

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Real Estate Excise Tax					
	Transfer to Parks & Trails	545,000	-100,000	445,000	Utilize most restrictive funding first

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Tourism Promotion					
	Tourism Grants	11,000	10,000	21,000	Support for special events

Fund Name	Revenue Account Name	Budget	Proposed Change	Amended Budget	Description
Debt Service Fund					
	Interest	500	-500	0	Debt fully retired, no 2022 GO debt planned
	Transfer In from General Fund	298,000	-298,000	0	Debt fully retired, no 2022 GO debt planned
		298,500	-298,500	0	

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Debt Service Fund					
	Long Term Debt Parks Principal	175,000	-175,000	0	Debt fully retired, no 2022 GO debt planned
	Professional Services	1,000	-1,000	0	Debt fully retired, no 2022 GO debt planned
	Long Term Debt Parks Interest	122,000	-122,000	0	Debt fully retired, no 2022 GO debt planned
	Ending Cash & Investments	20,655	-20,655	0	Debt fully retired, no 2022 GO debt planned
	Transfer to General Fund	0	21,036	21,036	Debt fully retired, no 2022 GO debt planned
		318,655	-297,619	21,036	

Fund Name	Revenue Account Name	Budget	Proposed Change	Amended Budget	Description
Sewer Operating					
	Late Penalties	0	24,000	24,000	Update penalties, post-Covid mandate
	Transfer in from Water	0	163,135	163,135	Reimburse debt service incorrectly charged to Water
		0	187,135	187,135	

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Sewer Operating					
	Salaries	593,993	-63,849	530,144	FTE allocation changes
	Professional Services	72,760	54,997	127,757	ClearGov Budget software/Rate update/Security
	Insurance	61,662	-11,662	50,000	Increase/Allocate WA Cities Insurance Premium
	Interfund payment for service	205,667	66,624	272,291	Increase in cost allocation
	2021 Rev Bond Principal Sewer	260,000	-115,000	145,000	Water/sewer debt service allocated incorrectly
	2021 Rev Bond Interest Sewer	179,400	-48,600	130,800	Water/sewer debt service allocated incorrectly
	Machinery & Equipment	5,000	8,250	13,250	Security at PW Shop & Yard
	Transfer to Sewer Construction	0	1,145,485	1,145,485	Transfer excess fund balance to Capital
		1,378,482	1,036,245	2,414,727	

Fund Name	Revenue Account Name	Budget	Proposed Change	Amended Budget	Description
Sewer Construction					
	Transfer from Sewer Operating	0	1,145,485	1,145,485	Transfer excess fund balance to Capital

Fund Name	Revenue Account Name	Budget	Proposed Change	Amended Budget	Description
Drainage Operating					
	Late Penalties	0	9,000	9,000	Update penalties, post-Covid mandate

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Drainage Operating					
	Salaries	294,181	-81,842	212,339	FTE Allocation changes
	Professional Services	29,140	14,604	43,744	ClearGov Budget software/Rate update
	Insurance	9,754	10,246	20,000	Increase/Allocate WA Cities Insurance Premium
	Interfund pymt for service	82,346	69,153	151,499	Increase in cost allocation
	SnoCo PW Assist Fund Princ	125,000	-73,740	51,260	Correct budget to actual
	SnoCo PW Assist Fund Int	5,000	8,840	13,840	Correct budget to actual
	2022 Revenue Bonds Princ	0	87,500	87,500	Principal for new debt
	2022 Revenue Bonds Int	0	25,000	25,000	Interest for new debt
	Machinery & Equipment	0	3,250	3,250	Security at PW Shop & Yard
	Transfer to Drain Constru 411	0	909,405	909,405	Transfer excess fund balance to Capital
		545,421	972,416	1,517,837	

Fund Name	Revenue Account Name	Budget	Proposed Change	Amended Budget	Description
Drainage Construction					
	Revenue Bond Proceeds	1,000,000	2,500,000	3,500,000	Bonds for Drainage (IS4) projects
	Transfer from Drainage Operating	0	909,405	909,405	Transfer excess fund balalance to capital
		1,000,000	3,409,405	4,409,405	

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Drainage Construction					
	Irvine Slough Stormwater Seperator & Pump Station	2,550,000	-1,100,000	1,450,000	Project timing change

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Drainage PIF					
	Transfer out to Streets Constr	40,500	-40,500	0	Project Deferred to 2024

Fund Name	Revenue Account Name	Budget	Proposed Change	Amended Budget	Description
Water Operating					
	Late Penalties	40,000	-19,000	21,000	Update penalties, post-Covid mandate

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Water Operating					
	Salaries	612,206	-96,611	515,595	FTE Allocation changes
	Professional Services	88,300	54,208	142,508	ClearGov Budget software/Rate update/Security
	Insurance	32,641	7,359	40,000	Increase/Allocate WA Cities Insurance Premium
	Interfund payment for service	211,709	87,263	298,972	Increase in cost allocation
	2021 Revenue Bond Principal Water	0	115,000	115,000	Water/sewer debt service allocated incorrectly
	2021 Revenue Bond Interest Water	0	48,600	48,600	Water/sewer debt service allocated incorrectly
	Machinery & Equipment	0	6,250	6,250	Security at PW Shop & Yard
	Repair & Maintenance	55,000	20,000	75,000	Consolidated Asphalt Repair Contract
	Transfer to Capital	0	112,040	112,040	Transfer excess fund balance to Capital
	Transfer to Sewer	0	163,135	163,135	Reimburse debt service incorrectly charged to Water
		999,856	517,244	1,517,100	

Fund Name	Revenue Account Name	Budget	Proposed Change	Amended Budget	Description
Water Capital					
	Transfer In from Water Operating	0	112,040	112,040	Transfer excess fund balalance to capital

Fund Name	Revenue Account Name	Budget	Proposed Change	Amended Budget	Description
Drainage Equipment Reserve					
	Transfer from Water Equipment Res.	0	68,150	68,150	Vehicle incorrecly charged to Drainage Equipment 2021

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Drainage Equipment Reserve					
	Machinery & Equipment	0	77,700	77,700	Vehicle budgeted in 2021, paid in 2022

Fund Name	Expenditure Account Name	Current Budget	Proposed Change	Amended Budget	Description
Water Equipment Reserve					
	Transfer to 458 Drainage Equip	0	68,150	68,150	Vehicle incorrecly charged to Drainage Equipment 2021

CITY OF STANWOOD
Stanwood, Washington

ORDINANCE 1505

AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, AMENDING ORDINANCE RELATING TO THE 2021-2022 BUDGET

WHEREAS, the City previously adopted the 2021 and 2022 biennial budget on November 23, 2020, by Ordinance 1489, which was amended by Ordinance 1495 on March 11, 2021, and Ordinance 1501 on November 22, 2021, and

WHEREAS, by law the City may not have expenditures in excess of budgeted appropriations for an individual fund;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Ordinance No. 1501 is hereby amended to reflect the totals of 2021 and 2022 amended budgeted revenues and appropriations for each separate fund as set forth in summary form in Exhibit A.

Section 2. Except as provided herein, all provisions of Ordinance 1489 shall remain in full force and effect unchanged.

ADOPTED by the City Council and APPROVED by the Mayor this ____ day of ______________ 2022.

CITY OF STANWOOD

____
Sid Roberts, Mayor

ATTEST:

____
Lisa Sokolik, City Clerk

APPROVED AS TO FORM:

____
Nikki Thompson, City Attorney

Summary Revenues, Expenditures and Fund Balance (All Funds)
2021-2022 Biennial Budget, Budget Amendment Three
2022

			Revenues			Expenditures			
Fund	Fund Name	2022 Beg Fund Balance	2022 Revenue Budget	2022 Budget Amendment Three Adjustments	2022 Adjusted Revenue Budget	2022 Expense Budget	2022 Budget Amendment Three Adjustments	2022 Adjusted Expense Budget	2022 Ending Fund Balance
001	General Fund	5,134,230	6,258,859	112,536	6,371,395	7,358,517	149,157	7,507,674	3,997,950
101	Street Operating	149,313	671,209	40,000	711,209	668,317	46,377	714,694	145,828
102	Street Impact Fee	861,213	218,665		218,665	0	99,600	99,600	980,278
103	Street Capital	144,945	4,398,802	-2,255,202	2,143,600	2,702,952	-757,952	1,945,000	343,545
104	Park & Trail Capital	1,454,084	2,664,900	0	2,664,900	2,639,000	-474,000	2,165,000	1,953,984
105	Fire Impact Fees	0							0
106	Park Impact Fees	79,457	84,135		84,135	140,000		140,000	23,592
107	Equipment Reserve	549,238	163,100		163,100	0	185,100	185,100	527,238
108	Transportation Benefit District	845,599	475,500		475,500	778,902	155,698	934,600	386,499
109	Contingency	425,889	55,400		55,400	0		0	481,289
110	Building Improvement	2,867,187	16,800		16,800	200,000		200,000	2,683,987
115	Tourism Promotion	1,851	109,000		109,000	74,000	10,000	84,000	26,851
120	REET 1 - Capital Improvements	1,193,675	310,300		310,300	200,000		200,000	1,303,975
121	REET 2 - Growth Management	1,360,860	315,500		315,500	545,000	-100,000	445,000	1,231,360
205	Debt Service	21,036	298,500	-298,500	0	298,000	-297,619	381	20,655
401	Sewer Utility Operating	1,956,620	2,751,234	187,135	2,938,369	2,756,029	1,036,245	3,792,274	1,102,716
403	Sewer Capital	5,114,416	59,300	1,145,485	1,204,785	4,605,000		4,605,000	1,714,201
405	Sewer Plant Investment	387,698	155,000		155,000	0		0	542,698
410	Drainage Operating	663,433	1,263,300	9,000	1,272,300	808,590	972,416	1,781,006	154,727
411	Drainage Capital	849,934	1,579,000	3,409,405	4,988,405	3,114,000	-1,100,000	2,014,000	3,824,339
412	Drainage Plant Investment	57,349	80,700		80,700	40,500	-40,500	0	138,049
421	Water Operating	1,096,616	2,329,200	-19,000	2,310,200	2,235,907	517,244	2,753,151	653,665
422	Water Capital	2,315,698	44,800	112,040	156,840	443,000		443,000	2,029,538
423	Cedar Home Plant Investment	337,253	12,100		12,100	10,000		10,000	339,353
424	Water Plant Investment Fee	740,970	205,000		205,000	0		0	945,970
451	Water Bond Reserve	0	0		0	0		0	0
452	Sewer Bond Reserve	0	0		0	0		0	0
457	Sewer Equipment Reserve	661,122	112,411		112,411	0		0	773,533
458	Drainage Equipment Reserve	286,291	51,641	68,150	119,791	0	77,700	77,700	328,382
459	Water Equipment Reserve	431,010	76,216		76,216	0	68,150	68,150	439,076
630	Custodial	56							56
	Total Funds	29,987,042	24,760,572	2,511,049	27,271,621	29,617,714	547,616	30,165,330	27,093,333

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CITY OF STANWOOD
COUNCIL AGENDA STAFF REPORT

ITEM NUMBER:	**8b**
DATE:	June 9, 2022
SUBJECT:	Kottsick Annexation
CONTACT PERSON:	Patricia Love, Community Development Director
ATTACHMENTS:	A – Ordinance 1504 – Kottsick Annexation B – Snohomish County Boundary Review Board Letter

PURPOSE

The purpose of this agenda item is for Council consideration and acceptance of the third and final reading of the Kottsick Annexation Ordinance 1504.

BACKGROUND

On June 28, 2021, the City received a request from the applicant, Edwards Development Group, LLC, on behalf of Maryln Kottsick, to annex approximately 30 acres into the City. Their application became complete on July 14, 2021 and a Notice of Application was issued on July 20, 2021.

The City Council accepted the 10% petition on August 12, 2021 and approved the circulation of the 60% petition. The applicant submitted the 60% petition to the City on October 22, 2021. The 60% petition was also sent to the Snohomish County Auditor to certify the petition and was certified on November 3, 2021.

The City Council held a public hearing on the 60% petition request on November 8, 2021. Upon the conclusion of the public hearing, the Council approved Resolution 2021-10 directing staff to submit the annexation Notice Of Intent (NOI) to the Boundary Review Board (BRB) along with the Annexation Report containing the annexation analysis.

The NOI was accepted by the Boundary Review Board on January 31, 2022. The Snohomish County Council approved Motion 22-107, not objecting to the annexation, on February 22, 2022, and the Boundary Review Board issued their approval on March 18, 2022.

The Council reviewed the first reading of Ordinance 1504 at a public meeting on May 12, 2022 and the second reading on May 26, 2022. The final step in the annexation process will be for the City Council to pass the attached ordinance accepting the annexation area into the City limits. The Council still has the option to not support the annexation if so desired.

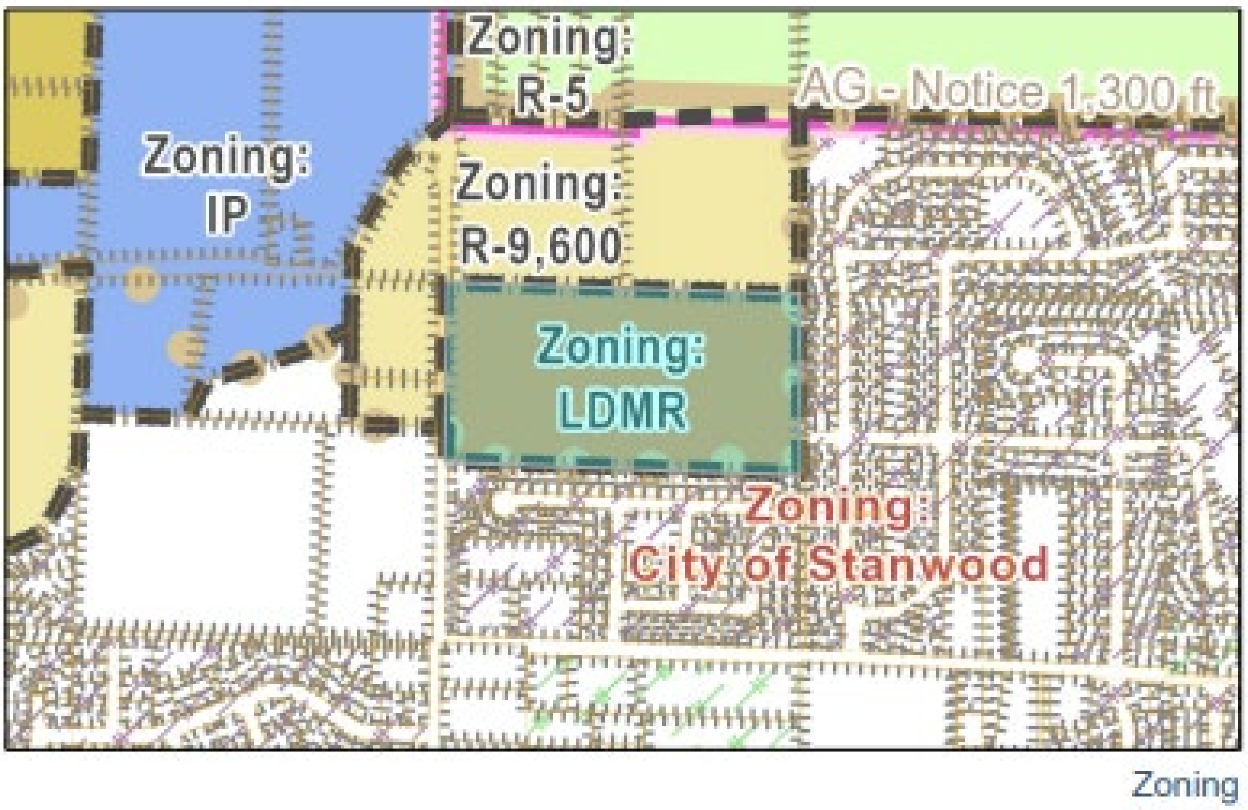
ANALYSIS

The City Council considered the first reading of the Kottsick Annexation Ordinance on May 12, 2022 and the second on May 26th. In addition to the analysis contained in those staff reports, an issue arose regarding the potential for the Kottsick property to be developed under Snohomish County standards. The following is meant to supplement the May 12 and 26, 2022 staff reports.

Development Under Snohomish County Regulations:

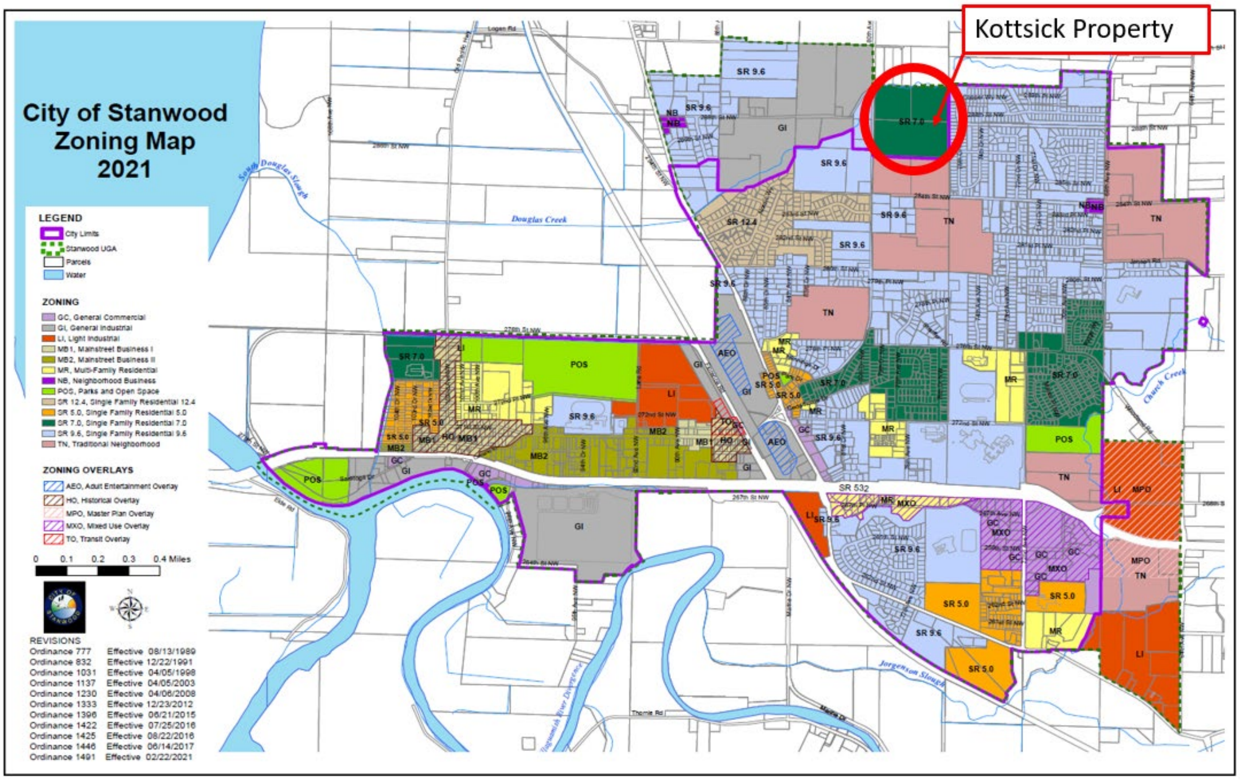
The Kottsick property contains two zoning districts in Snohomish County: Low Density Multiple Residential (LDMR) and Single Family Residential 9,600 (SFR9.6) square foot lots.

Snohomish County Zoning



The City of Stanwood has set the pre-zoning for the Kottsick property at Single Family Residential 7,000 (SRF 7.0) square foot lots.

City of Stanwood Zoning



The following comparison shows the intent of the zones, allowed uses and densities per district.

	Snohomish County LDMR	**Snohomish County SFR 9.6**	**Stanwood SFR 7.0**
Intent of Zoning	The intent and function of the LDMR zone is to provide a variety of low-density, multifamily housing including townhouses, multifamily and attached or detached homes on small lots	The intent and function of SFR zones is to provide for predominantly single family residential development that achieves a minimum net density of four dwelling units per net acre	The intent and function of the SFR 7.0 zone is to accommodate medium density residential development as infill on smaller lots
Allowed Uses	Attached SFR Cottage Housing Duplex Mobile Home Multifamily Townhomes Single Family Retirement Apts Retirement Homes	Attached SFR Cottage Housing Duplex Mobile Home Single Family	Single Family Cottage Housing Manufactured Home

Density	4,000 sf/unit 11 du/acre	9,600 sf / unit 4.5 du / acre	Base: 7,200 sf / unit PRD: 5,000 sf / unit Cottage: 3,000 sf/ unit Base: 6 du / acre PRD: 8 du / acre Cottage: 10 du / acre

Continuing with the comparison theme, the following shows the maximum development potential based on County and City zoning. Note that the actual density will be lower than the maximum allowed due to installation of roads, drainage and park spaces.

	Snohomish County	**Stanwood**
Gross Area	30 Acres	30 Acres
Density	20 Acres @ 11 du/acre 10 Acres @ 4.5 du/acre	30 Acres @ 6 du / acre
Allowed Units	265 Units	180 Units
Proposed	0 Units	127 Units

In general, municipalities do not have an obligation to provide sewer services outside of their corporate boundaries. However, a court case in 2007, Mt. Dev vs. Renton, states:

> *"Where a municipality is the exclusive provider of sewer service to property outside its borders, it may not refuse to provide that service, although it may impose reasonable and lawful conditions before doing so."*

In another court case, Fire Protection District vs. Yakima, the question was raised whether the City has a duty to provide sewer service to landowners beyond the City limits. RCW 35.67.310 states that the city *may* provide service and that the decision to provide sewer is discretionary. However, there are several court cases that recognized an exception to the "no duty" rule. Accordingly:

> "..several state courts have recently held that a city holding itself out as the sole provider of sewer services in a given locale will be considered a public utility and allowed to deny sewer hookups to property within its service area only for such utility-related reasons as lack of capacity."

From a legal perspective, it is not clear whether the City would be considered the exclusive provider of sewer service for the area in question[1], but if it were, any conditions imposed on the developer would need to be reasonable.

If the City has a duty to provide sewer service, the question becomes "what are reasonable conditions". With the City's adoption of a comprehensive Plan designation, and zoning, the City has determined reasonable conditions for service.

[1] Septic is available through out the County, including within the UGA.

- The Kottsick Annexation is consistent with the Comprehensive Plan land use designation and the requirement to annex has been upheld by courts as a reasonable condition;
- Their proposed future subdivision is consistent with the City's zoning designation of SFR 7.0;
- The property is within the City's sewer service area;
- The project meets the city's transportation concurrency standard; and
- City sewer and water systems have sufficient capacity to service the development.

The next question is: Can the City deny the annexation if the proposal is consistent with all of the City's comprehensive plan and development requirements? Answer: Yes – annexations are a matter of policy. However, it is possible that litigation will result and that we may also be required to provide sewer extension to the property so it can be developed under County code.

These cases make clear that extension of sewer services beyond the City's boundaries may be required, in certain circumstances, regardless of whether annexation takes place. The Council should consider the following options and risks in applying these cases to the Kottsick Annexation:

- Approve the annexation with the future development meeting city standards.
- Deny the annexation and defend against a potential claim for sewer service, which may result in the property ultimately developing under County standards.

Fiscal Impact

Impacts of annexation on city services are minimal. No increase in city staff is needed to serve the property; police and fire currently serve the property; the developer will be building a portion of the new sewer improvements which will be dedicated to the City. Long term, the city will be responsible for maintenance of the drainage, water and sewer systems, but these costs will then be offset by the monthly utility payments to the City.

Using the city and county's current rate schedules, staff investigated potential revenues and expenditures associated with the proposed annexation. The annexation consists of two parcels totaling 30 acres and with an anticipated future 127 lot subdivision. Using a simple matrix to estimate the financial impact on the City, staff estimates that once the property is developed the property will generate approximately $275,000 in yearly property taxes, state shared revenue and utility rates and taxes. In addition, depending on the credits for some of the off-site sewer improvements, approximately $430,000 to $980,000 in one-time plant investment fees would be paid to the City. The property will also generate additional fees and taxes that are paid to the City which include construction sales tax and real estate excise tax on the new homes, utility taxes, franchise fees and TBD sales tax.

Fund(s):			
Amount:	$	**Project Estimate:**	$
Budget Authorized	**[ ] Yes [ ] No**	**Amendment Required**	**[ ] Yes [ ] No** **[ ] Monitor**

RECOMMENDATIONS

Staff Recommendation:
Staff recommends that the City Council review and discuss the Kottsick annexation request and accept the third and final reading of Ordinance 1504, accepting the Kottsick Annexation into the City.

Committee/Board Recommendation:
The Public Works Committee met on August 2, 2021 and recommended to move forward with the 10% petition and requested a thorough traffic analysis as well as water/sewer availability.

The Community Development Committee was notified of the approval of the annexation request by the Boundary Review Board on April 7, 2022. They supported bringing the annexation request to Council for final action.

CITY COUNCIL OPTIONS

1. Approve the third and final reading of Ordinance 1504 accepting the Kottsick Annexation area into the City of Stanwood.

2. Do not support Ordinance 1504 at this time and direct staff to address specific Council issues or concerns prior to reconsidering the Ordinance.

3. Deny the applicants request to annex into the City of Stanwood.

PROPOSED MOTION

MOTION TO APPROVE THIRD READING AND ADOPTION OF ORDINANCE 1504 AS SET FORTH IN ATTACHMENT “A” ACCEPTING THE KOTTSICK ANNEXATION INTO THE CITY OF STANWOOD.

OR

MOTION TO REJECT ORDINANCE 1504 AND DENY THE KOTTSICK ANNEXATION REQUEST.

CITY OF STANWOOD
WASHINGTON

ORDINANCE NO. 1504

AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON APPROVING ANNEXATION OF CERTAIN UNINCORPORATED AREA, KNOWN AS THE KOTTSICK ANNEXATION, INTO THE CITY, AND INCORPORATING THE SAME WITHIN THE CORPORATE LIMITS THEREOF, PROVIDING FOR THE ASSUMPTION OF EXISTING INDEBTEDNESS, REQUIRING SAID PROPERTY TO BE ASSESSSED AND TAXED AT THE SAME RATE AND BASIS AS OTHER PROPERTY WITHIN SAID CITY, IMPOSING THE CITY'S COMPREHENSIVE LAND USE DESIGNATION, AND THE ZONING DESIGNATION UNDER THE OFFICIAL ZONING MAP ESTABLISHED BY SAID CITY.

WHEREAS, the City of Stanwood has received a petition for annexation pursuant to RCW 35A.14.120 of certain property generally located north of 284th Street NW, east of 80th Avenue NW, and south of 300th Street NW, being located in Section 18, Township 32 North, Range 04 East, said properties being contiguous to the city limits and legally described in **Exhibit A** attached hereto with a County Parcel Numbers of 320418-004-013-00 and 320418-004-016-00; and

WHEREAS, the City received a 10% Petition Notice of Intent to Annex pursuant to the so-called Direct Petition Method of RCW 35A.14.120 on June 28, 2021, and the City Council accepted the proposal at its August 12, 2021 Council meeting; and

WHEREAS, the City received a Petition for Annexation which included signatures of owners of record of more than 60% of the assessed value of the Annexation Territory on October 22, 2021; and

WHEREAS, the City submitted the Petition for Annexation to the Snohomish County Assessor on November 1, 2021 for a determination of sufficiency; and

WHEREAS, the Snohomish County Assessor certified on November 3, 2021 that the petition signatures, provided in compliance with RCW 35A.14.120 through 35A.14.150 and RCW 35A.01.040, have an assessed value for general taxation of not less than 60% of the total assessed value for general taxation of all property in the proposed annexation area; and

WHEREAS, a duly advertised public hearing was held on said annexation petition before the Stanwood City Council on November 8, 2021, and the City Council heard testimony from staff, the applicant and the public, and was fully advised in the premises; and

WHEREAS, the City Council unanimously approved the motion to "authorize the Mayor to sign Resolution 2021-10 and to allow staff to submit to the Snohomish County Boundary Review Board for review and consideration the 60% annexation petition for the Kottsick Annexation; and

WHEREAS, the City Council also declared in Resolution 2021-10, "upon annexation, the property shall be subject to the City of Stanwood Comprehensive Plan and zoning regulations as adopted." Also, the City Council declared "upon annexation of the property the Comprehensive Plan designation of MDR and a Zoning designation of SR 7.0 shall apply to said property."; and

WHEREAS, City staff submitted on December 20, 2021 the proposed annexation to the Boundary Review Board which was deemed complete by the Boundary Review Board on January 31, 2022 beginning the 45-day review period; and

WHEREAS, the 45-day review period ended on March 17, 2022, and with no request for review being filed as outlined in RCW 36.93.100 and RCW 36.93.120, the action is deemed approved by the Boundary Review Board; and

WHEREAS, the proposed annexation area is comprised of two parcels (30 acres) with proposed Comprehensive land use designations Medium Density Residential and proposed zoning designation of Single Family Residential (SR 7.0) upon annexation; and

WHEREAS, upon annexation, the annexation area should be subject to the assumption of existing indebtedness and be assessed and taxed at the same rate and basis as other property within the City;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Annexation. The property legally described in **Exhibit A** and the boundaries depicted on the map attached as **Exhibit B** is hereby approved for annexation into the City of Stanwood.

Section 2. Assessment and Taxation. The property described in **Exhibit A**, shall be assessed and taxed at the same rate and on the same basis as other property within the City of Stanwood, including assessments or taxes for the payment of its pro rata share and all outstanding indebtedness of the City contracted or incurred prior to or existing on the effective date of the annexation is hereby imposed on said property in common with all properties within the City of Stanwood.

Section 3. Land Use Designation. The property described in **Exhibit A** hereby is subject to the City of Stanwood Comprehensive Plan and zoning regulations as adopted. The property described in **Exhibit A** hereby is designated Single Family Residential 7.0 (SR 7.0) under the City's zoning regulations.

Section 4. Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 5. Transmittal. The City Clerk shall:

1. File two certified copy of this ordinance, with the Snohomish County Boundary Review Board.
2. Record a certified and true copy of this Ordinance with the Snohomish County Auditor.
3. Provide notice of this annexation to the Office of Financial Management pursuant to RCW 35A.14.700.
4. Provide other notices as deemed necessary.

Section 6. Effective Date. This Ordinance shall take effect from and after five (5) days after its passage and publication as required by law.

PASSED AND APPROVED by the Stanwood City Council this _________ day of _____ ___________2022.

CITY OF STANWOOD

____
Sid Roberts, Mayor

ATTEST:

By: ________________________
Lisa Sokolik, City Clerk

APPROVED AS TO FORM:

By: ________________________
Nikki Thompson, City Attorney

Date of Publication: ________________

Effective Date: ____________________

EXHIBIT A

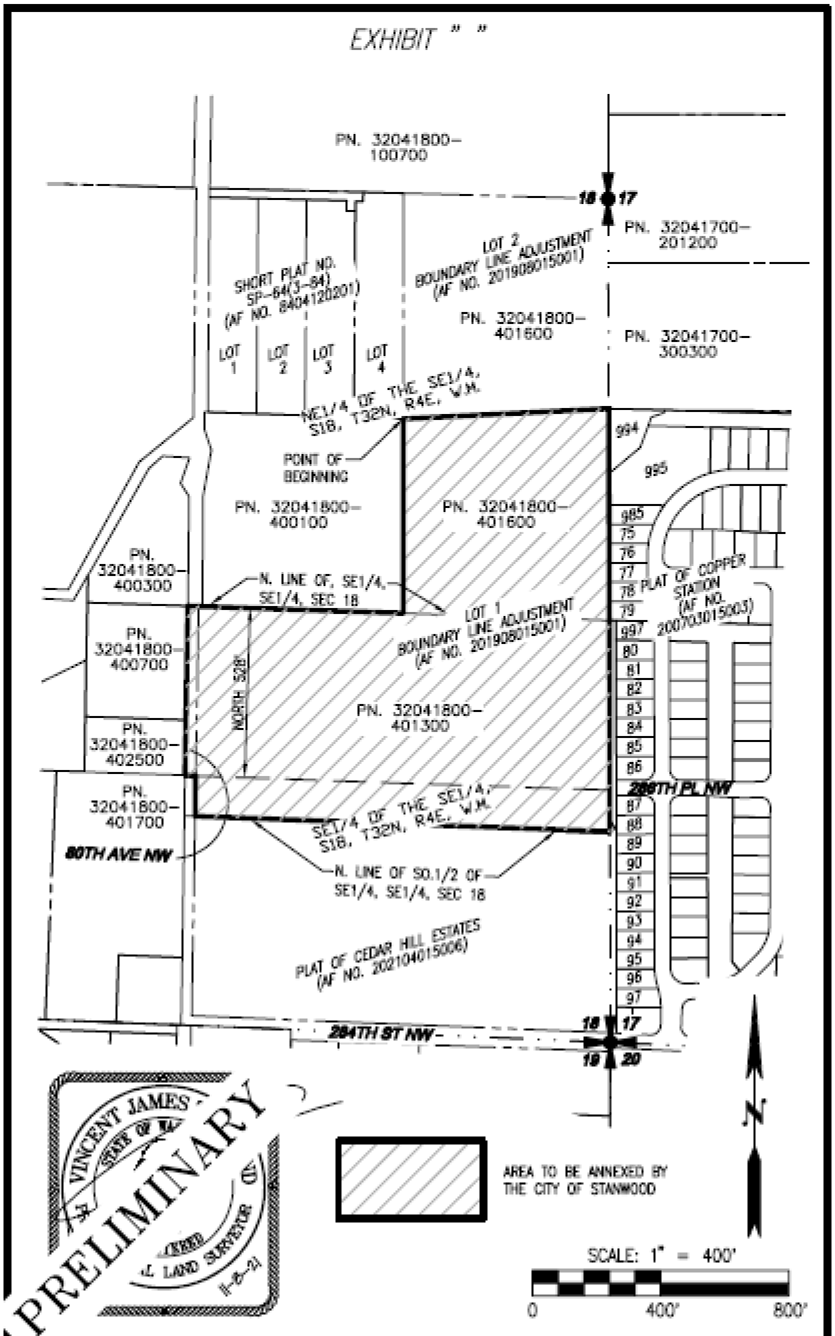
Kottsick Annexation to Stanwood

LEGAL DESCRIPTION:

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 32 NORTH, RANGE 4 EAST, W.M.;
MORE PARTICULARLY DESCRIBED AS FOLLOWS;
BEGINNING AT THE SOUTHEAST CORNER OF LOT 4 OF SNOHOMISH COUNTY SHORT PLAT NO. SP-64 (3-84), AS RECORDED UNDER AUDITOR FILE NUMBER 8404120201, RECORDS OF SNOHOMISH COUNTY, WASHINGTON ALSO BEING THE NORTHWEST CORNER OF LOT 1 OF A RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT, AS RECORDED UNDER AUDITOR FILE NUMBER 202110205002, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;
THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 1 TO THE NORTHEAST CORNER OF LOT 1, ALSO BEING THE NORTHWEST CORNER OF TRACT 994 OF THE PLAT OF COPPER STATION, AS RECORDED UNDER AUDITOR FILE NUMBER 200703015003, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, ALSO BEING A POINT ON THE EAST LINE OF SAID SOUTHEAST QUARTER OF SECTION 18;
THENCE SOUTHERLY ALONG THE EAST BOUNDARY OF SAID LOT 1 AND THE WEST BOUNDARY OF SAID PLAT OF COPPER STATION AND SAID EAST LINE OF THE SOUTHEAST QUARTER, TO THE SOUTHWEST CORNER OF LOT 79 OF SAID PLAT OF COPPER STATION;
THENCE DEPARTING THE EAST LINE OF THE PLAT OF COPPER STATION AND CONTINUING SOUTH ALONG THE EAST LINE OF SAID LOT 1 AND THE EAST LINE OF SAID SUBDIVISION TO AN ANGLE POINT ON THE WEST LINE OF SAID LOT 1;
THENCE DEPARTING THE EAST LINE OF SAID LOT 1 AND CONTINUING SOUTH ALONG THE EAST LINE OF SAID SUBDIVISION TO THE NORTHEAST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18;
THENCE WEST ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18 TO THE SOUTHWEST CORNER OF THE AFOREMENTIONED LOT 1 ALSO BEING A POINT ON THE EASTERLY MARGIN OF 80TH AVE NW;
THENCE NORTH ALONG THE WEST LINE OF SAID LOT 1 AND THE EASTERLY MARGIN OF 80TH AVE NW TO THE SOUTH LINE OF THE NORTH 528 FEET OF THE SOUTHEAST QUARTER OF SECTION 18;
THENCE DEPARTING WEST LINE OF SAID LOT 1 AND THE EASTERLY MARGIN OF 80TH AVE NW, WEST ALONG THE SOUTH LINE OF THE NORTH 528 FEET OF SAID SUBDIVISION TO A POINT ON THE WEST MARGIN OF 80TH AVE NW;
THENCE NORTH ALONG THE WEST MARGIN OF 80TH AVE NW TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18;
THENCE EAST ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18 A CORNER OF LOT 1 OF THE ABOVE MENTIONED RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT;
THENCE EAST ALONG THE BOUNDARY OF SAID LOT 1 TO AN INTERIOR ANGLE POINT OF LOT 1;
THENCE NORTH ALONG THE WESTERLY BOUNDARY OF SAID LOT 1 TO THE NORTHWEST CORNER OF SAID LOT 1 AND THE POINT OF BEGINNING.

EXHIBIT B

Proposed Annexation Area: Kottsick Annexation to Stanwood



LDC Surveying Engineering Planning www.LDCcorp.com	**CITY OF STANWOOD ANNEXATION EXHIBIT** SE 1/4 & THE NE 1/4 OF THE SE 1/4 OF SEC.18, TWN.32N., RNG.4E., W.M., CITY OF STANWOOD, SNOHOMISH, WA

DRAWN BY:	DATE:	DRAWING FILE NAME:	SCALE:	JOB NUMBER:
NSY	8-26-21	C20-174-ANX	1"=400'	C20-174

Attachment B – Snohomish County Boundary Review Board Approval Letter

Washington State Boundary Review Board
for Snohomish County

3000 Rockefeller Ave., M/S #409
Everett, WA 98201-4046
(425) 388-3445
www.snoco.org

March 18, 2022

To: City of Stanwood – tansy.schroeder@stanwoodwa.org

Cc: Snohomish County Planning and Development Services –eileen.canola@co.snohomish.wa.us
Snohomish County Sheriff – contact.sheriff@snoco.org
North County Regional Fire Authority – lmcnulty@northcountyfireems.com

Re: City of Stanwood – Kottsick Annexation Proposal – BRB File #02-2022

Dear Ms. Schroeder,

The Notice of Intention for the above referenced proposal was received on December 20, 2021. Following approval of a legal description and map for the property, the proposal was deemed legally sufficient with an effective filing date January 31, 2022.

The 45-day review period ended on March 17, 2022 at 5:00 p.m. and with no request for review being filed as outlined in RCW 36.93.100 and RCW 36.93.120, the action is deemed approved.

Next steps: You may proceed to finalize the proposed action. Once finalized, please forward a certified copy which includes the approved legal description and maps to the clerk of the board. After the clerk verifies the sufficiency of these documents, they will be distributed to various county departments and jurisdictional entities.

If you have questions, please feel free to contact me.

Sincerely,

Gricelda Montes | Administrative Specialist
Office of Hearings Administration, 2nd Floor, Robert J Drewel Building
Phone: (425) 388-3445 | Email: gricelda.montes@snoco.org
Website: https://www.snohomishcountywa.gov/135/Boundary-Review-Board

Enclosed:
02-2022 City of Stanwood Kottsick NOI - signed

CITY OF STANWOOD
COUNCIL AGENDA STAFF REPORT

ITEM NUMBER:	**10a**
DATE:	June 9, 2022
SUBJECT:	Department of Commerce Brownfields Revolving Loan Fund Grant for the Sebranke Property
CONTACT PERSON:	Patricia Love, Community Development Director
ATTACHMENTS:	A – Department of Commerce Grant B – Maul Foster and Alongi Site Clean Up Contract

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PURPOSE

The purpose of this agenda item is for Council acceptance of a $200,000 grant from the Department of Commerce to conduct environmental cleanup actions and monitoring on the Sebranke property in east end historic shopping district.

BACKGROUND

Following the guidance listed in the City's economic and downtown development plans, the City adopted the City Beautification Action Plan which promotes the vitality of Stanwood's Main Street business districts and neighborhoods. One of the projects identified in the City Beautification Plan is to purchase and develop the Sebranke property into small urban park that will enhance the experience of visitors along main street.

In 2020 the City began working with the Department of Ecology and Department of Commerce on obtaining environmental study and cleanup grants for the property. In 2021 the City completed the necessary environmental studies with a grant from the Department of Ecology and applied for an environmental cleanup grant from the Department of Commerce.

A condition of the Commerce Grant is that the City must own the property prior to obtaining the grant. To comply with the grant requirements, the City purchased the Sebranke property, located at 8627 and 8629 – 271st Street, on December 20, 2021. Now that the property is in city ownership, the clean-up grant has been prepared and is ready for city acceptance.

ANALYSIS

Pursuing the cleanup grant is one of the last steps in implementing the City's vision for a downtown park. Cleaning up the property fits directly with the following two polices regarding revitalization of the downtown:

- Develop a downtown urban park to service residents and businesses and to reinforce the entry to the East District from the train station.
- Provide pocket parks or urban plazas on unused portions of public rights of ways.

The Commerce grant is broken into two phases: Phase 1 remedial design and cleanup and Phase 2 will include ongoing ground water monitoring of the site. Our on-call consultant, Maul Foster and Alongi, will be managing the site clean-up in accordance with Commerce's requirements. The grant covers, both Phases 1 and 2 as well as the contract with MFA to manage the project. Work includes:

- Contract Management
- Mobilization and Site Preparation
- Surface Soil Removal
- Water Treatment
- Phase 2 – Groundwater Monitoring

Attached for Council review and acceptance is the WA Department of Commerce Grant and the scope of work for Maul Foster and Alongi to manage the clean-up and monitoring work.

The following schedule has been proposed and is part of the grant contract. Site cleanup is anticipated to occur between October of 2022 and January of 2023.

Project Schedule	Start Date	Target Date
Phase 1:		
Programmatic Technical Requirement Studies	1-Mar-22	1-May-22
• Community Relations Plan		
• Public Comment Period		
• Decision Memorandum & Contract		
Cleanup Activities		
• Prepare Technical Specifications	1-May-22	1-Aug-22
• Competitive Procurement	1-Aug-22	1-Oct-22
• Remediate Site	1-Oct-22	1-Jan-23
• Final Report	1-Jan-23	1-Apr-23
• Opinion Letter from Ecology	1-Apr-23	1-May-23
Start of Park Construction	1-May-23	1-July-23
Phase 2:		
Quarterly Groundwater Monitoring	1-June-23	31-May-24
Semi-annual Groundwater Monitoring	1-June-24	31-May-29
Annual Groundwater Monitoring	1-June-29	31-May-34

FINANCIAL IMPACT

Fiscal Impact			
Each year the City adopts a budget and Capital Improvement Program (CIP) consistent with each other. The 2021 / 2022 budget and the 2022-2027 CIP includes $200,000 for investigative studies and site cleanup work for the downtown park. There is no match requirement for this grant.			

ESTIMATED PROJECTED COSTS	
PHASE 1:	
Programmatic Technical Requirements	
Section 106 Study	$3,000
Threatened and Endangered Species Study	$2,500
Professional and Technical Services	
Preparation of Environmental Covenant	$5,000
Preparation of Site Management Plan	$5,000
Project Management	$5,800
Remedial Design	$10,000
Construction Management, Oversight and Completion Report	$25,000
Subtotal:	**$56,300**
Remedial Action	$58,000
Total:	**$114,300**
PHASE 2:	
Quarterly Groundwater Monitoring	$14,000
Semi-annual Groundwater Monitoring	I. $25,800
Annual Groundwater Monitoring	$14,600
Total:	$54,400
Contingency (Assuming 19%)	$31,300
TOTAL ESTIMATED COSTS	**$200,000**

The scope of work for Maul Foster and Alongi for $95,760.00, which is covered by the grant, includes:

1 – Remedial Design and Project Management
2 – Construction Management, Oversight and Completion reporting
3 – Compliance Groundwater Monitoring

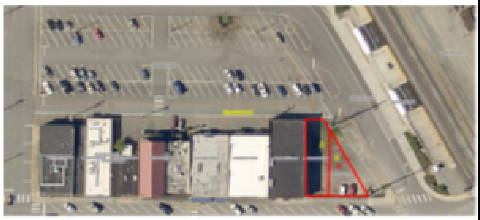
Fund(s):	594.76.63.20 Downtown Park		
Amount:	$200,000.00	**Project Estimate:**	$200,00.00
Budget Authorized	**[X] Yes [ ] No**	**Amendment Required**	**[ ] Yes [X] No** **[ ] Monitor**

Below is the CIP sheet for the project.

City of Stanwood
Multi-Year Capital Project

Project:	Downtown Park	**Project Overview:**
Tracking Fund:	104 Parks Construction	Construct a downtown public park that will enhance the experience of visitors to
Department:	Communiyt Development	the main street area of Stanwood.
Project Manager:	Patricia Love	**Justification:**
Year Identified:	2020	Implementation of the 2010 Economic Development Plan, 2012 SDAT: Destiney by
Completion Year:	2022	Design, and 2015 Downtown Subarea Plan.
Strategic or Master Plan Reference:	Downtown Master Plan	**Detailed Project Description:**
Program Reference:	N/A	Main Street is the primary location for special events. The street is regularly closed
Project Priority:	N/A	for the following events: Arts By the Bay festival; Summary Arts Jam; Small Trailer
Project Score:	N/A	Event; Twin City Idlers Car Show; Stanwood Camano Fair parade; Touch- A-Truck,
Asset Category:	Parks, Trails Facilities	National Night Out; and the Downtown Concert Series. In 2021, the City is
Address/Location:	8627 and 8629 271st Street	considering moving the Farmers Market to Main Street. This site will enhance these
Related Projects(s):	City Beautification	events by providing park space for people to rest, eat and relax during these events.

The Site has remained underutilized and vacant since the 1990s. The Site's location within the main street business district of the City of Stanwood provides a great opportunity to support local businesses with a public park in the downtown corridor



Operating Impacts:

Capital Budget	Previous Years	2020	2021	2022	2023	2024	2025	Horizon Years	Total
Sources/Funding	**Appropriated to Date**	**Budget**	**Projection**	**Projection**	**Projection**	**Projection**	**Projection**	**Projection**	**Overall Project Sources**
Grant - Dept of Commerce	$ -	$ -	$200,000	$ -	$ -	$ -	$ -	$ -	$ 200,000
Transfer in - Impact Fees	$ -	$ -	$ -	$ 140,000	$ -	$ -	$ -	$ -	$ 140,000
Transfer in - General Fund	$ -	$ 30,000	$ -	$ -	$ -	$ -	$ -	$ -	$ 30,000
Debt - Parks & Trails	$ -	$ -	$ -	$ -	$ -	$ 1,000,000	$ -	$ -	$ 1,000,000
Total Sources	**$ -**	**$ 30,000**	**$200,000**	**$ 140,000**	**$ -**	**$ 1,000,000**	**$ -**	**$ -**	**$ 1,370,000**

Uses/Costs	**Appropriated to Date**	**Budget**	**Projection**	**Projection**	**Projection**	**Projection**	**Projection**	**Projection**	**Overall Project Uses**
Investigative Analysis	$ -	$ 30,000	$ -	$ -	$ -	$ -	$ -	$ -	$ 30,000
Hazardous Material Clean Up	$ -	$ -	$200,000	$ -	$ -	$ -	$ -	$ -	$ 200,000
Acquisition & ROW	$ -	$ -	$ -	$ 60,000	$ -	$ -	$ -	$ -	$ 60,000
Design	$ -	$ -	$ -	$ 80,000	$ -	$ -	$ -	$ -	$ 80,000
Construction	$ -	$ -	$ -	$ -	$ -	$ 1,000,000	$ -	$ -	$ 1,000,000
Total Uses	**$ -**	**$ 30,000**	**$200,000**	**$ 140,000**	**$ -**	**$ 1,000,000**	**$ -**	**$ -**	**$ 1,370,000**

RECOMMENDATIONS

Staff Recommendation:

Staff recommends the Council accept the Department of Commerce Grant in the amount of $200,000 to conduct the site cleanup work on the Sebranke property in efforts to further the downtown redevelopment and City Beautification Action Plan.

Committee/Board Recommendation:

N/A; This project has been an action of the entire Council. On April 17, 2020 the issue of pursing state and federal grants for fund cleanup actions on the Sebranke site was brought before the Economic Development Board and Council Community Development Committee. Both Committees supported the City's efforts to apply for such grants. The project is included in the City Beautification Action Plan as part of the areas revitalization efforts and was included in the 2021 / 2022 adopted budget.

The City purchased the property in December of 2021 with the intent of receiving the pending Commerce Grant.

CITY COUNCIL OPTIONS

1. Accept the $200,000.00 Department of Commerce Grant to conduct the site cleanup work on the Sebranke property.

2. Reject the grant and put the project on hold.

PROPOSED MOTION

MOTION TO AUTHORIZE THE MAYOR TO SIGN THE GRANT CONTRACT WITH THE DEPARTMENT OF COMMERCE IN THE AMOUNT OF $200,000 TO CONDUCT THE SITE CLEANUP WORK ON THE SEBRANKE PROPERTY.

MOTION TO AUTHORIZE THE MAYOR TO SIGN THE CONTRACT WITH MAUL FOSTER AND ALONGI, INC. IN THE AMOUNT OF $95,760.00 TO MANAGE THE SITE CLEANUP WORK ON THE SEBRANKE PROPERTY ON THE BEHALF OF THE CITY.

Washington State Department of Commerce

Capital Agreement with

City of Stanwood

through

Washington State Department of Commerce
Brownfields Revolving Loan Fund (BRLF)

For

Due diligence and cleanup activities on the Sebranke property site

Start date: Upon Contract Execution

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TABLE OF CONTENTS

FACE SHEET

Contract Number: 22-62310-004

Washington State Department of Commerce
Local Government Division
Brownfields Revolving Loan Fund Program

1. Contractor	**2. Contractor Doing Business As (optional)**
City of Stanwood 10220 270TH Street NW Stanwood, WA 98292-8022	
3. Contractor Representative	**4. COMMERCE Representative**
Patricia Love, Community Development Director (360) 454-5206 patricia.love@ci.stanwood.wa.us	Kari Sample Program Manager (360) 764-3090 Kari.Sample@commerce.wa.gov

5. Contract Amount	**6. Funding Source**	**7. Start Date**	**8. End Date**
$114,300.00 for Phase 1 may be amended for an additional $85,700 for Phase 2	**Federal:** X **State:** **Other:** **N/A:**	Upon Execution	11/30/2034

9. Federal Funds (as applicable)	**10. Federal Agency**	**<u>CFDA Number:</u>**
	EPA	66.818

10. SWV #	**11. UBI #**	**12. DUNS #**	**13. UNIQUE ENTITY ID #**
SWV0015238-00	319008103	019256379	K4JJWRZ1HWM6

14. Contract Purpose

The purpose of this Contract is to provide funding for due diligence and cleanup activities on the Sebranke property site. The Contractor is responsible for all work described in Attachment 1: Statement of Work, Schedule and Budget.

COMMERCE, defined as the Department of Commerce and Contractor acknowledge and accept the terms of this Contract and attachments and execute and start this Contract on the last signature date below. The rights and obligations of both parties to this Contract are governed by this Contract and the following other documents incorporated by reference: Contractor Terms and Conditions including Attachment I -Statement of Work, Schedule and Budget, Attachment II - Legal Description of Property, Attachment III - Administrative Prohibition and Eligible Costs, Attachment IV - Disadvantaged Business Enterprise Requirements, Attachment V - Certification Regarding Debarment, Suspension, and Other Responsibility Matters, Attachment VI - Approval / Decision Memorandum, EPA General Terms and Conditions, Attachment VII, Davis Bacon Terms and Conditions VIII.

FOR CONTRACTOR	**FOR COMMERCE**

______________________________	______________________________ Mark Barkley, Assistant Director Local Government Division
______________________________ Date	______________________________ Date **APPROVED AS TO FORM ONLY** Dawn Cortez Dawn Cortez, Assistant Attorney General Washington State Office of the Attorney General Date 5/17/2022

Last revision 3/24/2022

DECLARATIONS

CLIENT INFORMATION

GRANTEE Name:	**City of Stanwood**
Grant Number:	22-62310-004
State Wide Vendor Number:	SWV0015238-00

PROJECT INFORMATION

Project Name:	**Sebranke Property**
Project City:	STANWOOD
Project State:	Washington
Project Zip Code:	98292-8022

CONTRACT INFORMATION

Grant Amount:	**$200,000.00**
Administrative Fee:	$2,000.00
Contract End Date:	11/30/2034
Earliest Date for Reimbursement:	**03/02/2022**
Time of Performance:	Project will be completed within thirteen years of contract execution

FUNDING INFORMATION

Total Amount of Federal Award:	$1,640,000
Federal Award Date:	10/07/2021
Federal Award ID # (FAIN):	BF-00J96301
Amount of Federal Funds Obligated by this Action:	$114,300.00 in EPA Grant Funds
Awarding Official:	Margaret Olson, EPA Project Officer, 503-326-5874
EPA Cooperative Agreement Number:	BF-00J96301
EPA Site Eligibility Determination Approval:	1/20/2022

ADDITIONAL SPECIAL TERMS AND CONDITIONS GOVERNING THIS AGREEMENT

SPECIAL TERMS AND CONDITIONS
CAPITAL
FEDERAL FUNDS

1. DEFINITIONS

As used throughout this Brownfields Revolving Loan Fund (BRLF) Grant Agreement Contract the following terms shall have the meaning set forth below:

A. "CERCLA Section 104(k)" shall mean Comprehensive, Environmental Response Compensation and Liability Act, Brownfields Revitalization Act.
B. "Contract" shall mean this BRLF Grant Agreement.
C. "Contractor" shall mean the entity identified on the Contract Face Sheet performing service(s) under this Contract and who is a Party to the Contract, and shall include all employees and agents of the Contractor.
D. The "Contract End Date" shall mean the date the contract expires. The actual date of contract execution shall have no effect on the Contract End Date.
E. "Deferral Period" shall be from the date of contract execution until the date of project completion. The Deferral Period shall not exceed 3 years in length.
F. "Department of Commerce" and "COMMERCE" shall mean the Washington State Department of Commerce.
G. "Eligible Activities" shall mean removal actions associated with actual cleanup of the Site and eligible direct administrative costs as specified in Attachment III — Administrative Prohibition and Eligible Costs.
H. "EPA" shall mean the United States Environmental Protection Agency.
I. "Project" means the remediation of the contaminated soils and groundwater from the property site owned by Contractor as described in Attachment I — Statement of Work, Schedule and Budget.
J. "Property" shall mean the real property as described in Attachment II —Legal Description of Property.
K. "Site Manager" shall mean the representative from the Washington State Department of Ecology Toxics Cleanup Program providing remediation oversight in cooperation with COMMERCE.

2. ACKNOWLEDGEMENT OF FEDERAL FUNDING

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

> "This project was supported by the EPA Cooperative Agreement No. shown on the attached Declarations page awarded by EPA. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the EPA. Grant funds are administered by the BRLF Program, Washington State Department of Commerce."

3. CONTRACT MANAGEMENT

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

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

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

4. PURPOSE

COMMERCE and the Contractor have entered into this Contract to undertake a local project that furthers the goals and objectives of the BRLF Program. The project will be undertaken by the Contractor and will include the activities described in the STATEMENT OF WORK, SCHEDULE AND BUDGET shown on Attachment I and, if applicable, in accordance with the method approved in the Cleanup Action Plan. The project must be undertaken in accordance with the BRLF Program Special Terms and Conditions and all applicable federal, state and local laws and ordinances, which by this reference are incorporated into this Contract as though set forth fully herein.

The Contractor agrees to carry out the Project and shall use BRLF Grant funds only for eligible activities in compliance with CERCLA Section-104(k); the Washington State Model Toxics Control Act (MTCA); the Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (40 CFR Part 31) and in accordance with all other applicable provisions of federal, state, or local law, Including the "EPA General Terms and Conditions", as amended, which are attached in Attachment VII and incorporated by reference.

The Contractor shall ensure that the assessment and cleanup is protective of human health and the environment, shall perform the assessment and cleanup in and agrees to enter into and conduct the Brownfields assessment and cleanup in accordance with the terms of the Washington State Voluntary Cleanup Program (VCP) or other MTCA oversight authority as approved by COMMERCE.

5. PRE-CONTRACT REQUIREMENTS & CERTIFICATIONS

The Contractor certifies that the previously submitted BRLF Application, pre-contracting documents and certifications fairly represents the Contractor's financial condition and that no materially adverse change in condition or operation has occurred. The documents are incorporated by reference into this Contract.

6. AMOUNT OF GRANT

COMMERCE, using funds appropriated from the Federal Award as shown on the attached Declarations Page shall grant the Contractor a sum not to exceed the amount shown as GRANT AMOUNT on the attached Declarations Page. This grant amount includes an administrative fee, if applicable, which is shown on the Declarations Page as ADMINISTRATIVE FEE.

7. ADMINISTRATIVE FEE

The amount of the administrative fee as shown on the Declarations Page represents one percent (1%) of the grant request and shall not be reduced, regardless of the actual final grant amount at project completion. If the administrative fee applies and the total grant amount is increased by amendment, an additional grant fee equal to one percent (1%) of the additional grant amount will be assessed at amendment execution.

8. BILLING PROCEDURES AND PAYMENT

If funding or appropriation is not available at the time the Contractor submits a request for a grant disbursement, the issuance of a warrant will be delayed or suspended until such time funds become available. Therefore, subject to availability of funds, warrants shall be issued to the Contractor for payment of allowable expenses incurred by the Contractor while undertaking and administering approved project activities in accordance with Attachment I – STATEMENT OF WORK, SCHEDULE AND BUDGET.

The Contractor must meet the internal controls requirements as stated in Section 32. The grant funds will be disbursed to the Contractor as follows:

COMMERCE shall reimburse the Contractor for eligible Project expenditures, up to the maximum payable under this Contract.

When requesting reimbursement for expenditures made, the Contractor shall submit to COMMERCE a signed and completed Invoice Voucher (Form A-19) referencing the Attachment I – STATEMENT OF WORK, SCHEDULE AND BUDGET project activity performed, and any appropriate documentation such as bills, invoices, and receipts. The Invoice Voucher must be certified by an official of the Contractor with authority to bind the Contractor.

Each request for payment must be accompanied by a Project Status Report, which describes, in narrative form, the progress made on the Project since the last invoice was submitted, as well as a report of Project status to date. COMMERCE will not release payment for any reimbursement request received unless and until the Project Status Report is received. After approving the Invoice Voucher and Project Status Report, COMMERCE shall promptly remit a warrant to the Contractor.

Pre-award costs are limited to permit fees and eligible costs directly associated with bid document preparation and bid advertisement. COMMERCE will pay for pre-award costs only incurred on or after the earliest date for reimbursement. Requests for reimbursements for costs related to pre-award activities will not be accepted until the Contractor has met the following conditions:

- Met the insurance requirements as stated in Section 34.

Project expenses incurred after the date shown as GRANT REIMBURSEMENT DATE on the Declarations Page are eligible for reimbursement. Requests for reimbursements for costs related to project activities will not be accepted until the Contractor has met the following conditions:

A. Issued a Notice to Proceed, which follows the formal award of an environmental services contract;
B. Complied with Section 17 Prevailing Wage;
C. If applicable, submit 21 Day Labor Packet. For each prime and subcontractor performing work on site during the first two weeks of cleanup, contractor must provide a copy of the following documentation to COMMERCE within 21 days after the respective contractors begin work.
   - Statement of Intent to Pay Prevailing Wages
   - Certified Payroll for the two weeks' pay period
   - Employee Interview Forms. At least one interview per contractor and subcontractors per trade (job classification) must be conducted.
D. Complied with any other conditions required by EPA or COMMERCE.

The Contractor can submit all Invoice Vouchers and any required documentation electronically through COMMERCE's Contracts Management System (CMS), which is available through the Secure Access Washington (SAW) portal.

If Contractor has or will be submitting any of the invoices attached to a request for payment for partial reimbursement under another grant contract, Contractor must clearly identify such grant contracts in the transmittal letter and request for payment.

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

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

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

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

In the event that the Contractor receives reimbursement for costs that are later determined by COMMERCE to be ineligible, these funds shall be repaid to COMMERCE.

Duplication of Billed Costs

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

Disallowed Costs

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

9. TIME OF PERFORMANCE

The Contractor shall begin the activities identified within the Attachment I- STATEMENT OF WORK, SCHEDULE AND BUDGET no later than sixty (60) days after Contract execution.

The Contractor must reach project completion within the period specified on the Declarations Page as TIME OF PERFORMANCE and specifically identified in ATTACHMENT I- STATEMENT OF WORK, SCHEDULE, AND BUDGET.

Failure to meet project completion within the time frame described in this section shall constitute default under this Contract, and as a result, this Contract may be terminated. In the event of extenuating circumstances, the Contractor may request, in writing, at least 90 days prior to the expiration of project completion date that COMMERCE extend the deadline for project completion. COMMERCE may extend the time of project completion.

It is expressly understood that a failure or delay on the part of the Contractor in the performance, in whole or in part, or any of the terms of this Contract, if such failure is attributable to an Act of God, fire, flood, riot, insurrection, embargo, emergency, or governmental orders, regulations, priority, or other limitations or restrictions, or other similar unforeseen causes beyond the reasonable control of such party, the failure or delay shall not constitute a breach or default under this Contract however, the Contractor shall use its best effort to insure that the Project is completed in a reasonable time without unnecessary delay.

10. PROJECT COMPLETION AND THE FINAL REPORT

The Contractor shall provide technical reports and other documents relative to assessment to COMMERCE and the Site Manager to confirm project completion and closeout of the cleanup action. The final report shall document completed cleanup goals achieved in compliance with the work plan, actions taken, institutional controls used (if any), resources committed, problems or challenges encountered (if any), and cleanup goals achieved, and acreage cleaned up within two (2) months of project completion. Additionally, the Contractor agrees to submit a final Financial Status Report using such form(s) as specified to COMMERCE within ninety (90) days of project completion.

The Contractor shall ensure that the successful completion of an RLF cleanup is properly documented. This must be done through a final report or letter from a Qualified Environmental Professional, or other documentation provided by a State or Tribe that shows cleanups are complete. This documentation needs to be included as part of the Administrative Record.

In the event the Contractor does not complete the cleanup, COMMERCE will access the project site, ensure the site is secure and poses no immediate threat to human health or the environment, and notify EPA and the Site Manager.

11. RECAPTURE

In the event that the Contractor fails to expend the Grant in accordance with state laws, federal laws, and/or the provisions of this Contract, COMMERCE reserves the right to recapture state funds in an amount equivalent to the extent of noncompliance. Repayment by the Contractor of state funds under this recapture provision shall occur within thirty (30) days of demand. In the event that COMMERCE is required to institute proceedings to enforce this recapture provision, COMMERCE shall be entitled to its cost thereof, including reasonable attorney's fees.

In the event that the Contractor fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, COMMERCE reserves the right to recapture all funds disbursed under the Contract, in addition to any other remedies available at law or in equity. This provision supersedes the Recapture provision in Section 36 of the General Terms and Conditions.

12. SUBCONTRACTOR DATA COLLECTION

Contractor will submit reports, in a form and format to be provided by COMMERCE and at intervals as agreed by the parties, regarding work under this Contract performed by subcontractors and the portion of Grant funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. “Subcontractors” shall mean subcontractors of any tier.

13. FEDERAL AND STATE REQUIREMENTS

The Contractor assures compliance with all applicable federal, state, and local laws, requirements, and ordinances as they pertain to the design, implementation, and administration of the approved project, including but not limited to those listed in Attachments I to VIII.

14. COMPETITIVE BID REQUIREMENTS

All Project work performed pursuant to this Contract shall be performed by a qualified, competitively selected contractor consistent with good practices and industry standards.

The Contractor shall use a competitive procurement process in the award of any contracts with contractors or sub-contractors that are entered into under the original contract award. The procurement process followed shall be in accordance with 2 CFR 200.

If there is an inconsistency between the applicable Federal, State, local and tribal laws and regulations, the more restrictive shall be used.

The Contractor shall provide COMMERCE with copies of all bids and contracts for all work required under the Remedial Action Work Plan.

15. ELIGIBLE PROJECT COSTS

The Contractor assures compliance with Attachment III: Administrative Prohibition and Eligible Costs, which identifies eligible costs for projects funded by BRLF. The Contractor shall not exceed any of the costs identified in ATTACHMENT I — STATEMENT OF WORK, SCHEDULE AND BUDGET without the prior, written approval of COMMERCE.

All additional costs incurred as the result of change orders shall be the responsibility of the Contractor. In the event that unforeseen conditions are discovered during the Project implementation, COMMERCE reserves the right to revise the Project Documents.

The Contractor shall be responsible for obtaining all permits, licenses, approvals, certifications, and inspections required by federal, state, or local law and to maintain such permits, licenses, approvals, certifications, and inspections in current status prior or during the term of this Contract.

The Contractor understands and agrees that all BRLF Grant funds provided by COMMERCE shall be used for site assessment activities on the Property identified in Attachment II — Legal Description of Property.

Funds used for any and all work performed on the Property for which BRLF funds are conditioned upon the Contractor requiring the full compliance of any sub-contractors with the Project Documents and this Contract.

16. HISTORICAL OR CULTURAL ARTIFACTS, HUMAN REMAINS

In the event that historical or cultural artifacts are discovered at the project site during construction or rehabilitation, the Contractor shall immediately stop construction and notify the local historical preservation officer and the state historic preservation officer at the Department of Archaeology and Historic Preservation (DAHP) at (360) 586-3065. If human remains are discovered, the Grantee shall stop work, report the presence and location of the remains to the coroner and local law enforcement immediately, and contact DAHP and the concerned tribe's cultural staff or committee.

17. PREVAILING WAGE

All contractors and subcontractors performing work on a construction project funded through this Contract shall comply with prevailing wage laws by paying the higher of state or federal prevailing wages according to:

> State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable to the Project funded by this contract, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Contractor shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for Board's review upon request; or,

The Davis Bacon Act, 40 USC 276a-276a-5 and related federal acts provide that all laborers and mechanics employed by contractors or subcontractors in the performance shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor.

The Contractor agrees that the Contractor is legally and financially responsible for compliance with the prevailing wage requirements. Contractor is advised to consult the United States Department of Labor and Washington State Department of Labor and Industries websites to determine the federal and State prevailing wages that must be paid. Contractor agrees to follow Davis Bacon Prevailing Wage Terms and Conditions per Attachment VIII of this agreement.

18. FEDERAL EXCLUSION

These terms add to the terms in Section 11 Certification Regarding Debarment, Suspension or Ineligibility and Voluntary Exclusion — Primary and Lower Tier Covered Transactions in General Terms and Conditions. The Contractor also agrees to access the Federal Exclusion List at www.sam.gov and provide Federal Exclusion documentation to COMMERCE and to keep a copy on file with the Contractor's project records.

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

By signing this Contract, the Contractor accepts the requirements stated in 48 CFR 52.204-7 to register with the System for Award Management at the SAM website (https://www.sam.gov). To register in SAM, a valid Universal Entity Identifier (UEI) is required. The Contractor is responsible for the accuracy and completeness of the data within the SAM database and for any liability resulting from the Government's reliance on inaccurate or incomplete data. The Contractor must remain registered in the SAM database after the initial registration. The Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in SAM to ensure it is current, accurate and complete. The Contractor shall provide evidence documenting registration and renewal of SAM registration to COMMERCE.

In the event of the Contractor's noncompliance or refusal to comply with the requirement stated above, COMMERCE reserves the right to suspend payment until the Contractor cures this noncompliance.

20. RECORDKEEPING AND ACCESS

The Contractor agrees to maintain project information including executed contracts, invoices, correspondence, and other documents sufficient to evidence in proper detail the nature and propriety of the site assessment and expenditures. The Contractor shall submit a statement of any contributions of money, labor, materials, or services utilized in the completion of the project

COMMERCE, COMMERCE's agents, the Site Manager, and duly authorized officials of the state and federal governments shall have full access to the project site and the right to examine, copy, excerpt, or transcribe any pertinent documents, papers, records, and books of the Contractor and of persons, firms, or organizations with which the Contractor may contract, involving transactions related to this project and this Contract.

The Contractor's financial reporting system shall track the eligible use of BRLF funds by site, identify grant and matching funds for site assessment, cleanup and associated development, maintain records based upon federal or non-federal sources, and provided information for an annual financial statement to be submitted to COMMERCE.

The Contractor agrees to retain these records for a period of six (6) years from the date that the debt is retired. This includes but is not limited to financial reports. If any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

21. REPORTS

The Contractor, at such times and on such forms as COMMERCE may require, shall furnish COMMERCE with such periodic reports as it may request pertaining to the activities undertaken pursuant to this Contract including, but not limited to:

A. Prevailing Wage decisions and/or changes

B. Disadvantaged Business Enterprises utilization
C. Project Status Reports with each Invoice Voucher
D. Project Completion Report (as described in Section 10)
E. Other reports as COMMERCE may require.

In the event of the Contractor's noncompliance or refusal to comply with the requirement stated above, COMMERCE reserves the right to suspend payment until the Contractor cures this noncompliance.

22. AMENDMENTS, MODIFICATIONS, ASSIGNMENTS, AND WAIVERS

These terms supersede the terms in Section 5 Amendments in General Terms and Conditions.

The Contractor may request an amendment of this Contract for the purpose of modifying the Attached STATEMENT OF WORK, SCHEDULE AND BUDGET, or by extending the time of performance as provided for in Section 9. Any revision to the STATEMENT OF WORK, SCHEDULE AND BUDGET, or location of the project must be approved in writing by COMMERCE prior to such change becoming effective. No modification or amendment resulting in an extension of project completion shall take effect until a request in writing has been received, approved by COMMERCE, and approved in writing by both COMMERCE and the Contractor and attached hereto in accordance with Section 9.

The Contractor shall not assign or attempt to assign directly or indirectly any of its rights under this Contract, or under any instrument referred to herein, without the prior written consent of COMMERCE. The Contractor shall not assign all or any portion of the Property made the subject of this Contract without the prior written consent of COMMERCE. As a condition of approval, COMMERCE reserves the right to demand payment in full of the outstanding principal balance of the grant.

No conditions or provisions of this Contract may be waived unless approved by COMMERCE in writing. No waiver of any default or breach by any party shall be implied from any failure to take action upon such default or breach, if the default of breach persists or repeats.

Any forbearance by COMMERCE with respect to any of the terms and conditions of this Contract and associated Project Documents shall in no way constitute a waiver of any of COMMERCE's rights or privileges granted hereunder.

23. TERMINATION FOR CAUSE

These terms supersede the terms in Section 45 Termination for Cause in General Terms and Conditions.

Failure to perform the duties associated with this Contract in a timely manner may constitute default of this Contract and require the immediate repayment of any funds disbursed.

Any representation or warranty made herein or in any report, certificate, financial statement, or other instrument furnished in connection with this Contract or the Project Documents proven to be false in any material respect may constitute default of this Contract and require the immediate repayment of any funds disbursed.

If COMMERCE concludes that the Contractor has failed to comply with the terms and conditions of this Contract, or has failed to use the grant proceeds only for those activities identified in the Attachment I-STATEMENT OF WORK, SCHEDULE AND BUDGET, or has otherwise materially breached one or more of the covenants in this Contract, COMMERCE may at any time, at its discretion, upon notice to the Contractor, terminate the Contract and/or its attached agreements in whole or in part, and declare the entire remaining balance of the grant, together with any interest accrued, immediately due and payable in full. Such Notice of Termination for Cause shall be in writing, shall state the reason for such termination, and shall specify the effective date of the termination. The effective date of the termination will be determined by COMMERCE. Such notice shall inform the Contractor of the breach of the relevant covenant and shall allow the Contractor at least thirty (30) business days to cure such breach, if curable. The notice shall instruct the Contractor that, if the breach is not cured or cannot be cured within thirty (30) business days, the outstanding balance of the grant shall be due and payable. If this

Contract is so terminated, COMMERCE shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

24. TERMINATION FOR CONVENIENCE

These terms supersede the terms in Section 46 Termination for Convenience in General Terms and Conditions.

COMMERCE may terminate this Contract in the event that federal or state funds are no longer available to COMMERCE, or are not appropriated for the purpose of meeting COMMERCE's obligations under this Contract. COMMERCE shall notify the Contractor in writing of its determination to terminate and the reason for such termination. The effective date of the termination will be determined by COMMERCE. If this Contract is so terminated, COMMERCE shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination. Nothing in this section shall affect Contractor's obligations to repay the unpaid balance of the grant.

25. PROJECT SIGNS

The Contractor agrees to erect a sign(s) on the Property stating that the Project is being financed in part by an EPA grant and in cooperation with the Washington State Department of Commerce. Additional signage must include contacts for obtaining information on activities being conducted at the Project Site and for reporting Davis-Bacon Compliance, suspected criminal activities, and health and safety rules. Any sign(s) erected on the Project Site shall comply with all requirements of the state and local law applicable to on premise outdoor advertising.

26. INDEMNIFICATION

These terms supersede the terms in Section 21 Indemnification in General Terms and Conditions.

To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, all other agencies of the state and all officers, agents and employees of the state, the Site Manager, and local partners from and against all claims or damages arising out of or incident to the Contractor's performance or failure to perform the Contract. The Contractor's obligation to indemnify, defend, and hold harmless includes any claim by the Contractor's agents, employees, representatives, or any Subcontractor or its agents, employees, or representatives.

The Contractor's obligation to indemnify, defend, and hold harmless shall not be eliminated by any actual or alleged concurrent negligence of the state or its agents, agencies, employees and officers.

Subcontracts shall include a comprehensive indemnification clause holding harmless the Contractor, COMMERCE, the state of Washington, its officers, employees and authorized agents.

27. DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

As mandated by the EPA, the Contractor agrees to comply with the requirements of the EPA's Program for Utilization of Small, Minority Business Enterprises, and Women's Business Enterprises (MBE/WBE) in procurement under this Contract. The Contractor is required to follow the requirements identified in Attachment IV: Disadvantaged Business Enterprise Requirements.

By signing this Contract, the Contractor accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the Washington State Office of Minority and Women's Business Enterprises. The Contractor attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as Washington State Office of Minority and Women's Business Enterprises. The goals for the utilization of disadvantaged businesses are stated in Attachment IV: Disadvantaged Business Enterprise Requirements.

The Contractor is required to furnish COMMERCE with such periodic reports as the Department may request pertaining to the utilization of disadvantaged businesses.

28. NONDISCRIMINATION PROVISION

During the performance of this Contract, the Contractor shall comply with all federal and state nondiscrimination laws, including, but not limited to Chapter 49.60.RCW, Washington's Law Against Discrimination, and 42 USC 12101 et. seq, the Americans with Disabilities Act (ADA).

In the event of the Contractor's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this Contract may be rescinded, canceled, or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with COMMERCE. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance.

The Contractor must also include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services listed in the Attachment STATEMENT OF WORK, SCHEDULE AND BUDGET.

> "The Contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA 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."

29. PROHIBITION STATEMENT

Pursuant to Section 106 of the Trafficking Victims Protection Act of 2000, as amended, the Contractor's contractors, subcontractors, engineers, vendors, and any other entity *shall comply with and include the following terms and conditions in all contracts* for work or services listed in the Attachment I-STATEMENT OF WORK, SCHEDULE AND BUDGET:

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

If any term of this section is violated, this contract may be terminated.

30. FALSE, INCORRECT, OR INCOMPLETE INFORMATION OR CLAIM

The Contractor warrants that the Contractor neither has submitted nor shall submit any information that is materially false, incorrect, or incomplete to COMMERCE.

The Contractor is advised that providing false, fictitious, or misleading information with respect to the receipt and disbursements of EPA funds is basis for criminal, civil, or administrative fines and/or penalties.

31. ACCURACY OF FINANCIAL INFORMATION

The Contractor warrants that all financial statements and related information furnished by the Contractor have been prepared under Generally Accepted Accounting Procedures (GAAP) or tax basis, and fully represents to the best of the Contractor's knowledge, the financial condition of the Contractor as of the dates and for the periods indicated.

The Contractor covenants that since the date of such statements, the Contractor is unaware of any materially adverse change in the business property, operations, or condition (financial or otherwise) that would impair the Contractor's ability to repay the grant.

32. INTERNAL CONTROL

The Contractor must designate one person as fiscal coordinator of the grant. Only one signature is required to request reimbursement of expenditures from COMMERCE, However, in the absence of the fiscal coordinator, or in other circumstances, a second person must be authorized to sign on the reimbursement request form.

The Contractor must maintain effective internal controls and accountability for the grant funds by complying with financial management standards and GAAP.

33. LITIGATION

The Contractor warrants that there is no threatened or pending litigation, investigation, or legal action before any court, arbitrator, or administrative agency that, if adversely determined, would have a materially adverse effect on the Contractor's ability to repay the grant.

34. INSURANCE

The Contractor shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Contractor or Subcontractor, or agents of either, while performing under the terms of this contract. Failure to maintain the required insurance coverage may result in termination of this Contract.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Contractor shall instruct the insurers to give COMMERCE thirty (30) calendar days advance notice of any insurance cancellation, non-renewal or modification.

The Contractor shall submit to COMMERCE within fifteen (15) calendar days of a written request by COMMERCE, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Contract, if required or requested, the Contractor shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Contractor shall provide, at COMMERCE's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days advance written notice of cancellation.

The Contractor shall provide insurance coverage that shall be maintained in full force and effect during the term of this Contract, as follows:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of contract activity but no less than $1,000,000 per occurrence. Additionally, the Contractor is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

Automobile Liability. In the event that performance pursuant to this Contract involves the use of vehicles, owned or operated by the Contractor or its Subcontractor, automobile liability insurance shall be required. The minimum limit for automobile liability is $1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

Professional Liability, Errors and Omissions Insurance. The Contractor shall maintain Professional Liability or Errors and Omissions Insurance. The Contractor shall maintain minimum limits of no less than $1,000,000 per occurrence to cover all activities by the Contractor and licensed staff employed or under contract to the Contractor. The state of Washington, its agents, officers, and employees need *not* be named as additional insureds under this policy.

Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the Contractor for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

A. The amount of fidelity coverage secured pursuant to this Contract shall be $100,000 or the highest of planned reimbursement for the Contract period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.

B. Subcontractors that receive $10,000 or more per year in funding through this Contract shall secure fidelity insurance as noted above. Fidelity insurance secured by Subcontractors pursuant to this paragraph shall name the Contractor as beneficiary.

Contractors and Local Governments that Participate in a Self-Insurance Program.
Self-Insured/Liability Pool or Self-Insured Risk Management Program – With prior approval from COMMERCE, the Contractor may provide the coverage above under a self-insured/liability pool or self-insured risk management program. In order to obtain permission from COMMERCE, the Contractor shall provide: (1) a description of its self-insurance program, and (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards promulgated by: 1) Governmental Accounting Standards Board (GASB), 2) Financial Accounting Standards Board (FASB), and 3) the Washington State Auditor's annual instructions for financial reporting. Contractor's participating in joint risk pools shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. The state of Washington, its agents, and employees need not be named as additional insured under a self-insured property/liability pool, if the pool is prohibited from naming third parties as additional insured.

Contractor shall provide annually to COMMERCE a summary of coverages and a letter of self-insurance, evidencing continued coverage under Contractor's self-insured/liability pool or self-insured risk management program. Such annual summary of coverage and letter of self-insurance will be provided on the anniversary of the start date of this Contract.

35. <u>INDIRECT COSTS</u>
Pursuant to CERCLA 104(k)(4)(B), indirect costs are not eligible for reimbursement under this Contract.

36. <u>SMALL BUSINESS IN RURAL AREAS (SBRA)</u>
The Contractor shall use the following affirmative steps: place SBRAs on solicitation lists; make sure that SBRAs are solicited whenever there are potential sources; divide total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by SBRAs; establish delivery schedules, where the requirements of work permit, which would encourage participation by SBRAs; and, use the services of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce, as appropriate.

37. <u>LAWS</u>
These terms add to the terms in Section 24 Laws in General Terms and Conditions.
The Contractor shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended, including, but not limited to:

<u>United States Laws, Regulations and Circulars (Federal)</u>

A. Audits

EPA Uniform Administrative Requirements, Cost Principles, and Audit Requirement for Federal Award, 2 CFR 200 and 1500 — Audit Requirements.

B. Environmental Protection and Review

National Historic Preservation Act of 1966, Public Law 89-665 as amended.
Endangered Species Act, Public Law 93-205 as amended
Clean Water Act of 1977, Public Law 95-217 as amended
Safe Drinking Water Act, Public Law 93-523 as amended
Clean Air Act, Public Law 84-159 as amended
Rehabilitation Act of 1973, Section 504 as implemented by Executive Orders 11914 and 11250
Resource Conservation and Recovery Act (RCRA) Section 6002

38. FRAUD AND OTHER LOSS REPORTING

Contractor/Grantee shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable to the Commerce Representative identified on the Face Sheet.

39. ORDER OF PRECEDENCE

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

- Applicable federal and State of Washington statutes and regulations.
- EPA Terms and Conditions
- Special Terms and Conditions including attachments.
- General Terms and Conditions.
- Attachment I — Statement of Work, Schedule and Budget
- Attachment II — Legal Description of Property
- Attachment III — Administrative Prohibition and Eligible Costs
- Attachment IV — Disadvantaged Business Enterprise Requirements
- Attachment V — Certification Regarding Debarment, Suspension, and Other Responsibility Matters
- Attachment VI — Approval / Decision Memorandum.
- Attachment VII - EPA General Terms and Conditions
- Attachment VIII --- Davis Bacon Prevailing Wage Terms and Conditions

GENERAL TERMS AND CONDITIONS
CAPITAL
FEDERAL FUNDS

1. **DEFINITIONS**

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

   A. “Authorized Representative” shall mean the Director and/or the designee authorized in writing to act on the Director’s behalf.

   B. “COMMERCE” shall mean the Department of Commerce.

   C. “Contract” or “Agreement” means the entire written agreement between COMMERCE and the Contractor, including any Exhibits, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.

   D. "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.

   E. “Personal Information” shall mean information identifiable to any person, including, but not limited to, information that relates to a person’s name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.

   F. ”State” shall mean the state of Washington.

   G. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms “subcontractor” and “subcontractors” mean subcontractor(s) in any tier.

2. **ADMINISTRATIVE COST ALLOCATION**

   Administrative costs that may be allowed are set forth in the Special Terms and Conditions. Administrative services shared by other programs shall be assigned to this Contract based on an allocation plan that reflects allowable administrative costs that support services provided under each Contract administered by the Contractor. An approved current federal indirect cost rate may be applied up to the maximum administrative budget allowed.

3. **ALLOWABLE COSTS**

   Costs allowable under this Contract are actual expenditures according to an approved budget up to the maximum amount stated on the Contract Award or Amendment Face Sheet.

4. **ALL WRITINGS CONTAINED HEREIN**

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

5. **AMENDMENTS**

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

6. **AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the “ADA” 28 CFR Part 35**

   The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

7. **APPROVAL**

   This contract shall be subject to the written approval of COMMERCE’s Authorized Representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

8. ASSIGNMENT

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

9. ATTORNEYS' FEES

Unless expressly permitted under another provision of the Contract, in the event of litigation or other action brought to enforce Contract terms, each party agrees to bear its own attorney's fees and costs.

10. AUDIT

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

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

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

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

11. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION—PRIMARY AND LOWER TIER COVERED TRANSACTIONS

A. Contractor, defined as the primary participant and it principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:

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

   ii. Have not within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;

   iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and

   iv. Have not within a three-year period preceding the signing of this contract had one or more public transactions (federal, state, or local) terminated for cause of default.

B. Where the Contractor is unable to certify to any of the statements in this contract, the Contractor shall attach an explanation to this contract.

C. The Contractor agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.

D. The Contractor further agrees by signing this contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

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

ii. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.

E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.

12. CODE REQUIREMENTS

All construction and rehabilitation projects must satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990 28 C.F.R. Part 35 will be required, as specified by the local building Department.

13. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

1. All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;
2. All material produced by the Contractor that is designated as "confidential" by COMMERCE; and
3. All personal information in the possession of the Contractor that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

B. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Contract whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by COMMERCE. Upon request, the Contractor shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.

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

14. CONFORMANCE

If any provision of this contract 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.

15. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the COMMERCE may, in its sole discretion, by written notice to the Contractor terminate this contract if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the Contractor in the procurement of, or performance under this contract.

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The Contractor and their subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked on the Commerce program administering this contract, including but not limited to formulating or drafting the legislation, participating in grant procurement planning and execution, awarding grants, and monitoring grants, during the 24 month period preceding the start date of this Grant. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by COMMERCE that a conflict of interest exists, the Contractor may be disqualified from further consideration for the award of a Grant.

In the event this contract is terminated as provided above, COMMERCE shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of COMMERCE provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which COMMERCE makes any determination under this clause shall be an issue and may be reviewed as provided in the “Disputes” clause of this contract.

16. COPYRIGHT PROVISIONS

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

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

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

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

17. DISALLOWED COSTS

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

18. DISPUTES

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Contractor's name, address, and Contract number; and
- be mailed to the Director and the other party's (respondent's) Contract Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

19. DUPLICATE PAYMENT

The Contractor certifies that work to be performed under this contract does not duplicate any work to be charged against any other contract, subcontract, or other source.

20. GOVERNING LAW AND VENUE

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

21. INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, for, from and against all claims for injuries or death arising out of, or resulting from, the performance of the contract. "Claim" as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractor's agents, employees, representatives, or any subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Contractor's or any subcontractor's performance or failure to perform the contract. Contractor's obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

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

22. INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and its employees or agents performing under this Contract are not employees or agents of the state of Washington or COMMERCE. The Contractor will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

23. INDUSTRIAL INSURANCE COVERAGE

The Contractor shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the Contractor the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by COMMERCE under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

24. LAWS

The Contractor shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended.

25. LICENSING, ACCREDITATION AND REGISTRATION

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

26. LIMITATION OF AUTHORITY

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract.

27. LOCAL PUBLIC TRANSPORTATION COORDINATION

Where applicable, Contractor shall participate in local public transportation forums and implement strategies designed to ensure access to services.

28. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Contract, the Contractor shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with COMMERCE. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

The funds provided under this contract may not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this grant.

29. NOTIFICATION OF TENANT RIGHTS/RESPONSIBILITIES

The Contractor shall provide all tenants, if any, with information outlining tenant rights and responsibilities under the Washington State Landlord Tenant laws, Title 59, Revised Code of Washington.

The Contractor shall also provide all occupants of property acquired with U.S. Department of Housing and Urban Development (HUD) funds notice regarding their eligibility for relocation assistance. Such notices will be provided as required by the Uniform Relocation Assistance and Real Property Acquisition

Act of 1970, as amended and referenced in 49 CFR part 24 and Section 104(d) of the Housing and Community Development Act of 1974, as amended and referenced in 24 CFR 570 and noted in HUD's Handbook No. 1378. Notifications will include but not be limited to:

- General Information Notice
- Notice of Displacement/Non-Displacement

30. <u>PAY EQUITY</u>

The Contractor agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;

B. Contractor may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:

(i) A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.

(ii) A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.

(iii) A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Contract may be terminated by the Department, if the Department or the Department of Enterprise services determines that the Contractor is not in compliance with this provision.

31. <u>POLITICAL ACTIVITIES</u>

Political activity of Contractor employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

32. <u>PREVAILING WAGE LAW</u>

The Contractor certifies that all contractors and subcontractors performing work on the Project shall comply with state Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable to the Project funded by this contract, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Contractor shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for COMMERCE's review upon request.

33. <u>PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS</u>

A Grantee which is a local government or Indian Tribal government must establish procurement policies and procedures in accordance with 2 CFR Part 200 and 1500, for all purchases funded by this Grant.

A Grantee which is a nonprofit organization shall establish procurement policies in accordance with 2 CFR Part 200, for all purchases funded by this Contract.

The Grantee's procurement system should include at least the following:

A. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of contracts using federal funds.

B. Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.

C. Minimum procedural requirements, as follows:

i. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.

ii. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.

iii. Positive efforts shall be made to use small and minority-owned businesses.

iv. The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Contractor, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.

v. Contracts shall be made only with reasonable subgrantees/subcontractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.

vi. Some form of price or cost analysis should be performed in connection with every procurement action.

vii. Procurement records and files for purchases shall include all of the following:

a. Contractor selection or rejection.

b. The basis for the cost or price.

c. Justification for lack of competitive bids if offers are not obtained.

viii. A system for contract administration to ensure Contractor conformance with terms, conditions and specifications of this Contract, and to ensure adequate and timely follow-up of all purchases.

D. Contractor and Subgrantee/subcontractor must receive prior approval from COMMERCE for using funds from this Contract to enter into a sole source contract or a contract where only one bid or proposal is received when value of this Contract is expected to exceed $5,000.

Prior approval requests shall include a copy of proposed contracts and any related procurement documents and justification for non-competitive procurement, if applicable.

34. PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The funds provided under this Contract shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Contract provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

35. PUBLICITY

The Contractor agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE’s name is mentioned, or language used from which the connection with the state of Washington’s or COMMERCE’s name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

36. RECAPTURE

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

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

37. RECORDS MAINTENANCE

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

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

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

38. REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the Contractor shall complete registration with the Washington State Department of Revenue.

39. RIGHT OF INSPECTION

At no additional cost all records relating to the Contractor’s performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. The Contractor shall provide access to its facilities for this purpose.

40. SAVINGS

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

41. SEVERABILITY

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

42. SUBCONTRACTING

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

If COMMERCE approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

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

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

43. SURVIVAL

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

44. TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the Contractor's income or gross receipts, any other taxes, insurance or expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

45. TERMINATION FOR CAUSE

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

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

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

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

46. TERMINATION FOR CONVENIENCE

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

47. TERMINATION PROCEDURES

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

COMMERCE shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Contractor and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

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

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

A. Stop work under the contract on the date, and to the extent specified, in the notice;

B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;

C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor, under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;

E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;

F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and

G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which COMMERCE has or may acquire an interest.

48. TREATMENT OF ASSETS

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

A. Any property of COMMERCE furnished to the Contractor shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.

B. The Contractor shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.

C. If any COMMERCE property is lost, destroyed or damaged, the Contractor shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.

D. The Contractor shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract

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

49. WAIVER

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

50. WORK HOURS AND SAFETY STANDARDS

The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)-Where applicable, all contracts awarded by recipients in excess of $100,000 for construction and other purposes that involve the employment of mechanics or laborers must include a provision for compliance with Section 102 and 107 of the Contract Work Hours Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each subcontractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic is required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Attachment I: Statement of Work, Schedule and Budget

Funds awarded under this grant are for Phase 1: Programmatic technical requirements; remedial design and cleanup/remedial action. Phase 2 will include ongoing ground water monitoring of the Sebranke Property site, but such work will not begin until this Contract is amended to allow for this work.

The Phase 1 will complete programmatic technical requirements; professional and technical services; remedial design; and, remedial action per the 2021 Supplemental Investigation and Cleanup Option Report, Option 5 - Shallow Soil Excavation, Source Excavation and ORC Backfill; or, as required by Ecology's Voluntary Cleanup Program (VCP), to include:

Programmatic Technical Requirements:

- Section 106 and Endangered Species Act consultation

Professional and Technical Services:

- Preparation of Environmental Covenant
- Preparation of Site Management Plan
- Remedial Design
- Project Management, Construction Management, Oversight, and Completion Report

Remedial Action Components:

- Mobilization
- Preliminary Site Work
    - Erosion and Sediment Control
    - Clear and grub site
- Surface Soil Removal
    - Excavate shallow and deeper impacted soil
    - Perform confirmation sampling
    - Off-Site waste transportation dispose to a licensed Subtitle D facility
    - Backfill excavation and replacement
    - Hydro seeding
- Source Area Removal
    - Excavation and material Handling
    - Shoring
    - Dewatering and treatment
    - Backfill Material and placement
    - ORC product backfill
    - Hydro seeding
    - Off-Site waste transportation dispose to a licensed Subtitle D facility
    - Decommission well and reinstallation
    - Construction surveying

With the satisfactory completion of Phase 1, Phase 2 groundwater monitoring may begin only after amendment of the contract between Commerce and the city to incorporate monitoring actions identified in the Cleanup Action Plan and as required by Ecology's Voluntary Cleanup Program.

The project will benefit the public and result in an environmentally clean site that presents no health risks and is prepared for redevelopment.

Project Budget

ESTIMATED PROJECTED COSTS	
PHASE 1:	
Programmatic Technical Requirements	
Section 106 Study	$3,000
Threatened and Endangered Species Study	$2,500
Professional and Technical Services	
Preparation of Environmental Covenant	$5,000
Preparation of Site Management Plan	$5,000
Project Management	$5,800
Remedial Design	$10,000
Construction Management, Oversight and Completion Report	$25,000
Subtotal:	**$56,300**
Remedial Action	$58,000
Total:	**$114,300**
PHASE 2:	
Quarterly Groundwater Monitoring	$14,000
Semi-annual Groundwater Monitoring	I. $25,800
Annual Groundwater Monitoring	$14,600
Total:	$54,400
Contingency (Assuming 19%)	$31,300
TOTAL ESTIMATED COSTS	**$200,000**
SOURCE OF FUNDS	
BRLF Loan / Grant	$200,000
City of Stanwood	
Land Acquisition Cost	$80,000
Land Acquisition Transaction Costs	$21,000
In-kind Staff Time Contribution	$4,000

Project Schedule

The planned activities identified below will begin in March 2022. Phase 1 is estimated for completion by May 2023 and Phase 2 by May 2034.

Project Schedule	Start Date	Target Date
Phase 1:		
Programmatic Technical Requirement Studies	1-Mar-22	1-May-22
• Community Relations Plan		
• Public Comment Period		
• Decision Memorandum & Contract		
Cleanup Activities		
• Prepare Technical Specifications	1-May-22	1-Aug-22
• Competitive Procurement	1-Aug-22	1-Oct-22
• Remediate Site	1-Oct-22	1-Jan-23
• Final Report	1-Jan-23	1-Apr-23
• Opinion Letter from Ecology	1-Apr-23	1-May-23
Start of Park Construction	1-May-23	1-July-23
Phase 2:		
Quarterly Groundwater Monitoring	1-June-23	31-May-24
Semi-annual Groundwater Monitoring	1-June-24	31-May-29
Annual Groundwater Monitoring	1-June-29	31-May-34

Attachment II: Legal Description of Property

PROJECT NAME: City of Stanwood Sebranke Park Project Site Cleanup

PROJECT DESCRIPTION: The approximately 0.11-acre Property is located in section 19, township 32 north, range 3 east of the Willamette Meridian, on Snohomish County tax lots 00432400101500 and 00432400101400. The Property is zoned “Mainstreet Business with a Transit overlay” and is currently an undeveloped vacant lot with a gravel and grassy surface.

SNOHOMISH COUNTY ASSESSOR PARCEL ID#: 00432400101400 and 00432400101500

LEGAL DESCRIPTION: LOTS 14 AND 15, BLOCK 1, FIRST ADDITION TO EAST STANWOOD, ACCORDING TO PLAT THEREOF RECORDED IN VOLUME 9 OF PLATS, PAGE(S) 53, RECORDS OF SNOHOMISH COUNTY, WASHINGTON. SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

8629 and 8627 271st Street Northwest, Stanwood, WA 98292

Attachment III — Administrative Prohibition and Eligible Costs

CERCLA 104(k)(4)(B) prohibits the use of Brownfields loan or sub-grant funds for all direct administrative costs, including all indirect costs under 2 CFR 200 incurred by the Contractor. Prohibited administrative costs, including salaries, benefits, contractual costs, supplies, and data processing charges, are those costs incurred for Brownfields loan or sub-grant administration and overhead costs such as:

INELIGIBLE ADMINISTRATIVE COSTS:

a. **Direct costs** for a Brownfields loan or sub-grant administration are ineligible even if the Contractor is required to carry out the activity under the Brownfields loan or sub-grant. Ineligible Brownfields loan or sub-grant administration direct costs include expenses for:

   (1) Preparation of applications for Brownfields loans, grants, or sub-grants;
   (2) Maintaining and operating financial management systems and personnel systems; and
   (3) Audits.

b. **Overhead costs** by the Contractor that do not directly clean up Brownfields site contamination or comply with laws applicable to the cleanup are ineligible administrative costs. Examples of overhead costs that would be ineligible in Brownfields loans or sub-grants include expenses for:

   (1) Salaries, benefits and other compensation for person(s) who are not directly engaged in the cleanup of the site (e.g., marketing and human resource personnel, senior management or officers);
   (2) Facility costs such as depreciation, utilities, and rent on the borrower's administration offices (sometimes classified as indirect costs); and
   (3) Supplies and equipment not used directly for cleanup at the site.

c. **Indirect costs** are any costs that are incurred for common or joint purposes and are ineligible under a Brownfields loan or sub-grant. Indirect costs generally originate from central governmental/organization services distributed through the central service cost allocation plan and not otherwise treated as direct costs. They benefit more than one cost objective and cannot be readily identified with a particular final cost objective (specific cleanup activity).

   Typical examples of indirect costs may include: general administration or central service costs performed within the Contractor ‘s department or agency from, accounting and personnel services, depreciation or use allowances on buildings and equipment, the costs of operating and maintaining facilities, charges such as information technology support allocated to the agency, procurement/general services costs, etc. Indirect costs are normally charged to federal awards by the use of an indirect cost rate. Some agencies/organizations may have both overhead and indirect costs in which both are prohibited administrative costs.

ELIGIBLE ADMINISTRATIVE COSTS:

The Brownfields Law (CFDA No. 66.818) provides that the administrative cost prohibition does not apply to "*programmatic costs."* Eligible programmatic costs are expenses incurred for activities that are integral to achieving the purpose of the program. For example, programmatic costs such as:

a. Direct costs by the Contractor for progress reporting to Commerce are eligible programmatic costs.
b. VCP or State cleanup program fees associated with the cleanup.
c. Costs required to purchase insurance.
d. Costs incurred by the Contractor for complying with procurement provisions of 40 CFR Parts 30 and 31 are eligible programmatic costs only if the procurement contract is for services or products that are direct costs for performing the cleanup, for insurance costs, or for maintenance of institutional controls. Costs incurred for complying with procurement if the procurement contract is for services or products that are direct costs of activities specified in statutory exceptions, i.e., design and performance of a cleanup action; or monitoring a natural resource for contamination.
e. Costs for performance and programmatic financial reporting required under 40 CFR 30.51 and 30.52, and 40 CFR 31.40 and 31.41. Performance and financial reporting are essential programmatic tools

for both the recipient and USEPA to ensure that Brownfields loans or sub-grants are carried out in accordance with statutory and regulatory requirements.

f. Costs associated with enforcing institutional controls used to prevent human exposure to hazardous substances at the Brownfields site.

Attachment IV — Disadvantaged Business Enterprise Requirements

GENERAL COMPLIANCE, 40 CFR, Part 33

The Contractor agrees to comply with the requirements of Environmental Protection Agency's Disadvantaged Business Enterprise (DBE) Program for procurement activities under this Contract, contained in 40 CFR, Part 33.

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

Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) reporting is required in annual reports. Reporting is required for Contracts where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted under for direct procurement that exceeds the threshold amount of $150,000.00, including amendments and/or modifications.

The Contractor is required to submit MBE/WBE participation reports (EPA Form 5700-52A) to Commerce, on a quarterly basis, beginning with the Federal fiscal year reporting period the Contractor receives the award and continuing until the project is completed. All procurement actions are reportable, not just that portion which exceeds $150,000.00.

The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe reporting.htm.

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

The following are exemptions from the fair share objective Requirements:

- Grant and loan recipients receiving a total of $250,000.00 or less in EPA financial assistance in a given fiscal year.
- Tribal recipients of Performance Partnership Eligible grant under 40 CFR Part 35, Subpart B.
    - There is a 3-year phase in period for the requirement to negotiate fair share goals for Tribal and Insular Area recipients.
- Recipients of Technical Assistance Grants.

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

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

By signing this Contract, the Contractor is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as WA Office of Minority Women Business goal is being adopted.

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

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

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

A. Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local Government recipients, this will include placing the Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.

B. Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.

Consider in the contracting process whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State and Local Government recipients, this will include dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.

C. Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.

D. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

E. If the prime contractor awards subcontracts, also require the prime contractor to take the five good faith efforts in paragraphs A through E above.

NATIVE AMERICANS PROVISIONS, 40 CFR, Section 33.304

The Contractor agrees to comply with the contract administration provisions of 40 CFR, Section 33.304. Any Contractor, whether or not Native American, is required to solicit and recruit Indian organizations and Indian-owned economic enterprises and give them preference in the award process prior to undertaking the six good faith efforts. If the efforts to solicit and recruit Indian organizations and Indian-owned economic enterprises is not successful, then the Contractor must follow the six good faith efforts.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, and Section 33.302

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

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

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

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

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

Attachment V — Certification Regarding Debarment, Suspension, and Other Responsibility Matters

United States Environmental Protection Agency

United States Environmental Protection Agency
Washington, DC 20460

BROWNFIELDS REVOLVING LOAN FUND

The prospective participant certifies to the best of its knowledge and belief that it and the principals:

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

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

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

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

I understand that a false statement on this certification may be ground for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to $10,000 or imprisonment for up to 5 years, or both.

____

Printed Name & Title of Authorized Representative

____

Signature of Authorized Representative   Date

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

EPA Form 5700-49 (11-88)

STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • 360-725-4000
www.commerce.wa.gov

APPROVAL / DECISION MEMORANDUM

DATE: March 2, 2022

TO: Patricia Love, Community Development Director, City of Stanwood

FROM: Sheila Lee, Brownfields Program Manager

CC: Margaret Olson, U.S. Environmental Protection Agency
Ali Furmall, Washington State Department of Ecology

RE: Approval / Decision Memo for BRLF Grant Funds for City of Stanwood Sebranke Property Site Cleanup Project

The City of Stanwood has applied for $200,000 in US Environmental Protection Agency (EPA) and Washington State Department of Commerce's (Commerce) **Brownfield Revolving Loan Fund (BRLF) grant funds.** Funds will be used to complete Section 106 and Endanger Species Act consultation, remedial design, remedial action and groundwater monitoring of the Sebranke Property, an approximately 0.11 acre property located in the vicinity of 8627 and 8629 271st St NW in Stanwood, Washington (the Site). The site is located within the city's central business district and adjacent to the Amtrak train station, functioning as a gateway to main street businesses, and an entry point for visitors arriving by train. Redevelopment of the site as a small public park will enhance the experience for both residents and visitors to Stanwood.

SECTION 1. SITE INFORMATION

A. Location

The redevelopment project consists of two parcels on the corner of 271st Street NW and 84th Avenue NW. The Site is located in downtown Stanwood, Washington.

B. Site History

During the 1950s, an auto repair and parts buildings, a filling station, and an area for auto grease and oil storage were located on the Site or in the vicinity. During the 1980s and early 1990s, an antique business and later a hair salon operated on the Site. During the early 1990s, a fire destroyed the buildings on the Site and the Site has since remained a vacant, undeveloped lot.

C. Previous Investigations and Cleanup Activities

A Phase I environmental site assessment (ESA) was completed on June 28, 2021. The Phase I ESA identified three recognized environmental concerns (RECs):

- **Former Auto Repair Building.** According to a 1953 Sanborn Fire Insurance Map (SFIM), an auto repair building was formerly located on the eastern parcel of the Site. Petroleum products, solvents, and related contaminants associated with auto repair activities may have been released to soil and/or groundwater on the Site.
- **Off-Property migration of contamination from a Former Filling Station.** According to a 1953 SFIM, a filling station was formerly located to the southeast of and immediately adjacent to the Site. Petroleum products associated with the historical filling station operations may have been released to soil and/or groundwater on the Site.
- **Off-Property migration of contamination from a Former Auto Grease and Oil Storage Area.** According to a 1953 SFIM, a former auto grease and oil storage area was formerly located to the northeast of and immediately adjacent to the Site. Heavy oils and related contaminants associated with historical auto grease and oil storage activities may have been released to soil and/or groundwater on the Site.

A supplemental investigation and cleanup options report was completed in June 2021 for the Site. The following is a summary of findings and recommendations:

- Groundwater was encountered at approximately 6.5 feet below ground surface.
- Heavy oils (including diesel-range and lube oil-range organics) are present at concentrations above Model Toxics Control Act (MTCA) Method A Cleanup Levels (CULs) in shallow soil and groundwater at the Site.
- Metals and carcinogenic polycyclic aromatic hydrocarbon (cPAHs) are present at concentrations above MTCA Method A CULs in shallow soil on the Site.
- The recommended cleanup option for the Site includes removal of shallow soil contamination, excavation of deeper soil in a potential source area, and treatment of groundwater by amending backfilling materials with ORC (i.e., oxygen releasing compound) pellets and placement of an environmental covenant that will restrict use of groundwater for drinking.

SECTION 2. RELEASE OF HAZARDOUS MATERIALS

A. Confirmed Release

1. Soil Contaminants of Concern

A Limited Phase II ESA and a supplemental investigation were completed in 2016 and 2021, respectively, by Maul Foster & Alongi, Inc. for the Site. Soil samples were obtained from seven boring locations. Heavy oils (including diesel-range and lube oil-range organics) were present at concentrations above MTCA Method A CULs in shallow soil. Metals (including arsenic, cadmium and lead) and cPAHs were present at concentrations above MTCA Method A CULs in shallow soil. Polychlorinated biphenyls (PCBs) were not detected in soil samples on the Site.

2. Groundwater Contaminants of Concern

During the 2021 supplemental investigation, groundwater was encountered between 3.55 and 6.61 feet below ground surface in monitoring wells on the Site. Three groundwater samples were collected from three monitoring wells at the Site. Heavy oils (including diesel-range and lube oil-range organics) were present at concentrations above MTCA Method A CULs in groundwater at the Site. There were no detections of PCBs, semivolatile organic compounds, or volatile organic compounds and only one dissolved metal detected in the groundwater sample (chromium) below the MTCA Method A CUL in the analyzed groundwater sample collected from a temporary boring during the 2016 Limited Phase II ESA.

B. Chemical of Concern – Confirmed Release

Metals, including arsenic, cadmium, and/or lead exceed their respective MTCA Method A CUL in soil at borings collected in the vicinity of the former auto repair area (GP01, GP04, GP06, and MW01) (see attached Figures). The metal exceedances are located from the surface to approximately 1.5 feet bgs. Exceedances in deeper soils were not observed showing vertical extent was defined.

The cPAH toxic equivalent quotient (TEQ) exceeds the benzo(a)pyrene MTCA Method A CUL in soil at borings collected in the vicinity of the former auto repair area (GP04, GP06, and MW01) (see attached Figures). The cPAH TEQ exceedances are located from the surface to approximately 1.5 feet bgs. Exceedances in deeper soils were not observed showing vertical extent was defined.

Heavy oils exceed the MTCA Method A CUL in soil at borings collected in the vicinity of the former auto repair area (GP04 and GP06) (see attached Figures). The heavy oil exceedances are located from the surface to approximately 1.5 feet bgs. Exceedances in deeper soils were not observed showing vertical extent was defined. Heavy oils exceed the MTCA Method A CUL in groundwater at monitoring well MW03, located in the southeast corner of the Property adjacent to the former filling station (see attached Figures).

C. Authorized Substance

The results of limited Phase II ESA and supplemental investigation in 2016 and 2021, respectively, identified metals (arsenic, cadmium, lead), petroleum hydrocarbons and cPAHs at concentrations exceeding MTCA Method A CULs in the shallow soil at the center of the Site. Arsenic, cadmium, lead, cPAHs and petroleum hydrocarbons can qualify as hazardous waste from non-specific sources or characteristic hazardous waste (40 CFR 261.31 and 261.20). The limitations to EPA response outlined in CERCLA 104(a)(3) does not apply. The above release does not involve:

(1) a naturally occurring substance from a location where it is naturally found;

(2) a product that is part of the structure, and results in exposure within, a residential building or business or community structure; or

(3) a public or private drinking water supply that has deteriorated through ordinary use.

D. Threat to Public Health

All the chemicals identified during the Limited Phase II ESA and supplemental investigation in 2016 and 2021, respectively, present a threat to public health. In addition to their carcinogenic properties, exposure to cPAHs is associated with low IQ, childhood asthma and other childhood behavioral outcomes such as depression and anxiety.

E. Sufficient Time

Sufficient time is available to plan and select a BRLF response, implement a community relations plan and gather public input regarding the proposed redevelopment before any on-site cleanup activities may take place.

SECTION 3: BRLF ACTION AUTHORIZATION

A. Site Eligibility

EPA accepts Commerce's determination that the Property is eligible for brownfields funds. Attached is a copy of the approved "*EPA Region 10 Site Eligibility Determination*" for the Property.

B. Borrower Eligibility

The City of Stanwood is a municipal government incorporated in 1903. Commerce has determined that the City is eligible to receive BRLFs as a public agency. Commerce has confirmed that the City is the registered owner of the Site.

As explained in the previous section, the city did not cause or contribute to the contamination of the Site. The city conducted all appropriate inquiry by completing a Phase I in accordance with the ASTM standards within 180 days prior to acquiring the property. The Phase I was conducted on June 28, 2021 and the property was acquired on December 9, 2021. The city has taken reasonable steps/provision to (a) stop any continuing release; (b) prevent any threatened future release; and (c) prevent or limit any human, environmental, or natural resource exposure to any previously released hazardous substance." Additionally, the city has notified the Washington State Department of Ecology of their ownership of the Site. Therefore, in accordance with CERCLA Section 107 (b) (3), the city is protected from liability as a potentially responsible party.

Therefore, Commerce has determined that the city is eligible to receive financial assistance from the BRLF program.

C. Contribution to Brownfields Revitalization

The planned activities are intended to clean up the Sebranke property for redevelopment into a public park. The Site is currently a potential health risk and an economic missed opportunity.

The City proposes to remediate the hazardous waste on Site to prevent direct exposure of the contamination to the public. Cleanup options will include the removal of shallow soil; source area excavation; groundwater treatment by amending backfilling materials with ORC pellets; monitoring well installation; institutional controls; and ground water monitoring. The result will be an environmentally clean site that presents no health risks.

SECTION 4. PROPOSED PROJECT/OVERSIGHT AND COSTS

A. Statement of Work

Funds awarded under this grant are for Phase 1: Programmatic technical requirements; remedial design and cleanup/remedial action. Phase 2 will include ongoing ground water monitoring of the Sebranke Property site.

The Phase 1 will complete programmatic technical requirements; professional and technical services; remedial design; and, remedial action per the 2021 Supplemental Investigation and Cleanup Option Report, Option 5 - Shallow Soil Excavation, Source Excavation and ORC Backfill; or, as required by Ecology's Voluntary Cleanup Program (VCP), to include:

Programmatic Technical Requirements:

- Section 106 and Endangered Species Act consultation

Professional and Technical Services:

- Preparation of Environmental Covenant
- Preparation of Site Management Plan
- Remedial Design
- Project Management, Construction Management, Oversight, and Completion Report

Remedial Action Components:

- Mobilization
- Preliminary Site Work
  - Erosion and Sediment Control
  - Clear and grub site
- Surface Soil Removal
  - Excavate shallow and deeper impacted soil
  - Perform confirmation sampling
  - Off-Site waste transportation dispose to a licensed Subtitle D facility
  - Backfill excavation and replacement
  - Hydro seeding
- Source Area Removal
  - Excavation and material Handling
  - Shoring
  - Dewatering and treatment
  - Backfill Material and placement
  - ORC product backfill
  - Hydro seeding
  - Off-Site waste transportation dispose to a licensed Subtitle D facility
  - Decommission well and reinstallation
  - Construction surveying

With the satisfactory completion of Phase 1, Phase 2 groundwater monitoring may begin after amendment of the contract between Commerce and the city to incorporate monitoring actions identified in the Cleanup Action Plan and as required by Ecology's Voluntary Cleanup Program.

B. Oversight

The City will use a bidding process to select a contractor to clean up the Site. They will continue to use the services of a professional environmental contractor to supervise the work and monitor the cleanup. The City will comply with EPA contracting requirements. The Department of Ecology will review samples and determine if the cleanup activities successfully cleaned-up the site. The principal agents are:

City:	Patricia Love City of Stanwood (360) 454-5206
City's Contractor:	Phil Wiescher, Principal Environmental Scientist Maul Foster & Alongi, Inc. (503) 407-1036
Dept. of Ecology:	Ali Furmall, Small & Rural Communities Brownfields Specialist Department of Ecology (509) 655-0538

C. Estimated Costs

The financing for the planned activities is as follows:

ESTIMATED PROJECTED COSTS	
PHASE 1:	
Programmatic Technical Requirements	
Section 106 Study	$3,000
Threatened and Endangered Species Study	$2,500
Professional and Technical Services	
Preparation of Environmental Covenant	$5,000
Preparation of Site Management Plan	$5,000
Project Management	$5,800
Remedial Design	$10,000
Construction Management, Oversight and Completion Report	$25,000
Subtotal:	**$56,300**
Remedial Action	$58,000
Total:	**$114,300**
PHASE 2:	
Quarterly Groundwater Monitoring	$14,000

Semi-annual Groundwater Monitoring	$25,805
Annual Groundwater Monitoring	$14,518
Total:	$54,400
Contingency (Assuming 19%)	$31,300
TOTAL ESTIMATED COSTS	**$200,000**
SOURCE OF FUNDS	
BRLF Loan / Grant	$200,000
City of Stanwood	
Land Acquisition Cost	$80,000
Land Acquisition Transaction Costs	$21,000
In-kind Staff Time Contribution	$4,000

D. Project Schedule

The planned activities identified below will begin in March 2022. Phase 1 is estimated for completion by May 2023 and Phase 2 by May 2034.

Project Schedule	Start Date	Target Date
Phase 1:		
Programmatic Technical Requirement Studies	1-Mar-22	1-May-22
• Community Relations Plan		
• Public Comment Period		
• Decision Memorandum & Contract		
Cleanup Activities		
• Prepare Technical Specifications	1-May-22	1-Aug-22
• Competitive Procurement	1-Aug-22	1-Oct-22
• Remediate Site	1-Oct-22	1-Jan-23
• Final Report	1-Jan-23	1-Apr-23
• Opinion Letter from Ecology	1-Apr-23	1-May-23
Start of Park Construction	1-May-23	1-July-23
Phase 2:		
Quarterly Groundwater Monitoring	1-June-23	31-May-24
Semi-annual Groundwater Monitoring	1-June-24	31-May-29
Annual Groundwater Monitoring	1-June-29	31-May-34

SECTION 5: APPROVAL / DECISION

The City of Stanwood's Sebranke Site Project meets the requirements of CERCLA. The costs and schedule for the proposed due diligence and clean-up activities are within the parameters of the BRLF program requirements. Therefore, Commerce approves the selection of City of Stanwood's Sebranke Site Project as an eligible project for a $200,000 BRLF grant. Commerce will utilize BRLF Grant funds to provide the grant and will proceed to the next phase of the contracting process.

Signed: Sheila Lee

Sheila Lee, Brownfields Program Manager
Washington State Department of Commerce

Attachment VII — EPA General Terms and Conditions

Effective October 1, 2021

1. Introduction

(a) The recipient and any sub-recipient must comply with the applicable EPA general terms and conditions outlined below. These terms and conditions are in addition to the assurances and certifications made as part of the award and terms, conditions, and restrictions reflected on the official assistance award document. Recipients **must** review their official award document for additional administrative and programmatic requirements. Failure to comply with the general terms and conditions outlined below and those directly reflected on the official assistance award document may result in enforcement actions as outlined in 2 CFR 200.339 and 200.340.

(b) If the EPA General Terms and Conditions have been revised, EPA will update the terms and conditions when it provides additional funding (incremental or supplemental) prior to the end of the period of performance of this agreement. The recipient must comply with the revised terms and conditions after the effective date of the EPA action that leads to the revision. Revised terms and conditions do not apply to the recipient's expenditures of EPA funds or activities the recipient carries out prior to the effective date of the EPA action. EPA will inform the recipient of revised terms and conditions in the action adding additional funds.

2. **Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards** This award is subject to the requirements of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards; Title 2 CFR, Parts 200 . 2 CFR 1500.1, Adoption of 2 CFR Part 200, states Environmental Protection Agency adopts the Office of Management and Budget (OMB) guidance Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities (subparts A through F of 2 CFR Part 200), as supplemented by 2 CFR Part 1500, as the Environmental Protection Agency (EPA) policies and procedures for financial assistance administration. 2 CFR Part 1500 satisfies the requirements of 2 CFR 200.110(a) and gives regulatory effect to the OMB guidance as supplemented by 2 CFR Part 1500. This award is also subject to applicable requirements contained in EPA programmatic regulations located in 40 CFR Chapter 1 Subchapter B.

2.1. Effective Date and Incremental or Supplemental Funding. Consistent with the OMB Frequently Asked Questions at https://cfo.gov/cofar on Effective Date and Incremental Funding, any new funding through an amendment (supplemental or incremental) on or after December 26, 2014, and any unobligated balances (defined at 2 CFR 200.1) remaining on the award at the time of the amendment, will be subject to the requirements of the Uniform Administrative Requirements, Cost Principles and Audit Requirements (2 CFR Parts 200 and 1500).

3. **Termination**

Consistent with 2 CFR 200.340, EPA may unilaterally terminate this award in whole or in part:

a. if a recipient fails to comply with the terms and conditions of the award including statutory or regulatory requirements; or

b. if the award no longer effectuates the program goals or agency priorities. Situations in which EPA may terminate an award under this provision include when:

(i) EPA obtains evidence that was not considered in making the award that reveals that specific award objective(s) are ineffective at achieving program goals and EPA determines that it is in the government's interest to terminate the award;

(ii) EPA obtains evidence that was not considered in making the award that causes EPA to significantly question the feasibility of the intended objective(s) of the award and EPA determines that it is in the government's interest to terminate the award;

(iii) EPA determines that the objectives of the award are no longer consistent with funding priorities for achieving program goals.

Financial Information

4. Reimbursement Limitation

EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as reflected on the award document. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk. See 2 CFR 1500.9.

5. Automated Standard Application Payments (ASAP) and Proper Payment Draw Down

Electronic Payments. Recipients must be enrolled or enroll in the Automated Standard Application for Payments (ASAP) system to receive payments under EPA financial assistance agreements unless:

- EPA grants a recipient-specific exception;
- The assistance program has received a waiver from this requirement;
- The recipient is exempt from this requirement under 31 CFR 208.4; or,
- The recipient is a fellowship recipient pursuant to 40 CFR Part 46.

EPA will not make payments to recipients until the ASAP enrollment requirement is met unless the recipients fall under one of the above categories. Recipients may request exceptions using the procedures below but only EPA programs may obtain waivers.
To enroll in ASAP, complete the ASAP Initiate Enrollment Form located at:
https://www.epa.gov/financial/forms and email it to rtpfc-grants@epa.gov or mail it to:

US Environmental Protection Agency
RTP-Finance Center (Mail Code AA216-01)
4930 Page Rd.
Durham, NC 27711

Under this payment mechanism, the recipient initiates an electronic payment request online via ASAP, which is approved or rejected based on the amount of available funds authorized by EPA in the recipient's ASAP account. Approved payments are credited to the account at the financial institution of the recipient organization set up by the recipient during the ASAP enrollment process. Additional information concerning ASAP and enrollment can be obtained by contacting the EPA Research Triangle Park Finance Center (RTPFC), at rtpfc-grants@epa.gov or 919-541-5347, or by visiting: https://www.fiscal.treasury.gov/asap/.

EPA will grant exceptions to the ASAP enrollment requirement only in situations in which the recipient demonstrates to EPA that receiving payment via ASAP places an undue administrative or financial management burden on the recipient or EPA determines that granting the waiver is in the public interest. Recipients may request an exception to the requirement by following the procedures specified in RAIN-2018-G06-R.

Proper Payment Drawdown (for recipients other than states)

a. As required by 2 CFR 200.305(b), the recipient must draw funds from ASAP only for the minimum amounts needed for actual and immediate cash requirements to pay employees, contractors, subrecipients or to satisfy other obligations for allowable costs under this assistance agreement. The timing and amounts of the drawdowns must be as close as administratively feasible to actual disbursements of EPA funds. Disbursement within 5 business days of drawdown will comply with this requirement and the recipient agrees to meet this standard when performing this award.

b. Recipients may not retain more than 5% of the amount drawn down, or $1,000 whichever is less, 5 business days after drawdown to materially comply with the standard. Any EPA funds subject to this paragraph that remain undisbursed after 5 business days must be fully disbursed within 15 business days of draw down or be returned to EPA.

c. If the recipient draws down EPA funds in excess of that allowed by paragraph b., the recipient must contact rtpfc-grants@epa.gov for instructions on whether to return the funds to EPA. Recipients must comply with the requirements at 2 CFR 200.305(b)(8) and (9) regarding depositing advances of Federal funds in interest bearing accounts.

d. Information on how to repay EPA via check is available at https://www.epa.gov/financial/makepayment. Instructions on how to return funds to EPA electronically via ASAP are available at https://www.fiscal.treasury.gov/asap/

e. Failure on the part of the recipient to materially comply with this condition may, in addition to EPA recovery of the un-disbursed portions of the drawn down funds, lead to changing the payment method from advance payment to a reimbursable basis. EPA may also take other remedies for noncompliance under 2 CFR 200.208 and/or 2 CFR 200.339.

f. If the recipient believes that there are extraordinary circumstances that prevent it from complying with the 5-business day disbursement requirement throughout the performance period of this agreement, recipients may request an exception to the requirement by following the procedures specified in RAIN-2018-G06-R. EPA will grant exceptions to the 5-business day disbursement requirement only if the recipient demonstrates that compliance places an undue administrative or financial management burden or EPA determines that granting the exception is in the public interest.

Proper Payment Drawdown for State Recipients

In accordance with 2 CFR 200.305(a), payments are governed by Treasury-State Cash Management Improvement Act (CMIA) agreements and default procedures codified at 31 CFR Part 205, Subparts A and B and Treasury Financial Manual (TFM) 4A-2000, "Overall Disbursing Rules for All Federal Agencies" unless a program specific regulation (e.g. 40 CFR 35.3160 or 40 CFR 35.3560) provides otherwise. Pursuant to 31 CFR Part 205, Subpart A—*Rules Applicable to Federal Assistance Programs Included in a Treasury-State Agreement,* States follow their Treasury-State CMIA Agreement for major Federal programs listed in the agreement. For those programs not listed as major in the Treasury-State agreement, the State follows the default procedures in 31 CFR Part 205, Subpart B—Rules Applicable to Federal Assistance Programs Not Included in a Treasury-State Agreement, which directs State recipients to draw-down and disburse Federal financial assistance funds in anticipation of immediate cash needs of the State for work under the award. States must comply with 2 CFR 200.302(a) in reconciling costs incurred and charged to EPA financial assistance agreements at time of close out unless a program specific regulation provides otherwise.

Selected Items of Cost

6. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

This term and condition implements 2 CFR 200.216 and is effective for obligations and expenditures of EPA financial assistance funding on or after 8/13/2020.

As required by 2 CFR 200.216, EPA recipients and subrecipients, including borrowers under EPA funded revolving loan fund programs, are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment 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, 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 EPA funds to purchase:

a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

b. Telecommunications or video surveillance services provided by such entities or using such equipment.

c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Consistent with 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances:

a. Obligating or expending EPA funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to:
(1) Procure or obtain, extend or renew a contract to procure or obtain;
(2) Enter into a contract (or extend or renew a contract) to procure; or
(3) Obtain the equipment, services, or systems.

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 exclusion list.

7. Consultant Cap

EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, available at: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Information on how to calculate the maximum daily rate and the daily pay limitation is available at the Office Of Personnel Management's Fact Sheet: How to Compute Rates of Pay and Fact Sheet: Expert and Consultant Pay. Specifically, to determine the maximum daily rate, follow these steps:

1. Divide the Level IV salary by 2087 to determine the hourly rate. Rates must be rounded to the nearest cent, counting one-half cent and over as the next higher cent (e.g., round $18.845 to $18.85).
2. Multiply the hourly rate by 8 hours. The product is the maximum daily rate.

Contracts and subcontracts with firms for services that are awarded using the procurement requirements in Subpart D of 2 CFR Part 200 are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 2 CFR 1500.10.

8. Establishing and Managing Subawards

If the recipient chooses to pass funds from this assistance agreement to other entities, the recipient must comply with applicable provisions of 2 CFR Part 200 and the EPA Subaward Policy, which may be found at: https://www.epa.gov/grants/grants-policy-issuance-gpi-16-01-epa-subaward-policy-epa-assistance-agreement-recipients.

As a pass-through entity, the recipient agrees to:

1. Be responsible for selecting subrecipients and as appropriate conducting subaward competitions using a system for properly differentiating between subrecipients and procurement contractors under the standards at 2 CFR 200.331 and EPA's supplemental guidance in Appendix A of the EPA Subaward Policy.

(a) For-profit organizations and individual consultants, in almost all cases, are not eligible subrecipients under EPA financial assistance programs and the pass-through entity must obtain prior written approval from EPA's Award Official for subawards to these entities unless the EPA-approved budget and work plan for this agreement contain a precise description of such subawards.

(b) Stipends and travel assistance for trainees (including interns) and similar individuals who are not are not employees of the pass-through entity must be classified as participant support costs rather than subawards as provided in 2 CFR 200.1 *Participant support costs*, 2 CFR 200.1 *Subaward*, and EPA's Guidance on Participant Support Costs.

(c) Subsidies, rebates and similar payments to participants in EPA funded programs to encourage environmental stewardship are also classified as *Participant support costs* as provided in 2 CFR 1500.1 and EPA's Guidance on Participant Support Costs.

2. Establish and follow a system that ensures all subaward agreements are in writing and contain all of the elements required by 2 CFR 200.332(a). EPA has developed a template for subaward agreements that is available in Appendix D of the EPA Subaward Policy.

3. Prior to making subawards, ensure that each subrecipient has a "unique entity identifier." This identifier is required for registering in the System for Award Management (SAM) and by 2 CFR Part 25 and 2 CFR 200.332(a)(1). The unique entity identifier currently is the subrecipient's Data Universal Numbering System (DUNS) number. Information regarding obtaining a DUNS number and registering in SAM is available in the General Condition of the pass-through entity's agreement with EPA entitled **"Central Contractor Registration/System for Award Management and Universal Identifier Requirements"** T&C of the pass-through entity's agreement with the EPA.

4. Ensure that subrecipients are aware that they are subject to the same requirements as those that apply to the pass-through entity's EPA award as required by 2 CFR 200.332(a)(2). These requirements

include, among others:

(a) Title VI of the Civil Rights Act and other Federal statutes and regulations prohibiting discrimination in Federal financial assistance programs, as applicable.

(b) Reporting Subawards and Executive Compensation under Federal Funding Accountability and Transparency Act (FFATA) set forth in the General Condition pass-

through entity's agreement with EPA entitled **"Reporting Subawards and Executive Compensation."**

(c) Limitations on individual consultant fees as set forth in 2 CFR 1500.10 and the General Condition of the pass-through entity's agreement with EPA entitled **"Consultant Fee Cap."**

(d) EPA's prohibition on paying management fees as set forth in General Condition of the pass-through entity's agreement with EPA entitled "**Management Fees**."

(e) The Procurement Standards in 2 CFR Part 200 including those requiring competition when the subrecipient acquires goods and services from contractors (including consultants).

EPA provides general information on other statutes, regulations and Executive Orders on the Grants internet site at www.epa.gov/grants. Many Federal requirements are agreement or program specific and EPA encourages pass-through entities to review the terms of their assistance agreement carefully and consult with their EPA Project Officer for advice if necessary.

5. Ensure, for states and other public recipients, that subawards are not conditioned in a manner that would disadvantage applicants for subawards based on their religious character.

6. Establish and follow a system for evaluating subrecipient risks of noncompliance with Federal statutes, regulations and the terms and conditions of the subaward as required by 2 CFR 200.332(b) and document the evaluation. Risk factors may include:

Prior experience with same or similar subawards;

(a) Results of previous audits;

(b) Whether new or substantially changed personnel or systems, and;

(c) Extent and results of Federal awarding agency or the pass-through entity's monitoring.

7. Establish and follow a process for deciding whether to impose additional requirements on subrecipients based on risk factors as required by 2 CFR 200.332(c). Examples of additional requirements authorized by 2 CFR 200.208 include:

(a) Requiring payments as reimbursements rather than advance payments;

(b) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;

(c) Requiring additional, more detailed financial reports;

(d) Requiring additional project monitoring;

(e) Requiring the non-Federal entity to obtain technical or management assistance, and

(f) Establishing additional prior approvals.

8. Establish and follow a system for monitoring subrecipient performance that includes the elements required by 2 CFR 200.331(d) and report the results of the monitoring in performance reports as provided in the reporting terms and conditions of this agreement.

9. Establish and maintain an accounting system which ensures compliance with the $25,000 limitation at 2 CFR 200.1, *Modified Total Direct Costs*, if applicable, on including subaward costs in *Modified Total Direct Costs* for the purposes of distributing indirect costs. Recipients with Federally approved indirect cost rates that use a different basis for distributing indirect costs to subawards must comply with their Indirect Cost Rate Agreement.

10. Work with EPA's Project Officer to obtain the written consent of EPA's Office of International and Tribal Affairs (OITA), prior to awarding a subaward to a foreign or international organization, or a subaward to be performed in a foreign country even if that subaward is described in a proposed scope of work.

11. Obtain written approval from EPA's Award Official for any subawards that are not described in the approved work plan in accordance with 2 CFR 200.308.

12. Obtain the written approval of EPA's Award Official prior to awarding a subaward to an individual if the EPA-approved scope of work does not include a description of subawards to individuals.

13. Establish and follow written procedures under 2 CFR 200.302(b)(7) for determining that subaward costs are allowable in accordance with 2 CFR Part 200, Subpart E and the terms and conditions of this award. These procedures may provide for allowability determinations on a pre-award basis, through ongoing monitoring of costs that subrecipients incur, or a combination of both approaches provided the pass-through entity documents its determinations.

14. Establish and maintain a system under 2 CFR 200.332(d)(3) and 2 CFR 200.521 for issuing management decisions for audits of subrecipients that relate to Federal awards. However, the recipient remains accountable to EPA for ensuring that unallowable subaward costs initially paid by EPA are reimbursed or mitigated through offset with allowable costs whether the recipient recovers those costs from the subrecipient or not.

15. As provided in 2 CFR 200.333, pass-through entities must obtain EPA approval to make fixed amount subawards. EPA is restricting the use of fixed amount subawards to a limited number of situations that are authorized in official EPA pilot projects. Recipients should consult with their EPA Project Officer regarding the status of these pilot projects.

By accepting this award, the recipient is certifying that it either has systems in place to comply with the requirements described in Items 1 through 14 above or will refrain from making subawards until the systems are designed and implemented.

9. Management Fees

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses; unforeseen liabilities; or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

10. Federal Employee Costs

The recipient understands that none of the funds for this project (including funds contributed by the recipient as cost sharing) may be used to pay for the travel of Federal employees or for other costs associated with Federal participation in this project unless a Federal agency will be providing services to the recipient as authorized by a Federal statute.

11. Foreign Travel

EPA policy requires that all foreign travel must be approved by its Office of International and Tribal Affairs. The recipient agrees to obtain prior EPA approval before using funds available under this agreement for international travel unless the trip(s) are already described in the EPA approved budget for this agreement. Foreign travel includes trips to Mexico and Canada but does not include trips to Puerto Rico, the U.S. Territories or possessions. Recipients that request post-award approval to travel frequently to Mexico and Canada by motor vehicle (e.g. for sampling or meetings) may describe their proposed travel in general terms in their request for EPA approval. Requests for prior approval must be submitted to the Project Officer for this agreement.

12. The Fly America Act and Foreign Travel

The recipient understands that all foreign travel **funded under this assistance agreement** must comply with the Fly America Act. All travel must be on U.S. air carriers certified under 49 U.S.C. Section 40118, to the extent that service by such carriers is available even if foreign air carrier costs are less than the American air carrier.

Reporting and Additional Post-Award Requirements

13. System for Award Management and Universal Identifier Requirements

13.1. Requirement for System for Award Management (SAM) Unless exempted from this requirement under 2 CFR 25.110, the recipient must maintain current information in the SAM. This includes information on the recipient's immediate and highest level owner and subsidiaries, as well as on all the recipient's predecessors that have been awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until the submittal of the final financial report required under this award or receipt of the final payment, whichever is later. This requires that the recipient reviews and updates the information at least annually after the initial registration, and more frequently if required by changes in the information or another award term.

13.2. Requirement for Unique Entity Identifier. If the recipient is authorized to make subawards under this award, the recipient:

a. Must notify potential subrecipients that no entity (see definition in paragraph 13.3 of this award term) may receive a subaward unless the entity has provided its Unique Entity Identifier.

b. May not make a subaward to an entity unless the entity has provided its Unique Entity Identifier. Subrecipients are not required to obtain an active SAM registration, but must obtain a Unique Entity Identifier.

13.3. Definitions. For the purposes of this award term:

- **a. System for Award Management (SAM)** means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site: https://www.sam.gov/SAM/.
- **b. Unique Entity Identifier** means the identifier assigned by SAM to uniquely identify business entities.
- **c. Entity** includes non-Federal entities as defined at 2 CFR 200.1 and also includes all of the following:
  - **13.3.c.1.** A foreign organization;
  - **13.3.c.2.** A foreign public entity;
  - **13.3.c.3.** A domestic for-profit organization; and
  - **13.3.c.4.** A domestic or foreign for-profit organization; and
  - **13.3.c.5.** A Federal agency.
- **d. Subaward** is defined at 2 CFR 200.1.
- **e. Subrecipient** is defined at 2 CFR 200.1.

14. Reporting Subawards and Executive Compensation

14.1. Reporting of first-tier subawards.

- **a. Applicability.** Unless the recipient is exempt as provided in paragraph 14.4. of this award term, the recipient must report each action that obligates $30,000 or more in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph 14.5 of this award term).
- **b. Where and when to report.** (1) The recipient must report each obligating action described in paragraph 14.1.a of this award term to www.fsrs.gov. (2) For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on any date during the month of November of a given year, the obligation must be reported by no later than December 31 of that year.)
- **c. What to report.** The recipient must report the information about each obligating action as described in the submission instructions available at: http://www.fsrs.gov.

14.2. Reporting Total Compensation of Recipient Executives.

- **a. Applicability and what to report.** The recipient must report total compensation for each of their five most highly compensated executives for the preceding completed fiscal year, if:
  - **14.2.a.1.** the total Federal funding authorized to date under this award is $30,000 or more;
  - **14.2.a.2.** in the preceding fiscal year, the recipient received: (i.) 80 percent or more of their annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); (ii.) and $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
  - **14.2.a.3.** The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at: http:// www.sec.gov/answers/execomp.htm.)
- b. **Where and when to report.** The recipient must report executive total compensation described in paragraph 14.2.a of this award term: (i.) As part of the registration Central System for Award Management profile available at https://www.sam.gov/SAM/ (ii.) By the end of the month following the month in which this award is made, and annually thereafter.

14.3. Reporting of Total Compensation of Subrecipient Executives.

a. Applicability and what to report. Unless exempt as provided in paragraph 14.4. of this award term, for each first-tier non-Federal entity subrecipient under this award, the recipient shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if:

14.3.a.1. in the subrecipient's preceding fiscal year, the subrecipient received: (i.) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and (ii.) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

14.3.a.2. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at: http://www.sec.gov/answers/execomp.htm.)

b. Where and when to report. The recipient must report subrecipient executive total compensation described in paragraph 14.3.a. of this award term:

14.3.b.1. To the recipient.

14.3.b.2. By the end of the month following the month during which the recipient makes the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), the recipient must report any required compensation information of the subrecipient by November 30 of that year.

14.4. Exemptions

a. If, in the previous tax year, the recipient had gross income, from all sources, under $300,000, the recipient is exempt from the requirements to report:

14.4.a.1. (i) subawards, and (ii) the total compensation of the five most highly compensated executives of any subrecipient.

14.5. Definitions. For purposes of this award term:

a. Federal agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C 552(f).

b. Non-Federal entity means all of the following, as defined in 2 CFR Part 25: (i.) A Governmental organization, which is a State, local government, or Indian tribe; (ii.) A foreign public entity; (iii.) A domestic or foreign nonprofit organization; and (iv.) A domestic or foreign for-profit organization.

c. Executive means officers, managing partners, or any other employees in management positions.

d. Subaward:

14.5.d.1. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

14.5.d.2. The term does not include procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.331).

14.5.d.3. A subaward may be provided through any legal agreement, including an agreement that the recipient or a subrecipient considers a contract.

e. Subrecipient means a non-Federal entity or Federal agency that:

14.5.e.1. Receives a subaward from the recipient under this award; and

14.5.e.2. Is accountable to the recipient for the use of the Federal funds provided by the subaward.

f. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

14.5.f.1. Salary and bonus.

14.5.f.2. Awards of stock, stock options and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

14.5.f.3. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

14.5.f.4. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

14.5.f.5. Above-market earnings on deferred compensation which is not tax-qualified.

14.5.f.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

15. Recipient Integrity and Performance Matters - Reporting of Matters Related to Recipient Integrity and Performance

15.1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

15.2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

b. Reached its final disposition during the most recent five-year period; and

c. Is one of the following:

15.2.c.1. A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

15.2.c.2. A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more;

15.2.c.3. An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of $5,000 or more or reimbursement, restitution, or damages in excess of $100,000; or

15.2.c.4. Any other criminal, civil, or administrative proceeding if:

15.2.c.4.1. It could have led to an outcome described in paragraph 15.2.c.1, 15.2.c.2, or 15.2.c.3 of this award term and condition;

15.2.c.4.2. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

15.2.c.4.3. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

15.3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

15.4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 15.1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than $10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

15.5. Definitions

For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.,* Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

15.5.c.1. Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

15.5.c.2. The value of all expected funding increments under a Federal award and options, even if not yet exercised.

16. Federal Financial Reporting (FFR)

Pursuant to 2 CFR 200.328 and 2 CFR 200.344, EPA recipients must submit the Federal Financial Report (SF-425) at least annually and no more frequently than quarterly. EPA's standard reporting frequency is annual unless an EPA Region has included an additional term and condition specifying greater reporting frequency within this award document. EPA recipients must submit the SF-425 no later than 30 calendar days after the end of each specified reporting period for quarterly and semi-annual reports and 90 calendar days for annual reports. Final reports are due no later than 120 calendar days after the end date of the period of performance of the award Extension of reporting due dates may be approved by EPA when requested and justified by the recipient. The FFR form is available on the internet at: https://www.epa.gov/financial/forms. All FFRs must be submitted to the Research Triangle Park Finance Center (RTPFC) via email at rtpfc-grants@epa.gov or mail it to:

US Environmental Protection Agency
RTP-Finance Center (Mail Code AA216-01)
4930 Page Rd.
Durham, NC 27703

The RTPFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

17. Indirect Cost Rate Agreements

This term and condition provides requirements for recipients using EPA funds for indirect costs and applies to all EPA assistance agreements unless there are statutory or regulatory limits on IDCs. See also EPA's Indirect Cost Policy for Recipients of EPA Assistance Agreements (IDC Policy).

In order for the assistance agreement recipient to use EPA funding for indirect costs, the IDC category of the recipient's assistance agreement award budget must include an amount for IDCs and at least one of the following must apply:

- With the exception of "exempt" agencies and Institutions of Higher Education as noted below, all recipients must have one of the following current (not expired) IDC rates, including IDC rates that have been extended by the cognizant agency:
    - Provisional;
    - Final;
    - Fixed rate with carry-forward;
    - Predetermined;
    - 10% *de minimis* rate authorized by 2 CFR 200.414(f)
    - EPA-approved use of an expired fixed rate with carry-forward on an exception basis, as detailed in section 6.4.a. of the IDC Policy.
- "Exempt" state or local governmental departments or agencies are agencies that receive up to and including $35,000,000 in Federal funding per the department or agency's fiscal year, and must have an IDC rate proposal developed in accordance with 2 CFR Part 200, Appendix VII, with documentation maintained and available for audit.
- Institutions of Higher Education must use the IDC rate in place at the time of award for the life of the assistance agreement (unless the rate was provisional at time of award, in which case the rate will change once it becomes final). As provided by 2 CFR Part 200, Appendix III(C)(7), the term "life of the assistance agreement", means each competitive segment of the project. Additional information is available in the regulation.

IDCs incurred during any period of the assistance agreement that are not covered by the provisions above are not allowable costs and must not be drawn down by the recipient. Recipients may budget for IDCs if they have submitted a proposed IDC rate to their cognizant Federal agency or requested an exception from EPA under subsection 6.4 of the IDC Policy. However, recipients may not draw down IDCs until their rate is approved, if applicable, or EPA grants an exception. IDC drawdowns must comply with the indirect rate corresponding to the period during which the costs were incurred.

This term and condition does not govern indirect rates for subrecipients or recipient procurement contractors under EPA assistance agreements. Pass-through entities are required to comply with 2 CFR 200.332(a)(4)(i) and (ii) when establishing indirect cost rates for subawards.

18. Audit Requirements

In accordance with 2 CFR 200.501(a), the recipient hereby 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 beginning on or after December 26, 2014.

The recipient must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the recipient's 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://facides.census.gov/.

For complete information on how to accomplish the single audit submissions, you will need to visit the Federal Audit Clearinghouse Web site: https://facweb.census.gov/

19. Closeout Requirements

Reports required for closeout of the assistance agreement must be submitted in accordance with this agreement. Submission requirements and frequently asked questions can also be found at: https://www.epa.gov/grants/frequent-questions-about-closeouts

20. Suspension and Debarment

Recipient shall fully comply with Subpart C of 2 C.F.R. Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business With Other Persons," as implemented and supplemented by 2 C.F.R. Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 C.F.R. Part 180, entitled "Covered Transactions," and 2 C.F.R. § 1532.220, includes a term or condition requiring compliance with 2 C.F.R. Part 180, Subpart C. Recipient is responsible for further requiring the inclusion of a similar term and condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information required under 2 C.F.R. § 180.335 to the EPA office that is entering into the transaction with the recipient may result in the delay or negation of this assistance agreement, or pursuance of administrative remedies, including suspension and debarment. Recipients may access the System for Award Management (SAM) exclusion list at https://sam.gov/SAM/ to determine whether an entity or individual is presently excluded or disqualified.

21. Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.

This award is subject to the provisions contained in an appropriations act(s) which prohibits the Federal Government from entering into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to any corporation having a delinquent Federal tax liability or a felony conviction under any Federal law, unless the agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government. A "corporation" is a legal entity that is separate and distinct from the entities that own, manage, or control it. It is organized and incorporated under the jurisdictional authority of a governmental body, such as a State or the District of Columbia. A corporation may be a for-profit or non-profit organization.

As required by the appropriations act(s) prohibitions, the Government will not enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee with any corporation that — (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or (2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

By accepting this award, the recipient represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and it is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

Alternatively, by accepting this award, the recipient represents that it disclosed unpaid Federal tax liability information and/or Federal felony conviction information to the EPA. The Recipient may accept this award if the EPA Suspension and Debarment Official has considered suspension or debarment of the corporation based on a tax liabilities and/or Federal felony convictions and determined that suspension or debarment is not necessary to protect the Government's interests.

If the recipient fails to comply with this term and condition, EPA will annul this agreement and may recover any funds the recipient has expended in violation of the appropriations act(s) prohibition(s). The EPA may also pursue other administrative remedies as outlined in 2 CFR 200.339 and 2 CFR 200.340, and may also pursue suspension and debarment.

22. Disclosing Conflict of Interests

22.1. For awards to Non-federal entities and individuals (other than states and fellowship recipients under 40 CFR Part 46).

As required by 2 CFR 200.112, EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards. EPA's COI Policy is posted at https://www.epa.gov/grants/epas-financial-assistance-conflict-interest-policy. The posted version of EPA's COI Policy is applicable to new funding (initial awards, supplemental and incremental funding) awarded on or after October 1, 2015. This COI term and condition supersedes prior COI terms and conditions for this award based on either EPA's May 22, 2015 Revised Interim COI Policy or December 26, 2014 Interim COI Policy.

For competitive awards, recipients must disclose any competition related COI described in section 4.0(a) of the COI Policy that are discovered after award to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of discovery of the COI. The Grants Specialist will respond to any such disclosure within 30 calendar days.

EPA's COI Policy requires that recipients have systems in place to address, resolve and disclose to EPA COIs described in sections 4.0(b), (c) and/or (d) of the COI Policy that affect any contract or subaward regardless of amount funded under this award. The recipient's COI Point of Contact for the award must disclose any COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of the discovery of the potential COI and their approach for resolving the COI.

EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COI's described in section 4.0(b)(c) and (d) of the COI Policy regardless of the amount of the transaction. Recipients who are pass-through entities as defined at 2 CFR 200.1 must require that subrecipients being considered for or receiving subawards disclose COI to the pass-through entities in a manner that, at a minimum, is in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. Pass-through entities must disclose the subrecipient COI along with the approach for resolving the COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of receiving notification of the COI by the subrecipient.

EPA only requires that recipients and subrecipients disclose COI's that are discovered under their systems for addressing and resolving COI. If recipients or subrecipients do not discover a COI, they do not need to advise EPA or the pass-through entity of the absence of a COI.

Upon notice from the recipient of a potential COI and the approach for resolving it, the Agency will then make a determination regarding the effectiveness of these measures within 30 days of receipt of the recipient's notice unless a longer period is necessary due to the complexity of the matter. Recipients may not request payment from EPA for costs for transactions subject to the COI pending notification of EPA's determination. Failure to disclose a COI may result in cost disallowances.

Disclosure of a potential COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate 2 CFR 200.318(c)(1) or (2), provided the recipient notifies EPA of measures the recipient or subrecipient has taken to eliminate, neutralize or mitigate the conflict of interest when making the disclosure.

22.2. For awards to states including state universities that are state agencies or instrumentalities

As required by 2 CFR 200.112, EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards. EPA's COI Policy is posted at: https://www.epa.gov/grants/epas-financial-assistance-conflict-interest-policy. The posted version of EPA's COI Policy is applicable to new funding (initial awards, supplemental, incremental funding) awarded on or after October 1, 2015. This COI term and condition supersedes prior COI terms and conditions for this award based on either EPA's May 22, 2015 Revised Interim COI Policy or December 26, 2014 Interim COI Policy.

For competitive awards, recipients must disclose any competition related COI described in section 4.0(a) of the COI Policy that are discovered after award to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of discovery of the COI. The Grants Specialist will respond to any such disclosure within 30 calendar days.

States including state universities that are state agencies and instrumentalities receiving funding from EPA are only required to disclose subrecipient COI as a pass-through entity as defined by 2 CFR 200.1. Any other COI are subject to state laws, regulations and policies. EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COIs described in section 4.0(b)(c) and (d) of the COI Policy that arise after EPA made the award regardless of the amount of the transaction. States who are pass-through entities as defined at 2 CFR 200.1 must require that subrecipients being considered for or receiving subawards disclose COI to the state in a manner that, as a minimum, in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. States must disclose the subrecipient COI along with the approach for resolving the COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of receiving notification of the COI by the subrecipient.

EPA only requires that subrecipients disclose COI's to state pass-through entities that are discovered under their systems for addressing, resolving, and disclosing COI. If subrecipients do not discover a COI, they do not need to advise state pass-through entities of the absence of a COI.

Upon receiving notice of a potential COI and the approach for resolving it, the Agency will make a determination regarding the effectiveness of these measures within 30 days of receipt of the state's notice of a subrecipient COI unless a longer period is necessary due to the complexity of the matter. States may not request payment from EPA for costs for transactions subject to the COI pending notification of EPA's determination. A subrecipient's failure to disclose a COI to the state and EPA may result in cost disallowances.

Disclosure of a potential subrecipient COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate 2 CFR 200.318(c)(1) or (2), provided the subrecipient has taken measures that EPA and the state agree eliminate, neutralize or mitigate the conflict of interest.

23. Transfer of Funds

Applicable to all assistance agreements other than Continuing Environmental Program Grants subject to 40 CFR 35.114 and 40 CFR 35.514 when EPA's share of the total project costs exceeds the Simplified Acquisition Threshold. Simplified Acquisition Threshold is defined at 2 CFR 200.1 and is currently set at $250,000 but the amount is subject to adjustment.

(1) As provided at 2 CFR 200.308(f), the recipient must obtain prior approval from EPA's Grants Management Officer if the cumulative amount of funding transfers among direct budget categories or programs, functions and activities exceeds 10% of the total budget. Recipients must submit requests for prior approval to the Grant Specialist and Grants Management Officer with a copy to the Project Officer for this agreement.

(2) Recipients must notify EPA's Grant Specialist and Project Officer of cumulative funding transfers among direct budget categories or programs, functions and activities that do not exceed 10% of the total budget for the agreement. Recipients must also notify the EPA Grant Specialist and Project Officer when transferring funds from direct budget categories to the indirect cost category or from the indirect cost category to the direct cost category. Prior approval by EPA's Grant Management Officer is required if the transfer involves any of the items listed in 2 CFR 200.407 that EPA did not previously approve at time of award or in response to a previous post-award request by the recipient.

Applicable to Continuing Environmental Program Grants subject to 40 CFR 35.114 and 40 CFR 35.514. when EPA's share of the total project costs exceeds the Simplified Acquisition Threshold. Simplified Acquisition Threshold is defined at 2 CFR 200.1 and is currently set at $250,000 but the amount is subject to adjustment.

In accordance with 40 CFR 35.114 and 40 CFR 35.514, recipients of continuing environmental program grants must obtain the prior written approval of EPA's Grants Management Officer to make significant changes to work plan commitments. In addition, recipients must obtain prior written approval for funding transfers that involve any of the items listed in 2 CFR 200.407 that EPA did not previously approve at time of award, in response to a previous post-award request by the recipient, or is subject to an EPA waiver of prior approval under 40 CFR 35.114(d) or 40 CFR 35.514(d). Recipients do not need to obtain prior written approval for nonsignificant change(s) including but not limited to nonsignificant changes to grant work plans and budgets but must notify the EPA Grant Specialist and Project Officer of such change(s).

24. Electronic/Digital Signatures on Financial Assistance Agreement Form(s)/Document(s)

Throughout the life of this assistance agreement, the recipient agrees to ensure that any form(s)/document(s) required to be signed by the recipient and submitted to EPA through any means including but not limited to hard copy via U.S. mail or express mail, hand delivery or through electronic means such as e-mail are: (1) signed by the individual identified on the form/document, and (2) the signer has the authority to sign the form/document for the recipient. Submission of any signed form(s)/document(s) is subject to any provisions of law on making false statements (e.g. 18 U.S.C. 1001).

25. Extension of Project/Budget Period Expiration Date

EPA has not exercised the waiver option to allow automatic one-time extensions for non-research grants under 2 CFR 200.308(e)(2). Therefore, if a no-cost time extension is necessary to extend the period of availability of funds, the recipient must submit a written request to the EPA prior to the budget/project period expiration dates. **The written request must include:** a justification describing the need for additional time, an estimated date of completion, and a revised schedule for project completion including updated milestone target dates for the approved workplan activities. In addition, if there are overdue reports required by the general, administrative, and/or programmatic terms and conditions of this assistance agreement, the recipient must ensure that they are submitted along with or prior to submitting the no-cost time extension request.

26. Utilization of Disadvantaged Business Enterprises

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

The following text either provides updates to 40 CFR, Part 33 based upon the associated class exception or highlights a requirement.

1. EPA MBE/WBE CERTIFICATION, 40 CFR, Part 33, Subpart B

EPA no longer certifies entities as Minority-Owned Business Entities (MBEs) or Women-Owned Business Entities (WBEs) pursuant to a class exception issued in October 2019. The class exception was authorized pursuant to the authority in 2 CFR, Section 1500.3(b).

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

Pursuant to 40 CFR Section 33.301, the recipient agrees to make good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained. The specific six good faith efforts can be found at: 40 CFR Section 33.301 (a)-(f).

However, in EPA assistance agreements that are for the benefit of Native Americans, the recipient must solicit and recruit Native American organizations and Native American-owned economic enterprises and give them preference in the award process prior to undertaking the six good faith efforts (40 CFR Section 33.304). If recruiting efforts are unsuccessful, the recipient must follow the six good faith efforts.

3. CONTRACT ADMINISTRATION PROVISIONS, 40 CFR Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR Section 33.302 (a)-(d) and (i).

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

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR Section 33.501 (b) and (c) for specific requirements and exemptions.

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

In October 2019, a class exception to the entire Subpart D of 40 CFR, Part 33 has been authorized pursuant to the authority in 2 CFR Section 1500.3(b). Notwithstanding Subpart D of 40 CFR, Part 33, recipients are not required to negotiate or apply fair share objectives in procurements under assistance agreements.

6. MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

When required, the recipient agrees to complete and submit a “MBE/WBE Utilization Under Federal Grants and Cooperative Agreements” report (EPA Form 5700-52A) on an annual basis. The current EPA Form 5700-52A can be found at the EPA Grantee Forms Page at https://www.epa.gov/system/files/documents/2021-08/epa form 5700 52a.pdf .

Reporting is required for assistance agreements where funds are budgeted for procuring construction, equipment, services and supplies (including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the “Other” category) with a cumulative total that exceed the

Simplified Acquisition Threshold (SAT) (currently, $250,000 however the threshold will be automatically revised whenever the SAT is adjusted; See 2 CFR Section 200.1), including amendments and/or modifications. When reporting is required, all procurement actions are reportable, not just the portion which exceeds the SAT.

Annual reports are due by October 30th of each year. Final reports are due 120 days after the end of the project period.

This provision represents an approved exception from the MBE/WBE reporting requirements as described in 40 CFR Section 33.502.

7. MBE/WBE RECORDKEEPING, 40 CFR, Part 33, Subpart E
The recipient agrees to comply with all recordkeeping requirements as stipulated in 40 CFR, Part 33, Subpart E including creating and maintaining a bidders list, when required. Any document created as a record to demonstrate compliance with any requirement of 40 CFR, Part 33 must be maintained pursuant to the requirements stated in this Subpart.

Programmatic General Terms and Conditions

27. Sufficient Progress
EPA will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period and/or the availability of funds necessary to complete the project. EPA may terminate the assistance agreement for failure to ensure reasonable completion of the project within the project period.

28. Copyrighted Material and Data
In accordance with 2 CFR 200.315, EPA has the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement for Federal purposes.

Examples of a Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for [i.e., authorized by] the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as “co-regulators” or act as official partners with EPA to carry out a national environmental program within their jurisdiction and; (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of EPA’s authorization to the other grantee to use the copyrighted works or other data.

Under Item 6, the grantee acknowledges that EPA may authorize another grantee(s) to use the copyrighted works or other data developed under this grant as a result of:

- the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data or;
- termination or expiration of this agreement.

In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

29. Patents and Inventions

Rights to inventions made under this assistance agreement are subject to federal patent and licensing regulations, which are codified at Title 37 CFR Part 401 and Title 35 USC Sections 200-212.

Pursuant to the Bayh-Dole Act (set forth in 35 USC 200-212), EPA retains the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the assistance agreement holder, as defined in the Act. To streamline the invention reporting process and to facilitate compliance with the Bayh-Dole Act, the recipient must utilize the Interagency Edison extramural invention reporting system at iEdison.gov . Annual utilization reports must be submitted through the system. The recipient is required to notify the Project Officer identified on the award document when an invention report, patent report, or utilization report is filed at iEdison.gov. EPA elects not to require the recipient to provide a report prior to the close-out of a funding agreement listing all subject inventions or stating that there were none.

In accordance with Executive Order 12591, as amended, government owned and operated laboratories can enter into cooperative research and development agreements with other federal laboratories, state and local governments, universities, and the private sector, and license, assign, or waive rights to intellectual property "developed by the laboratory either under such cooperative research or development agreements and from within individual laboratories."

30. Acknowledgement Requirements for Non-ORB Assistance Agreements

The recipient agrees that any reports, documents, publications or other materials developed for public distribution supported by this assistance agreement shall contain the following statement:

"This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the EPA endorse trade names or recommend the use of commercial products mentioned in this document."

Recipients of EPA Office of Research Development (ORD) research awards must follow the acknowledgement requirements outlined in the research T&Cs available at: https://www.nsf.gov/awards/managing/rtc.jsp. A Federal-wide workgroup is currently updating the Federal-Wide Research Terms and Conditions Overlay to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards and when completed recipients of EPA ORD research must abide by the research T&Cs.

31. Electronic and Information Technology Accessibility

Recipients are subject to the program accessibility provisions of Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7, which includes an obligation to 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 ("EIT"). In compliance with Section 504, EIT systems or products funded by this award must be designed to meet the diverse needs of users (e.g., U.S. public, recipient personnel) 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. At this time, the EPA will consider a recipient's websites, interactive tools, and other EIT as being in compliance with Section 504 if such technologies meet standards established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194. While Section 508 does not apply directly to grant recipients, we encourage recipients to follow either the 508 guidelines or other comparable guidelines that concern accessibility to EIT for individuals with disabilities.

Recipients may wish to consult the latest Section 508 guidelines issued by the U.S. Access Board or W3C's Web Content Accessibility Guidelines (WCAG) 2.0 (see https://www.access-board.gov/about/policy/accessibility.html).

32. Human Subjects

Human subjects research is any activity that meets the regulatory definitions of both research AND human subject. *Research* is a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. *Human subject* means a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information. [40 CFR 26.102 (d)(f)]

No research involving human subjects will be conducted under this agreement without prior written approval of the EPA to proceed with that research. If engaged in human subjects research as part of this agreement, the recipient agrees to comply with all applicable provisions of EPA Regulation 40 CFR 26 (Protection of Human Subjects). This includes, at Subpart A, the Basic Federal Policy for the Protection of Human Research Subjects, also known as the Common Rule. It also includes, at Subparts B, C, and D, prohibitions and additional protections for children, nursing women, pregnant women, and fetuses in research conducted or supported by EPA.

The recipient further agrees to comply with EPA's procedures for oversight of the recipient's compliance with 40 CFR 26, as given in EPA Order 1000.17 Change A1 (Policy and Procedures on Protection of Human Research Subjects in EPA Conducted or Supported Research). As per this order, no human subject may be involved in any research conducted under this assistance agreement, including recruitment, until the research has been approved or determined to be exempt by the EPA Human Subjects Research Review Official (HSRRO) after review of the approval or exemption determination of the Institutional Review Board(s) (IRB(s)) with jurisdiction over the research under 40 CFR 26.

For HSRRO approval, the recipient must forward to the Project Officer: (1) copies of all documents upon which the IRB(s) with jurisdiction based their approval(s) or exemption determination(s), (2) copies of the IRB approval or exemption determination letter(s), (3) copy of the IRB-approved consent forms and subject recruitment materials, if applicable, and (4) copies of all supplementary IRB correspondence.

Following the initial approvals indicated above, the recipient must, as part of the annual report(s), provide evidence of continuing review and approval of the research by the IRB(s) with jurisdiction, as required by 40 CFR 26.109(e). Materials submitted to the IRB(s) for their continuing review and approval are to be provided to the Project Officer upon IRB approval. During the course of the research, investigators must promptly report any unanticipated problems involving risk to subjects or others according to requirements set forth by the IRB. In addition, any event that is significant enough to result in the removal of the subject from the study should also be reported to the Project Officer, even if the event is not reportable to the IRB of record.

33. Animal Subjects

The recipient agrees to comply with the Animal Welfare Act of 1966 (P.L. 89-544), as amended, 7 USC 2131-2156. Recipient also agrees to abide by the "U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training." (Federal Register 50(97): 20864-20865. May 20,1985). The nine principles can be viewed at https://olaw.nih.gov/policies-laws/phs-policy.htm. For additional information about the Principles, the recipient should consult the *Guide for Care and Use of Laboratory Animals*, prepared by the Institute of Laboratory Animal Resources, National Research Council and can be accessed at: http://www.nap.edu/readingroom/books/labrats/.

34. Light Refreshments and/or Meals

APPLICABLE TO ALL AGREEMENTS EXCEPT STATE CONTINUING ENVIRONMENTAL PROGRAMS (AS DESCRIBED BELOW):

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

(1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);

(2) A description of the purpose, agenda, location, length and timing for the event; and,

(3) An estimated number of participants in the event and a description of their roles.

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

Recipients may address questions about whether costs for light refreshments, and meals for events may be allowable to the recipient's EPA Project Officer; however, the Agency Award Official or Grant Management Officer will make final determinations on allowability. Agency policy prohibits the use of EPA funds for receptions, banquets and similar activities that take place after normal business hours unless the recipient has provided a justification that has been expressly approved by EPA's Award Official or Grants Management Officer.

EPA funding for meals, light refreshments, and space rental may not be used for any portion of an event where alcohol is served, purchased, or otherwise available as part of the event or meeting, even if EPA funds are not used to purchase the alcohol.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. (41 CFR 301-74.7)

FOR STATE CONTINUING ENVIRONMENTAL PROGRAM GRANT RECIPIENTS EXCLUDING STATE UNIVERSITIES:
If the state maintains systems capable of complying with federal grant regulations at 2 CFR 200.432 and 200.438, EPA has waived the prior approval requirements for the use of EPA funds for light refreshments and/or meals served at meetings, conferences, and training, as described above. The state may follow its own procedures without requesting prior approval from EPA. However, notwithstanding state policies, EPA funds may not be used for (1) evening receptions, or (2) other evening events (with the exception of working meetings). Examples of working meetings include those evening events in which small groups discuss technical subjects on the basis of a structured agenda or there are presentations being conducted by experts. EPA funds for meals, light refreshments, and space rental may not be used for any portion of an event (including evening working meetings) where alcohol is served, purchased, or otherwise available as part of the event or meeting, even if EPA funds are not used to purchase the alcohol.

By accepting this award, the state is certifying that it has systems in place (including internal controls) to comply with the requirements described above.

35. Tangible Personal Property

35.1 Reporting Pursuant to 2 CFR 200.312 and 200.314, property reports, if applicable, are required for Federally-owned property in the custody of a non-Federal entity upon completion of the Federal award or when the property is no longer needed. Additionally, upon termination or completion of the project, residual unused supplies with a total aggregate fair market value exceeding $5,000 not needed for any other Federally-sponsored programs or projects must be reported. For Superfund awards under Subpart O, refer to 40 CFR 35.6340 and 35.6660 for property reporting requirements. Recipients should utilize the Tangible Personal Property Report form series (SF-428) to report tangible personal property.

35.2 Disposition

35.2.1 Most Recipients. Consistent with 2 CFR 200.313, unless instructed otherwise on the official award document, this award term, or at closeout, the recipient may keep the equipment and continue to use it on the project originally funded through this assistance agreement or on other federally funded projects whether or not the project or program continues to be supported by Federal funds.

35.2.2 State Agencies. Per 2 CFR 200.313(b), state agencies may manage and dispose of equipment acquired under this assistance agreement in accordance with state laws and procedures.

35.2.3 Superfund Recipients. Equipment purchased under Superfund projects is subject to specific disposal options in accordance with 40 CFR Part 35.6345.

36. Dual Use Research of Concern (DURC)

The recipient agrees to conduct all life science research* in compliance with *EPA's Order on the Policy and Procedures for Managing Dual Use Research of Concern* (EPA DURC Order) and *United States Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern (iDURC Policy).* If the recipient is an institution within the United States that receives funding through this agreement, or from any other source, the recipient agrees to comply with the iDURC Policy if they conduct or sponsor research involving any of the agents or toxins identified in Section 6.2.1 of the iDURC Policy. If the institution is outside the United States and receives funding through this agreement to conduct or sponsor research involving any of those same agents or toxins, the recipient agrees to comply with the iDURC Policy. The recipient agrees to provide any additional information that may be requested by EPA regarding DURC and iDURC. The recipient agrees to immediately notify the EPA Project Officer should the project use or introduce use of any of the agents or toxins identified in the iDURC Policy. The recipient's Institution/Organization must also comply with USG iDURC policy and EPA DURC Order and will inform the appropriate government agency if funded by such agency of research with the agents or toxins identified in Section 6.2.1 of the iDURC Policy. If privately funded the recipient agrees to notify the National Institutes of Health at DURC@od.nih.gov.

**"Life Sciences Research,*" for purposes of the EPA DURC Order, and based on the definition of research in 40 CFR §26.102(d), is a systematic investigation designed to develop or contribute to generalizable knowledge involving living organisms (e.g., microbes, human beings, animals, and plants) and their products. EPA does not consider the following activities to be research: routine product testing, quality control, mapping, collection of general-purpose statistics, routine monitoring and evaluation of an operational program, observational studies, and the training of scientific and technical personnel. [Note: This is consistent with Office of Management and Budget Circular A-11.]

37. Research Misconduct

In accordance with 2 CFR 200.329, the recipient agrees to notify the EPA Project Officer in writing about research misconduct involving research activities that are supported in whole or in part with EPA funds under this project. EPA defines research misconduct as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results [65 FR 76262. I], or ordering, advising or suggesting that subordinates engage in research misconduct. The recipient agrees to:

(1) Immediately notify the EPA Project Officer who will then inform the EPA Office of Inspector General (OIG) if, at any time, an allegation of research misconduct falls into one of the categories listed below:

A. Public health or safety is at risk.
B. Agency resources or interests are threatened.
C. Circumstances where research activities should be suspended.
D. There is a reasonable indication of possible violations of civil or criminal law.
E. Federal action is required to protect the interests of those involved in the investigation.
F. The research entity believes that the inquiry or investigation may be made public prematurely so that appropriate steps can be taken to safeguard evidence and protect the rights of those involved.
G. Circumstances where the research community or public should be informed. [65 FR 76263.III]

(2) Report other allegations to the OIG when they have conducted an inquiry and determined that there is sufficient evidence to proceed with an investigation. [65 FR 76263. III]

38. Scientific Integrity Terms and Conditions

The recipient agrees to comply with EPA's Scientific Integrity Policy when conducting, supervising, and communicating science and when using or applying the results of science. For purposes of this award condition scientific activities include, but are not limited to, computer modelling, economic analysis, field sampling, laboratory experimentation, demonstrating new technology, statistical analysis, and writing a review article on a scientific issue. The recipient agrees to:

38.1 Scientific Products

38.1.1 Produce scientific products of the highest quality, rigor, and objectivity, by adhering to applicable EPA information quality guidelines quality policy and peer review policy.

38.1.2 Prohibit all recipient employees, contractors, and program participants, including scientists, managers, and other recipient leadership, from suppressing, altering, or otherwise impeding the timely release of scientific findings or conclusions.

38.1.3 Adhere to EPA's Peer Review Handbook, 4th Edition, for the peer review of scientific and technical work products generated through EPA grants or cooperative agreements which, by definition, are not primarily for EPA's direct use or benefit.

38.2 Scientific Findings

38.2.1 Require that reviews regarding the content of a scientific product that are conducted by the project manager and other recipient managers and the broader management chain be based only on scientific quality considerations, e.g., the methods used are clear and appropriate, the presentation of results and conclusions is impartial.

38.2.2 Ensure scientific findings are generated and disseminated in a timely and transparent manner, including scientific research performed by employees, contractors, and program participants, who assist with developing or applying the results of scientific activities.

38.2.3 Include, when communicating scientific findings, an explication of underlying assumptions, accurate contextualization of uncertainties, and a description of the probabilities associated with both optimistic and pessimistic projections, if applicable.

38.2.4 Document the use of independent validation of scientific methods.

38.2.5 Document any independent review of the recipient's scientific facilities and testing activities, as occurs with accreditation by a nationally or internationally recognized sanctioning body.

38.2.6 Make scientific information available online in open formats in a timely manner, including access to data and non-proprietary models.

38.3 Scientific Misconduct

38.3.1 Prohibit intimidation or coercion of scientists to alter scientific data, findings, or professional opinions or non-scientific influence of scientific advisory boards. In addition, recipient employees, contractors, and program participants, including scientists, managers, and other leadership, shall not knowingly misrepresent, exaggerate, or downplay areas of scientific uncertainty.

38.3.2 Prohibit retaliation or other punitive actions toward recipient employees who uncover or report allegations of scientific and research misconduct, or who express a differing scientific opinion. Employees who have allegedly engaged in scientific or research misconduct shall be afforded the due process protections provided by law, regulation, and applicable collective bargaining agreements, prior to any action. Recipients shall ensure that all employees and contractors of the recipient shall be familiar with these protections and avoid the appearance of retaliatory actions.

38.3.3 Require all recipient employees, contractors, and program participants to act honestly and refrain from acts of research misconduct, including publication or reporting, as described in EPA's Policy and Procedures for Addressing Research Misconduct, Section 9.C. Research misconduct does not include honest error or differences of opinion. While EPA retains the ultimate oversight authority for EPA-supported research, grant recipients conducting research bear primary responsibility for prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of research misconduct alleged to have occurred in association with their own institution.

38.3.4 Take the actions required on the part of the recipient described in EPA's Policy and Procedures for Addressing Research Misconduct, Sections 6 through 9, when research misconduct is suspected or found.

38.4 Additional Resources

For more information about the Scientific Integrity Policy, an introductory video can be accessed at: https://youtu.be/FQJCy8BXXq8. A training video is available at: https://youtu.be/Zc0T7fooot8.

Public Policy Requirements

39. Civil Rights Obligations

This term and condition incorporates by reference the signed assurance provided by the recipient's authorized representative on: 1) EPA Form 4700-4, "Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance"; and 2) Certifications and Representations in Sam.gov or Standard Form 424D, as applicable.

These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing federal and EPA regulations.

a. Statutory Requirements

i. In carrying out this agreement, the recipient must comply with:

1. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP), by entities receiving Federal financial assistance.
2. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and
3. The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.

ii. If the recipient is an education program or activity (e.g., school, college or university) or if the
recipient is conducting an education program or activity under this agreement, it must also comply with:

1. Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities operated by entities receiving Federal financial assistance. For further information about your compliance obligations regarding Title IX, see 40 CFR Part 5 and https://www.justice.gov/crt/title-ix

iii. If this agreement is funded with financial assistance under the Clean Water Act (CWA), the recipient must also comply with:

1. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex in CWA-funded programs or activities.

b. Regulatory Requirements

i. The recipient agrees to comply with all applicable EPA civil rights regulations, including:
   1. For Title IX obligations, 40 C.F.R. Part 5; and
   2. For Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, 40 CFR Part7.
   3. For statutory and national policy requirements, including those prohibiting discrimination and those described in Executive Order 13798 promoting free speech and religious freedom, 2 CFR 200.300.
   4. As noted on the EPA Form 4700-4 signed by the recipient's authorized representative, these regulations establish specific requirements including maintaining compliance information, establishing grievance procedures, designating a Civil Rights Coordinator and providing notices of non-discrimination.

c. TITLE VI – LEP, Public Participation and Affirmative Compliance Obligation

i. As a recipient of EPA financial assistance, you are required by Title VI of the Civil Rights Act to provide meaningful access to LEP individuals. In implementing that requirement, the recipient agrees to use as a guide the Office of Civil Rights (OCR) document entitled "Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." The guidance can be found at: https://www.federalregister.gov/documents/2004/06/25/04-14464/guidance-to-environmental-protection-agency-financial-assistance-recipients-regarding-title-vi

ii. If the recipient is administering permitting programs under this agreement, the recipient agrees to use as a guide OCR's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. The Guidance can be found at: https://www.govinfo.gov/content/pkg/FR-2006-03-21/pdf/06-2691.pdf

iii. In accepting this assistance agreement, the recipient acknowledges it has an affirmative obligation to implement effective Title VI compliance programs and ensure that its actions do not involve discriminatory treatment and do not have discriminatory effects even when facially neutral. The recipient must be prepared to demonstrate to EPA that such compliance programs exist and are being implemented or to otherwise demonstrate how it is meeting its Title VI obligations.

40. Drug-Free Workplace

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 2 CFR Part 1536 Subpart C.

The consequences for violating this condition are detailed under Title 2 CFR Part 1536 Subpart E. Recipients can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at www.ecfr.gov/.

41. Hotel-Motel Fire Safety

Pursuant to 15 USC 2225a, the recipient agrees to 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 (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at https://apps.usfa.fema.gov/hotel/ to see if a property is in compliance, or to find other information about the Act.

42. Lobbying Restrictions

a) This assistance agreement is subject to lobbying restrictions as described below. Applicable to all assistance agreements:

i) The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The recipient shall abide by the Cost Principles available at 2 CFR Part 200 which generally prohibits the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.

ii) The recipient agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The recipient shall include the language of this provision in award documents for all subawards exceeding $100,000 and require that subrecipients submit certification and disclosure forms accordingly.

iii) In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

iv) Contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

v) By accepting this award, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 as required by Section 18 of the Lobbying Disclosure Act; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act. Nonprofit organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are ineligible for EPA subawards.

b) Applicable to assistance agreements when the amount of the award is over $100,000:

i) By accepting this award, the recipient certifies, to the best of its knowledge and belief, that:

(1) No Federal appropriated funds have been or will be paid, by or on behalf of the recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or any employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the recipient shall complete and submit the linked Standard Form -- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The recipient shall require that the language of this certification be included in the award documents for all subawards exceeding $100,000 at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

ii) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each failure.

43. Recycled Paper

When directed to provide paper documents, the recipient agrees to use recycled paper and double-sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA.

44. Resource Conservation and Recovery Act

Consistent with goals of section 6002 of RCRA (42 U.S.C. 6962), State and local institutions of higher education, hospitals and non-profit organization recipients agree to give preference in procurement programs to the purchase of specific products containing recycled materials, as identified in 40 CFR Part 247.

Consistent with section 6002 of RCRA (42 U.S.C. 6962) and 2 CFR 200.323, State agencies or agencies of a political subdivision of a State and its contractors are required to purchase certain items made from recycled materials, as identified in 40 CFR Part 247, when the purchase price exceeds $10,000 during the course of a fiscal year or where the quantity of such items acquired in the course of the preceding fiscal year was $10,000 or more. Pursuant to 40 CFR 247.2 (d), the recipient may decide not to procure such items if they are not reasonably available in a reasonable period of time; fail to meet reasonable performance standards; or are only available at an unreasonable price.

45. Trafficking in Persons

a. Provisions applicable to a recipient that is a private entity.

i. The recipient, the recipient’s employees, subrecipients under this award, and subrecipients’ employees may not—

1. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
2. Procure a commercial sex act during the period of time that the award is in effect; or
3. Use forced labor in the performance of the award or subawards under the award.

ii. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if the recipient or a subrecipient that is a private entity—

1. Is determined to have violated a prohibition in paragraph a of this award term; or
2. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a of this award term through conduct that is either—
    a. Associated with performance under this award; or
    b. Imputed to the recipient or subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our Agency at 2 CFR Part 1532.

b. Provision applicable to a recipient other than a private entity. EPA may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

i. Is determined to have violated an applicable prohibition in paragraph a. of this award term; or

ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a of this award term through conduct that is either—

1. Associated with performance under this award; or
2. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by EPA at 2 CFR Part 1532.

c. Provisions applicable to any recipient.

i. The recipient must inform the EPA immediately of any information received from any source alleging a violation of a prohibition in paragraph a of this award term.

ii. Our right to terminate unilaterally that is described in paragraph a and b:

1. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
2. Is in addition to all other remedies for noncompliance that are available to us under this award.

iii. The recipient must include the requirements of paragraph a of this award term in any subaward made to a private entity.

d. Definitions. For purposes of this award term:

i. "Employee" means either:

1. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
2. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

ii. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

iii. "Private entity":

1. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
2. Includes:
   a. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
   b. A for-profit organization.

iii. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

Attachment VIII — Davis-Bacon Terms and Conditions

The following terms and conditions specify how Cooperative Agreement Recipients (CARs) will assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under CERCLA 104(g) and any other statute which makes DB applicable to EPA financial assistance. If a CAR has questions regarding when DB applies, obtaining the correct DB wage determinations, DB contract provisions, or DB compliance monitoring, they should contact the regional Brownfields Coordinator or Project Officer for guidance.

1. Applicability of the Davis-Bacon Prevailing Wage Requirements

After consultation with DOL, EPA has determined that for Brownfields Grants for remediation of sites contaminated with hazardous substances and petroleum, DB prevailing wage requirement apply when the project includes the following activities.

Hazardous substances contamination:

(a) All construction, alteration and repair activity involving the remediation of hazardous substances, including excavation and removal of hazardous substances, construction of caps, barriers, structures which house treatment equipment, and abatement of contamination in buildings.

Petroleum contamination:

(a) Installing piping to connect households or businesses to public water systems or replacing public water system supply well(s) and associated piping due to groundwater contamination,

(b) Soil excavation/replacement when undertaken in conjunction with the installation of public water lines/wells described above, or

(c) Soil excavation/replacement, tank removal, and restoring the area by paving or pouring concrete when the soil excavation/replacement occurs in conjunction with both tank removal and paving or concrete replacement.

In the above circumstances, all the laborers and mechanics employed by contractors and subcontractors will be covered by the DB requirements for all construction work performed on the site. Other petroleum site cleanup activities such as in situ remediation, and soil excavation/replacement and tank removal when not in conjunction with paving or concrete replacement, will normally not trigger DB requirements.

If the CAR encounters a unique situation at a site (e.g., unusually extensive excavation, construction of permanent facilities to house in situ remediation systems, reconstruction of roadways) that presents uncertainties regarding DB applicability, the CAR must discuss the situation with EPA before authorizing work on that site.

2. Obtaining Wage Determinations

(a) Unless otherwise instructed by EPA on a project specific basis, the CAR shall use the following DOL General Wage Classifications for the locality in which the construction activity subject to DB will take place. CARs must obtain proposed wage determinations for specific localities at https://beta.sam.gov/.

(i) When soliciting competitive contracts, awarding new contracts or issuing task orders, work assignments or similar instruments to existing contractors (ordering instruments), the CAR shall use the "Heavy Construction" classification for the following activities:

Hazardous substances contamination: excavation and removal of hazardous substances, construction of caps, barriers, and similar activities that do not involve construction of buildings.

Petroleum contamination: installing piping to connect households or businesses to public water systems or replacing public water system supply well(s) and associated piping, including soil excavation/replacement.

(ii) When soliciting competitive contracts, awarding new contracts, or issuing ordering instruments, the CAR shall use the “Building Construction” classification for the following activities:

Hazardous substances contamination: construction of structures which house treatment equipment, and abatement of contamination in buildings (other than residential structures less than 4 stories in height).

Petroleum contamination: soil excavation/replacement, tank removal, and restoring the area by paving or pouring concrete when the soil excavation/replacement occurs in conjunction with both tank removal and paving or concrete replacement at current or former service station sites, hospitals, fire stations, industrial or freight terminal facilities, or other sites that are associated with a facility that is not used solely for the underground storage of fuel or other contaminant.

(iii) When soliciting competitive contracts, awarding new contracts or issuing ordering instruments for soil excavation/replacement, tank removal, and restoring the area by paving or pouring concrete when the soil excavation/replacement occurs in conjunction with both tank removal and paving or concrete replacement at a facility that is used solely for the underground storage of fuel or other contaminant the CAR shall use the “Heavy Construction” classification. (Only applies to petroleum contamination.)

(iv) When soliciting competitive contracts, awarding new contracts or issuing ordering instruments for the abatement of contamination in residential structures less than 4 stories in height the CAR shall use “Residential Construction” classification. (Only applies to hazardous substances contamination.)

Note: CARs must discuss unique situations that may not be covered by the General Wage Classifications described above with EPA. If, based on discussions with a CAR, EPA determines that DB applies to a unique situation (e.g., unusually extensive excavation) the Agency will advise the CAR which General Wage Classification to use based on the nature of the construction activity at the site.

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

(i) While the solicitation remains open, the CAR shall monitor https://beta.sam.gov/ on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The CAR shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the CAR may request a finding from EPA that there is not a reasonable time to notify interested contractors of the modification of the wage determination. EPA will provide a report of the Agency’s finding to the CAR.

(ii) If the CAR does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless EPA, at the request of the CAR, obtains an extension of the 90-day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv).

The CAR shall monitor https://beta.sam.gov/ on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.the CAR carries out Brownfields cleanup activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the CAR shall insert the appropriate DOL wage determination from https://beta.sam.gov/ into the ordering instrument.

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

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

3. Contract and Subcontract Provisions

(a) The CAR shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to DB, the following labor standards provisions.

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the applicable wage determination of the Secretary of Labor which the CAR obtained under the procedures specified in Item 2, above, and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

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

(ii)(A) The CAR, on behalf of EPA, shall require that contracts and subcontracts entered into under this agreement provide that any laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The EPA Award Official shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
(2) The classification is utilized in the area by the construction industry; and
(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

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

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

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

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

(1) Withholding. The CAR, upon written request of the Award Official or an authorized representative of the Department of Labor, shall withhold or cause to withhold from the

contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages requiredby the contract, EPA may, after written notice to the contractor, or CAR take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(2) Payrolls and basic records.

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

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the CAR who will maintain the records on behalf of EPA. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at https://www.dol.gov/whd/forms/wh347.pdf or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the CAR for transmission to the EPA, if requested by EPA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the CAR.

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

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR Part 5, the appropriate information is being maintained

under § 5.5 (a)(3)(i) of Regulations, 29 CFR Part 5, and that such information is correct and complete;

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

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

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

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

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

(3) Apprentices and Trainees.

(i)Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

(4) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

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

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

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

(8) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its

subcontractors), the CAR, borrower or subrecipient and EPA, the U.S. Department of Labor, or the employees or their representatives.

(9)Certification of eligibility.

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

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

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

1001. 4. Contract Provisions for Contracts in Excess of $100,000

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

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

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

(3) Withholding for unpaid wages and liquidated damages. The ***CAR,*** upon written request of the Award Official or an authorized representative of the Department of Labor, shall withhold or cause to withhold from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime

contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph

(a)(2) of this section.

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

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

5. Compliance Verification

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

(b) The CAR shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the CAR must conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract. CARs must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. CARs shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

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

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

(e)CARs must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at https://www.dol.gov/whd/america2.htm.

PER ON-CALL PROFESSIONAL SERVICES AGREEMENT #2021-10 BETWEEN CITY OF STANWOOD, WASHINGTON (CITY) AND MAUL FOSTER AND ALONGI (CONSULTANT)

APPROVED TASK ORDER

TASK ORDER: 2021.10.01
PROJECT NAME: Downtown Park (Sebranke) Site Cleanup Support Services

This shall constitute an approved Task Order pursuant to the On-Call Professional Services Agreement between CITY and CONSULTANT dated January 29, 2021 ("AGREEMENT"). The scope of services, cost estimate, and rate sheet are incorporated into the Agreement.

Project Scope of Services:
Maul Foster & Alongi, Inc. (MFA) will complete a remedial action scope of work funded by a Washington State Department of Commerce (Commerce) Brownfields Revolving Loan Fund (BRLF) grant (estimated grant amount at $200,000) and provide ongoing support for managing the Commerce grant (see attached proposal). The following is a summary of tasks:

Tasks:
1 – Remedial Design and Project Management
2 – Construction Management, Oversight and Completion reporting
3 – Compliance Groundwater Monitoring

CONSULTANT agrees to perform the tasks listed above and described in Exhibit A for a fee amount of not to exceed **$95,760.00 (ninety-five thousand seven hundred sixty dollars and no cents)**, unless otherwise modified by CITY'S Mayor in a signed writing/subsequent Task Order Approval Form.

Performance of the services shall be subject to the terms and conditions contained in AGREEMENT.

Dated this ________**day of**____________**2022**

CITY OF STANWOOD

By: ______________________________
Sid Roberts, Mayor

MAUL FOSTER AND ALONGI, INC

By:______________________________
Phil Wiescher, PHD
Principal Environmental Scientist

MAUL FOSTER ALONGI
1329 North State Street, Suite 301 | Bellingham, WA 98225 | 360 594 6262 | www.maulfoster.com

May 26, 2022
Project No. M1030.02.006

Patricia Love
Community Development Director
City of Stanwood
10220 270th St NW
Stanwood, WA 98292

Re: Proposal for Remedial Action
8627 271st Street NW in Stanwood, WA 98292

Dear Patricia Love:

Maul Foster & Alongi, Inc. (MFA) appreciates the opportunity to submit this scope of work and cost estimate to conduct a remedial action for the property at 8627 271st Street NW in Stanwood, Washington (referred to hereinafter as "the Property").

On behalf of the City of Stanwood (the City), MFA recently submitted an application for a Brownfield Revolving Loan Fund grant to the Washington State Department of Commerce (Commerce) for activities associated with the remedial action of the Property. The proposed remedial action is described as option 5 – shallow soil excavation, source excavation, and ORC backfill in the 2021 supplemental investigation and cleanup options report.[1]

This letter presents a proposed scope of work and associated budget for conducting a remedial action to mitigate contamination associated with previously identified recognized environmental conditions (RECs) at the Property.

BACKGROUND

The Property consists of a vacant, undeveloped lot (Snohomish County Parcel Nos. 00432400101400 and 00432400101500) that are approximately 0.05 acres in size. The Property is surrounded by 271st Street NW to the south, 34th Avenue NW to the east, municipal public parking to the north, and private commercial businesses to the west.

In 2016, a phase I and II environmental site assessment (ESA) identified RECs on the Property. In 2021, a supplemental investigation was conducted at the Property to further characterize the contamination associated with RECs and inform potential remedial action alternatives. The recommended cleanup option for the Property includes removal of shallow soil contamination,

[1] MFA. Supplemental investigation and cleanup options report, Sebranke property, Stanwood, Washington. City of Stanwood. 2021.

excavation of deeper soil in a potential source area, and treatment of groundwater by amending backfilling materials with ORC (i.e., oxygen releasing compound) pellets and placement of an environmental covenant that will restrict use of groundwater for drinking.

SCOPE OF WORK

Task 1—Remedial Design and Project Management

MFA will prepare an engineering design report for the remedial action at the Property. The engineering design report will include plans and specifications for the approach and methods associated with the selected remedy. The report will be provided to Commerce and Ecology prior to proceeding with the remedial action. MFA will prepare and submit a grading permit for the remedial action.

This task includes costs for preparation of a memorandum to support the Endangered Species Act Consultation, as needed.

Task 2— Construction Management, Oversight and Completion Reporting

Implementation of this remedial action will include completion of the activities outlined in the engineering design report prepared in Task 1. MFA will conduct the remedial action in accordance with the requirements of Washington Administrative Code (WAC) 173-340-430 related provisions of the Washington State Model Toxics Control Act (MTCA) and local construction ordinances and permitting requirements. Following completion of the interim remedial action, MFA will prepare a completion report summarizing the completed remedial activities.

Task 2.1 - Remedial Implementation Oversight and Subcontractor Coordination

This task includes bid-phase assistance (i.e. construction drawings and specifications and on-call assistance with City) and subcontractor coordination. This assumes that the City will finalize the bid package and administer the bid process.

One MFA staff engineer or geologist on the Property for 10 days (2 weeks) at ten hours/day for field oversight and documentation of remedial activities. An MFA staff engineer, or geologist, will conduct confirmation sampling. Confirmation sampling is assumed to include the following:

- Up to six soil samples from the limits of the surface soil excavation and up to five soil samples from the limits of the source area excavation. Samples will be collected every 20 linear feet of sidewalls and 400 square feet of exposed base in accordance with Ecology's Guidance for Remediation of Petroleum Contaminated Sites, Publication No. 10- 09-057, revised June 2016.

- Up to two ten-point composite soil samples for characterization of stockpiles. It is assumed that one composite soil sample will be collected per 100 cubic feet of stockpile.
- Up to two groundwater samples from treated water discharge point.

This task includes labor and fees, travel to/from the field site, travel-related expenses (i.e., mileage/vehicle rental fees, meals, and lodging), and field equipment and subcontractor fees for decommissioning of one monitoring well and installation of two monitoring wells on the Property.

Task 2.2 - Analytical Work and QA/QC

Laboratory analysis of soil samples for up to the following:

- Six samples for arsenic, cadmium, and lead by EPA Method 6020
- Six samples for carcinogenic polycyclic aromatic hydrocarbons (cPAHs) by EPA Method 6020
- Eleven samples for diesel-range organics (DRO) by NWTPH-Dx method
- Two sample for arsenic, cadmium, and lead by TCLP

Laboratory analysis of treated groundwater samples during the remedial action for up to the following:

- Two samples for DRO by NWTPH-Dx method

It is assumed that analytical will be run on a standard two-week turnaround with the exception of the treated groundwater sample(s) in order to facilitate timely discharge of treated water. Treated groundwater samples will be run on a 48-hour turnaround.

Task 2.3 - Completion Reporting and Remedial Investigation Update

MFA will prepare a completion report documenting the activities completed for the remedial action. The completion report will be prepared in general accordance with WAC 173-340-400.

MFA will incorporate the final conditions of the completion report into the existing supplemental investigation report to support the remedial investigation for the Property.

Task 3 – Compliance Groundwater Monitoring

MFA will complete up to two years of quarterly compliance groundwater sampling beginning six months after the completion of the remedial action.

Groundwater compliance monitoring events will be conducted at four groundwater monitoring wells on the Property.

This task includes costs associated with the following per monitoring event:

- Field mobilization/demobilization, materials and equipment fees, and travel.
- Measurement of static water levels.
- Collection of groundwater samples using low-flow sampling methods.
- Characterization, pickup, and disposal of IDW. For cost estimating purposes, it is assumed that one drum of non-hazardous purge water will be generated from four monitoring events.
- Laboratory analytical fees associated with compliance groundwater monitoring for DRO by NWTPH-Dx, and includes one field duplicate sample per event,
- Costs for shipping samples to the analytical laboratory, data management, validation, and quality control and assurance.
- Data upload to Ecology's Environmental Information Management database in electronic format, as required for Voluntary Cleanup Program sites under Washington Administrative Code 173-340-840(5).

The estimated cost for this task assumes that field work will include one day of monitoring well sampling per event. Field work will be conducted by a qualified geologist/engineer.

MFA will prepare a brief, groundwater monitoring report following each event. Each report will include the following components:

- Potentiometric groundwater maps.
- Comparison of groundwater data to site cleanup levels.
- Data validation memorandum.

ASSUMPTIONS

In preparing the Scope of Work, MFA has reviewed the provided information and made necessary assumptions to define the services and fees. These assumptions are listed below:

- A Section 106 consultation will be conducted by Commerce or Ecology.
- The City will pay applicable permit fees.
- No additional permits will be required for implementation of remedial action.

- A licensed surveyor will complete the post-excavation limit survey (contracted separately).
- All data will be uploaded to Ecology's Environmental Information Management database.
- All deliverables will be provided in an electronic format.
- MFA will prepare one draft and one final version of the above listed reports.

BUDGET

The estimated cost to perform the proposed work is $95,759 (see attached estimated budget). This cost estimate does not represent a lump sum. MFA bills for time and materials, consistent with the attached schedule of charges. MFA may apply money from one task to another to complete the scope of work.

SCHEDULE

MFA will begin work immediately upon receiving authorization to proceed. This proposal is valid for 60 days.

After you have reviewed this submittal, please indicate your approval of the proposal by signing below. You will be receiving a fully executed copy through Adobe Sign; please retain it for your records.

Sincerely,

Maul Foster & Alongi, Inc.

Phil Wiescher, PhD
Principal Environmental Scientist

Carolyn R. Wise, LHG
Project Hydrogeologist

Attachments: Estimated Budget
Schedule of Charges

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The above proposal, including all attachments, has been read and understood and is hereby agreed to and accepted. It is agreed that the attached "Schedule of Charges," and the terms and conditions of the Master Agreement for Professional Services with an effective date of: January 12, 2017, form an express part of the Contract, as evidenced by my signature below:

City of Stanwood

By ______________________________ Date ____________________

Name ______________________________ Title ______________________________

MAUL FOSTER ALONGI

ESTIMATED BUDGET
CITY OF STANWOOD/REMEDIAL ACTION

	Task	Maul Foster & Alongi, Inc.			Subcontractors	Total
		Hours	Labor	Direct		
1	Remedial Design and Project Management	112	$18,160	$0	$0	$18,160
2	Construction Management, Oversight and Completion Reporting	174	$25,560	$4,264	$6,877	$36,701
3	Compliance Groundwater Monitoring	224	$31,440	$4,168	$5,290	$40,898
					Total Estimated Cost	**$95,759**

SCHEDULE OF CHARGES

PERSONNEL CHARGES

Principal	$220 - 230/hour
Senior	$165 - 205/hour
Project	$140 - 165/hour
Analyst	$140 - 150/hour
Staff	$125 - 140/hour
Graphic Design	$120 - 130/hour
Technician	$105 - 135/hour
Administrative Support	$100 - 110/hour

Depositions and expert witness testimony, including preparation time, will be charged at 200 percent of the above rates.

Travel time will be charged in accordance with the above rates.

SUBCONTRACTORS

Charges for subcontractors will be billed at cost plus 15 percent.

EXPENSES

Charges for outside services, equipment, and facilities not furnished directly by Maul Foster & Alongi, Inc. will be billed at cost plus 10 percent. Such charges may include, but shall not be limited to the following:

- Printing and photographic reproduction
- Rented vehicles/mileage
- Transportation on public carriers
- Special fees, permits, insurance, etc.
- Rented equipment
- Shipping charges
- Meals and lodging
- Consumable materials

DIRECT CHARGES

Charges for specialized software modeling and equipment are as specified in the scope of work.

Field equipment rates are set forth in the Field Equipment Rate Schedule.

The rates for document production are set forth in the Document Production Rate Schedule.

RATE CHANGES

Schedule of Charges are subject to change without notice.